The Impact of the Adequate Yearly Progress Requirement of the Federal "No Child Left Behind" Act on Schools in the Great Lakes Region

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Executive Summary

This study finds that nearly every school in the Great Lakes states is threatened to fail the Adequate Yearly Progress (AYP) requirements mandated by the federal "No Child Left Behind" (NCLB) Act. NCLB holds schools and districts accountable for student achievement on state standardized tests and schools that do not make AYP face sanctions. A school or district can avoid sanctions one of two ways: produce test scores that meet AYP annual objectives set by the state, or by making sufficient improvement over the previous year's test scores to take advantage of "Safe Harbor" status.

The goals of NCLB are deceptively simple: All schools and districts receiving funds for socially and economically deprived children (Title I) must bring all students up

to state standards by 2014. The implementation is considerably more complex. The most critical and controversial aspects of NCLB are school accountability policies and AYP requirements. This study examines the implementation of those policies in the Great Lakes states, and projects the percentage of schools that will make or fail to make AYP, and those that could be Safe Harbor eligible:

- **Illinois** is projected, under the best case scenario, to have more than 96 percent of schools fail AYP with 29 percent of schools potentially Safe Harbor eligible in 2014.
- **Indiana** is projected to have 80 to 85 percent of schools eventually fail AYP in 2014, according to the most realistic scenarios.
- **Michigan** is projected to have nearly 50 percent of schools fail to make AYP in 2014, but remain Safe Harbor eligible according to the most forgiving scenario. Still, nearly all of these schools could fail to make AYP outright under the remaining scenarios.
- **Minnesota** is projected to have 81 percent of its schools failing AYP in 2014 but 27 percent of schools could be Safe Harbor eligible. Schools are projected to fail at a consistent rate as the AYP requirements increase annually.
- **Ohio** is projected to have a relatively high percentage of schools make AYP (approximately 85 percent) until 2011, at which point the percentage of schools making AYP drops dramatically to a low point of 12 percent of schools making AYP.

- **Wisconsin** is projected to experience the biggest impact in the later years (2011-2014) when 84 percent schools are projected to fail AYP, but 34 percent of schools could be Safe Harbor eligible.

In general, approximately 85 percent of schools in the Great Lakes states are projected to fail AYP in 2014 under the most optimistic scenarios. Under more realistic circumstances, the overall failure rate is projected to be at or above 95 percent.

In summation, the authors question the sustainability of the AYP requirements. Furthermore, they caution that schools are not capable of closing the achievement gap without resolving the social problems that underlie this gap. They point out that adequate funding for remediation and social infrastructure is essential to meeting the stated goals of NCLB.

The projections for the Great Lakes states are applicable to the nation as a whole and are a warning about the sustainability of NCLB, as the AYP requirements are currently constructed. The entire country faces tremendous failure rates, even under a conservative estimate with several forgiving assumptions.

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Introduction

Described by some as the greatest "unwarranted intrusion"[1] of federal policy in our nation's educational history or the last "best hope"[2] for rescuing children from "failing" schools, the 2001 reauthorization of the Elementary and Secondary Education Act, known as "No Child Left Behind" (NCLB) has generated great controversy across the land. Regardless of the perspective, all would agree the law has massive implications for the very nature, and future, of public education.

In the view of the federal administration and its supporters, the law provides the best means of focusing attention on the most forgotten students. By dint of annual standardized testing, annual improvement targets on these tests, and prescriptive

teaching; adherents claim that the law will force the closing of achievement gaps that exist between students along racial, ethnic, and socio-economic lines. In support of the law, federal officials point to "historic" funding increases that accompany NCLB.

Critics retort that schools cannot single-handedly close the achievement gap that the law is dramatically under funded and that massive social investments are also needed. Further, they note the historical shortcomings of efforts by both the federal and state governments to close the achievement gap, and they point out that federal funding increases amount to less than a one percent increase in total education spending.

The purpose of this report is to address the major issues associated with the NCLB school accountability policies, the most critical and controversial aspect of the law. We also review the implementation of the NCLB school accountability policies in each of the Great Lakes States and project the number of schools making or failing to make "Adequate Yearly Progress" (AYP) in future years for each of the Great Lakes states.

The report begins with a short review of the NCLB school accountability policies, with an emphasis on AYP and related sanctions. We then highlight the major philosophical and practical issues with NCLB. These issues constitute the basis for many of the criticism and objections leveled against NCLB. Next, we develop an individual profile for each of the Great Lakes states. The statistical analyses used to project the percentage of schools making or failing to make AYP are tailored to the unique elements of each state. The issues and findings in this report are relevant beyond the Great Lakes states and call into question the sustainability of NCLB itself.

NCLB, Adequate Yearly Progress, and Sanctions

NCLB affects virtually every aspect of K-12 public education, including teacher and paraprofessional qualifications, English Language Learners, testing and assessment, public school choice, private provider services, comprehensive school reform efforts, and ultimately, forced re-organization of schools and districts.

While each of these areas has far-reaching implications, the testing, accountability and sanctions provisions of the law have received the most attention and provoked the greatest controversy. The goals of NCLB are deceptively simple: all schools and districts receiving funds for socially and economically deprived children (Title I) must bring all students up to state standards by 2014. Thus, all students in each subgroup (or disaggregated group), such as students in poverty, special education students, and non-English speaking students, must achieve the standards by the target date.

The implementation of the law is considerably more complex. In 49 states, "bringing all students up to standards" is implemented as students passing state-adopted standardized tests at the state-defined level(s) of proficiency. Schools must also meet at least one non-test-based academic standard. For high schools, this must be the graduation rate. States most frequently use attendance rates in elementary schools. NCLB tracks progress toward the stated goal by holding schools and districts accountable for student achievement on the state standardized tests. To meet this requirement, all states are required to adopt a single, unified accountability system for all public schools and districts in their jurisdiction. Non-Title I schools, however, may be exempt from some or part of the sanctions if the state so chooses.[3]

Under NCLB, each state is to define Annual Measurable Objectives (annual objectives), or minimal levels of improvement, that schools must meet in order to "make AYP." The annual objectives are defined as increasing percentages of students meeting state standards on the standardized tests. States are allowed to set the annual objectives as long as they result in 100 percent of all students in all subgroups meeting state standards by 2014.

States use one or a combination of two common methods to set the annual objectives schools must meet in order to make AYP. The first method sets the annual objectives based on equal annual growth expectations (straight-line), with consistent growth expectations each year. The second method consists of flat growth expectations over a period of no more than three years, followed by steep increases (stair-step). The stair-step method results in a plateau of expectations, followed by a sudden growth in expectations, followed by another plateau for consolidation. The increases are steeper with the stair-step method in order to compensate for the years when growth expectations were flat. Some states intentionally set the annual objectives using the stair-step method in the early years, followed by a rapid escalation of the annual objectives in the later years (back-loaded).

If a school does not meet the annual objectives, "Safe Harbor" is another way for a school to demonstrate that they have made adequate yearly progress. If the school or subgroup misses its AYP target but reduces the percentage of students not meeting standards by at least ten percent. The school may avoid designation of "not making AYP" if it can also demonstrate adequate progress on an alternative criterion such as attendance rate or graduation rate.

Schools that do not meet the annual objectives, for either the total school or *any* student subgroup, are regarded as not making AYP, also referred to in this report as "failing AYP" Or "failing to make AYP." If the school fails to make AYP for two consecutive years, the school is identified as "*In Need of Improvement.*" Once so identified, the school is subject to a series of sanctions that escalate in severity for each subsequent year the school fails to make AYP (see Table 1 for a list of school sanctions by year).

Table 1: Increasing School Sanctions for Schools Identified as "In Need of Improvement.

Year 1	**School Improvement**	The school must: • Prepare an improvement plan • Offer public school choice
Year 2	**School Improvement**	• Implement the improvement plan • Continue public school choice • Offer supplemental services (tutoring) by outside providers

Year 3	**Corrective Action**	• Continue public school choice and offering outside supplemental services
		• Take at least one of the following corrective actions:
		  • Replace staff
		  • Adopt a new curriculum
		  • Change management
		  • Extend the school day or year
		  • Restructure the internal organization of the school

Year 4	**Restructuring**	• Continue previous requirements related to choice, supplemental service, and corrective actions • Prepare a restructuring plan for the school
Year 5	**Restructuring**	At the beginning of the school year, implement the restructuring plan, which must include one of the following: • Re-open the school as a charter school • Replace all or most of school staff, including the principal • Contract the school management with a private company • Takeover by the State

Major Issues with NCLB and AYP

NCLB is the subject of considerable political, media, and research controversy, and much of the contention stems from the AYP policies. The following section reviews the spectrum of issues related to NCLB and AYP, ranging from broad differences in educational philosophy to consequential practical considerations.

Philosophical Issues

The Proper Role of the Federal Government in Education

By April 2005, 41 of the 50 states had registered some form of complaint or remonstrance about the intrusion of NCLB.[4] Many of the objections center on the federal government's imposition of inflexible testing and AYP requirements on the states. The manner of the protests include oppositional statements from the Chief State School Officers, the passage of state laws and legislative resolutions in opposition to NCLB, and a lawsuit filed by the National Education Association, with the Pontiac, Michigan, school district as the lead plaintiff. The protestors span the political spectrum, from conservative-voting Utah, to the President's home state of Texas, to liberal-leaning Connecticut. In fact, there is no correlation between strength of political protests and voting patterns in the 2004 presidential election.[5]

At the core of these protests is the Tenth Amendment to the U.S. Constitution, which assigns all responsibilities not specifically reserved in the Constitution to the states. Thus, education is a state prerogative as confirmed by California's Rodriguez decision in 1973. After review, NCSL concluded the constitutionality of the NCLB accountability requirements is questionable.[6] Prior to NCLB, federal education monies

were distributed under the "promote the general welfare" provision of the Constitution. However, the extensive prescriptions in NCLB and the unfunded mandates are seen by some as going beyond these funding incentives. State and local governments not only find NCLB intrusive on constitutional grounds, many complain that the federal action has upset or destroyed years of localized efforts in education and replaced it with a narrow and, in their eyes, inferior approach.

The Purpose of Education

AYP *de facto* reduces education to standardized test scores in basic academic areas, with the token inclusion of a few other indicators. Certainly broader purposes of education are acknowledged in the law, but these are either not part of the high-stakes accountability system or are regarded nominally. As Education Secretary Margaret Spellings said, "What gets measured gets taught."[7] In the minds of Hargreaves and others, this results in educational apartheid, where some students get first-class accommodations, while poor children in a "failing" school are condemned to the dull, spiritless and continuous drilling of the basics that "get measured."[8] In this view, NCLB runs counter to those who believe that education should be broad in purpose and democratizing in practice.

Proponents counter that children may escape failing schools simply by transferring out using the choice provisions. Yet, less than one percent of eligible children exercise this option,[9] and Levin has demonstrated that choice schemes further separate children by social and economic status.[10]

Practical Issues

Funding Inadequacy

According to former Education Secretary Rod Paige and current Secretary Spellings, NCLB is fully funded at "historic" federal investment levels.[11] Upon closer examination, one learns that Title I represents only 2.6 percent of total education spending, and all federal education spending represents no more than 8 percent of overall spending. Thus, new NCLB appropriations represent a 0.9 percent increase in overall education spending.[12] The Center for Educational Policy's surveyed states and districts and learned the law is significantly under funded;[13] the National Conference of State Legislatures (NCSL) has come to a similar conclusion.[14]

Based on 46 studies of the adequacy of state education funding conducted since 1999, the median cost of bringing all children up to standard (if such a goal is even possible) requires a 27.5 percent increase in overall spending.[15] The 0.9 percent total increase in funding from NCLB is only a fraction of the 27.5 percent estimate needed to achieve the stated goals of the law. Without proper remediation funds, AYP goals are unlikely to be met or sustained.

The Effects of Poverty on Education

The AYP process requires all students to reach the same standards by 2014 regardless of individual or social circumstances. The much-discussed "achievement gap" demonstrates that poorer children score demonstrably lower than their more affluent peers. Paradoxically, in order for all students to reach the same goals by the same time, in theory the growth increments for poor children must be larger than for their wealthier

peers; however, in practice the Northwest Evaluation Association (NWEA) study found that the growth increments for these children were smaller.[16] Richard Rothstein has demonstrated that far more resources, directed toward pedagogical pre-requisites such as food, housing, medical care, pre-school programs, and after school programs, must be in place before we can effectively close the achievement gap.[17] The consensus among researchers is that it costs about twice the average currently paid per pupil to educate a student in poverty to standards.[18] According to NCLB, students in poverty should receive 40 percent additional funds, yet the total federal appropriation for Title I amounts to only 2.6 percent of funds. State level categorical aid for poverty averages only 17 percent of the basic foundation amount guaranteed to each student.

Michigan State Education Policy Center Director David Plank's analysis, demonstrates that the NCLB system is unresponsive to Michigan's high poverty needs. In the simplest of terms, testing and sanctions do not address the underlying problems that cause poor performance.[19]

Standards and the Skyhook Dilemma

The numbers and percentages of schools in school improvement varies greatly by state, ranging from Alaska's 36 percent to Minnesota's two percent. When the percentage of schools "in need of improvement" for each state was correlated with the state's National Assessment of Educational Progress (NAEP) scores, the result was a statistically insignificant coefficient of -0.23.[20] This indicates there is no relationship between the percent of schools identified as needing improvement by NCLB compared with an outside indicator of state academic achievement. Consequently, schools are being held to a highly variable standard.[21]

One major reason for the variability is inconsistent and ungrounded academic expectations across states. The NWEA compared standards in 16 states to national percentile score ranks in order to compare academic standards across a consistent scale. The study looked at "cut points" that states used to separate a passing from a failing score on a test. The lowest proficiency standard was Colorado's ninth-grade reading, with a cut-point at the ninth (9^{th}) percentile, while Wyoming's eighth-grade math was at the 89^{th} percentile. Obviously, the concept of "proficiency" varies a great deal between these two neighboring states. The other state academic standards are distributed at all points between these extremes.[22]

Most states set the cut points for meeting state standards by ranking test items according to difficulty and then asking a panel to decide where to place the "bookmark," or cut point. One of the failings of this procedure is that the standards are not connected to an external validation measure, such as work-force or college entrance requirements. The cut points that denote meeting the standards are in effect held up by a skyhook: they have no means of support.

Despite the implication that meeting state standards is an external benchmark of quality, they are quite variable and inconsistent across states. Taken together, they have not demonstrated a predictive relationship with anything – except poverty.[23]

Unrealistic Growth Assumptions

There is little or no scientific evidence that the growth assumptions necessary to attain, maintain and sustain Adequate Yearly Progress year after year can be accomplished.[24] In fact there is considerable evidence to the contrary.[25] Further, there is

evidence that schools that make AYP in a given year will most likely fall back toward the mean in the following years.[26]

The Northwest study examined 320,000 student records over time and did find early growth with NCLB, but the growth rate "won't bring schools close" to meeting the NCLB target. More disturbing was that the growth rate was declining, and the growth rate of minority students is less than the growth rate of majority students.[27] The California Department of Education projects that 93 percent of schools will fail by 2011 and 99 percent will fail by 2014.[28]

If these findings hold true across states and across time, then the inevitable result of AYP is a scenario where virtually all schools are eventually listed as failures, even in states with a low percentage of schools currently failed to make AYP. The unrealistic growth assumptions will drive the failure rate upward as the annual objectives increase year after year to meet the 2014 timeline.

Penalties on Diverse Schools

Schools with greater diversity, meaning they have more student subgroups, will be identified at a faster rate than schools with more homogenous populations simply because there are increased opportunities to fail.[29] The effect of these provisions is that a school with a highly diverse population of ethnic groups, children in poverty, non-English speakers, and special education students may have more than 30 opportunities to fail in a given year. In contrast, a school with limited poverty and no sizable minority population has far fewer opportunities to fail and is less likely to be identified. Thus, the same schools that face the greatest challenges are more likely to fail regardless of the quality of their instructional efforts.[30]

Most states employ statistical safeguards, such as a "confidence interval" around the score for each student subgroup and a minimum number of students required for a student subgroup to be included in the AYP analysis. The purpose is to ensure that differences in scores between one year and the next are statistically significant. A confidence interval protects against variation in scores due to a small number of students in a category. As we will demonstrate in the results section, even with these statistical safeguards and the safe harbor provisions, the preponderance of schools are subject to failure.

Assessment Concerns

Prominent psychometricians and former American Education Research Association presidents James Popham, Robert Linn, David Berliner, and Lorrie Shepard have noted that the state assessment programs, upon which AYP decisions are based, are inadequate for the purposes they are used in NCLB and cannot produce valid results.[31] They offer a multitude of reasons, including:

- Validity: The tests cannot and do not adequately measure the breadth of the curriculum within the tested areas. The ability to measure higher-order learning by such tests is, at the least, debatable.
- The system measures poverty rather than school quality: While NCLB requires standards-based tests with proficiency cut-off scores, the psychometric approaches used in the construction of these tests are borrowed from norm-referenced methods. Such systems, in their design, discriminate against lower socio-economic children.[32] Michigan State University's policy center concluded that accrediting schools on the basis of the state test was a measure of school

poverty rather than school quality.[33] A six-state study from the Harvard Civil Rights Project, which included Illinois, found that state tests and resulting AYP failures measure community demographics rather than school contributions to student learning.[34]

- Score Volatility: The AYP system compares different cohorts of students over time. For example, academic growth is measured by comparing the scores of third grade students in year one to the scores of third graders in year two. The difference between one year and the next can be attributed to test error and cohort effects rather than to teaching, learning, or the excellence of a school's programs. In fact, Kane and Staiger found these year-to-year comparisons to be 70 percent error.[35]
- The AYP System does not Consider Growth: The required and expected growth assumptions are not benched against any realistic expectations for growth. Thus, as Linn demonstrates, a poor school can make great gains and still fall below AYP requirements, while an affluent school can make very modest gains and still be above the penalty threshold.[36]
- Inadequate Test Construction Methods: Most state tests are constructed using a latent traits methodology. In short, this means that all test content is assumed to be linear, hierarchal, and sequential. This is the foundation for establishing test cut-off scores, equating scores from year to year, and equating scores from one grade to the next. Unfortunately, it is doubtful that these assumptions can be satisfied beyond the lower grades and beyond basic skill areas, where curricular content is more uniform. As children are taught the new test content, items

previously considered difficult become easy. Likewise, subject matter not taught shifts items into more difficult ranges. In New York's Regents Math test, shifts in assumptions caused the state to set a cut-point 20 points too high and resulted in massive false failure rates.[37]

- Inability to Provide Improvement Data to Schools and Teachers: State standardized tests provide limited diagnostic information to teachers and principals regarding how to improve teaching and learning. As a result, schools are labeled but have no useful information upon which to base school-improvement efforts.
- Incentives for Corruption: According to Nichols and Berliner, schools and teachers are penalized for school test scores over which they have nominal control. After applying Campbell's law, the authors uncover inherent incentives that encourage corruption. For example, the popular media have reported on false dropout reporting in Houston, exclusion of low performing students from testing in Tampa, and incentives for testing companies to cover up errors.[38]

NCLB Profiles for the Great Lakes States

The Great Lakes states (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin), while sharing a great basin, encompass a huge diversity in population, cities, ethnic groups, and economies. Each of these states has faced controversies over school funding, state standards, academic achievement, and compliance with AYP. This section includes a separate profile dedicated to each Great Lakes state. The profiles include a summary of state accountability pre-NCLB, the current status of schools *vis a vis* AYP,

major funding developments, state protests of NCLB, and the parameters associated with setting the annual objectives that schools must meet in order to make AYP.

In general, none of the Great Lakes states was among the top ten states with the highest percentage of schools failing to make AYP in either 2003 or 2004. Ohio is among the ten states with the lowest percentage of schools failing to make AYP in 2004, and Wisconsin had the lowest percentage of schools failing to make AYP in both 2003 and 2004. Minnesota and Wisconsin record among the lowest percentages of "schools needing improvement," while no Great Lakes state is among the top ten.

While the national protest against NCLB reached a new high in spring 2005, the Great Lakes states are scattered in their responses. Minnesota has registered strong and loud protests, as has the Wisconsin Attorney General. The other states have been relatively quiet. Nevertheless, two of the most comprehensive NCLB costing studies, have come from Ohio and Minnesota. Pontiac, Michigan is the lead plaintiff in the NEA lawsuit, but this is not a state-level action.

As for the AYP parameters, the annual objectives for four of the six Great Lakes states are based on the stair-step method in the early years, followed by steep, back-loaded objectives in the later years. The full detail of each state's AYP parameters are presented in the state profiles in an effort to be comprehensive. It is not necessary for the reader to be familiar with the statistical terms; the focus of the study is on the impact of the parameters on the school projections.

Illinois

Pre-NCLB Accountability

NCLB requires states to have a unified single accountability system for both Title I and non-Title I schools. In most cases, such as Illinois, the NCLB system was grafted onto the pre-existing state system. Illinois previously had a school accountability system under which an independent authority could ultimately be appointed to take over a failing school. Under these circumstances, students and staff could be reassigned. In Chicago, the superintendent could remove, replace, or reassign employees in a school.[39]

NCLB Status

In 2005, five percent of Illinois schools were eligible for school choice and five percent for supplemental services. Six percent of schools are in corrective action, the highest percentage of any state in the nation.[40]

Funding

In 1996 and again in 1999, the state Supreme Court rejected plaintiffs' challenges to the Constitutionality of the funding system. In 2000, however, the General Assembly's Funding Advisory Board estimated it would cost an additional $1.8 billion for all children to reach standards. Early education needed increases of 33 percent, elementary schools needed a nine percent increase, and high schools required a 15 percent bump.[41] In 2001, Augenblick and Meyers estimated a lower figure of only a four percent increase in spending. That study, however, was based on only 83 percent of the students reaching mastery.[42]

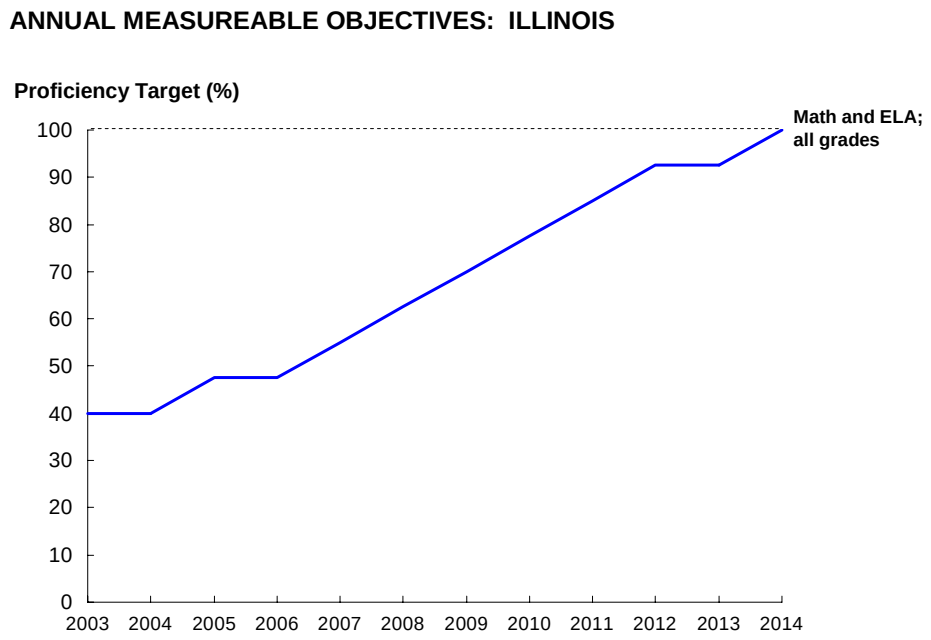
NCLB Protest Activities

Compared to other states, Illinois state officials have not strongly protested NCLB. The state association of school administrators adopted a policy statement and the Illinois Association of School Boards condemned the act and called for fundamental changes in 2003-2004.[43] State legislative and executive branches have been silent.

AYP Parameters

Illinois uses the stair-step method in the initial and final years of NCLB, with linear annual objectives in the middle years. The minimum subgroup size is 40 students.[44] The state employs a straight buffer interval of +3 percent (across all subgroup proficiency estimates) to account for statistical uncertainty in these scores. In Illinois, 37.9 percent of children are identified as economically disadvantaged, the highest percentage for all Great Lakes states. In all of the following graphs, "ELA" stands for English/language arts.

Figure 1



Indiana

Pre-NCLB Accountability

Indiana had an existing accountability system under which schools in the lowest category were appointed a school improvement planning committee. These committees could change personnel or request a change in the school leadership.[45]

NCLB Status

In 2004, 438 (22.9 percent) of Indiana's 1909 public schools failed to make AYP—a number that held basically steady from 2003—when 442 of 1891 (23.4 percent) failed AYP.[46]

Funding

A 2002 study sponsored by the Indiana State Teacher's Association concluded that a 27.5 percent increase in funding was needed to ensure that all students meet standards.[47] The follow-up study conducted by the Indiana state budget agency reported a similar increase of 25.5 percent was needed.[48]

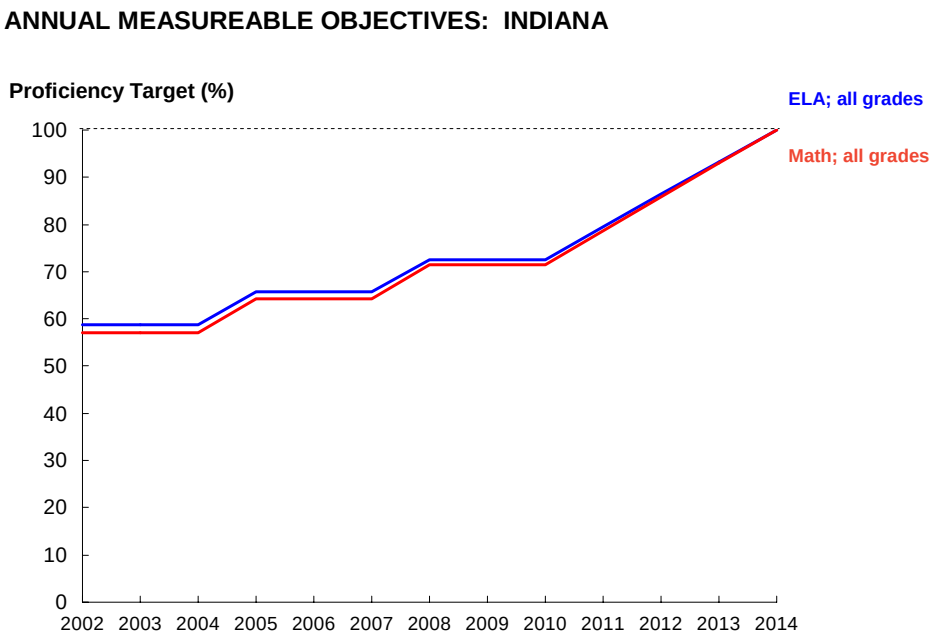
NCLB Protest Activities

The Indiana Urban Schools Association was among the first in the nation to realize the potential impact of the law on urban schools. A coalition of officials with various Indiana educational associations expressed their concerns as well. As of January 2005, the state Senate passed a resolution asking for waivers from the U.S. Department of Education, and the state board voted six to five in 2004 for changes in the accountability provisions of the federal law. A cost study was initiated by the state.

AYP Parameters

Indiana's annual objectives are based on the stair-step method until 2010, followed by accelerated, back-loaded expectations in the later years. The combination of a minimum cell size of 30 students in a disaggregated group with a rigorous "one-tail" binomial one percent confidence interval requirement has kept the number of identified schools relatively low.[49] Thirty-three percent of Indiana students are identified as economically disadvantaged.

Figure 2



Michigan

Pre-NCLB Accountability System

The Michigan accountability system permitted students to exercise school choice, if the school they attended was unaccredited for three years. The Michigan system also allowed the state superintendent to replace the local school administrator, to impose a reform model of instruction, or to order the school to be ordered closed.[50]

NCLB Status

In 2005, Michigan reported two percent of schools in school choice, one percent in supplemental services, one percent in corrective action, one percent in planned restructuring, and one percent in implemented instruction.[51] However, these numbers

may be deceiving. Reimann and Lee found the number of schools that failed AYP quadrupled from 2003 to 2004 and included 25 percent of the schools in the state.[52]

Funding

Michigan faces the worst funding crisis in 20 years, with the state unable to fund an adequate education.[53] Urban districts have been hardest hit due to declining enrollments, high costs, and slow growth in basic aid.[54] It is the large, urban, high-poverty schools that failed AYP, that led David Plank to conclude that the NCLB system is unresponsive to Michigan's high poverty needs.[55]

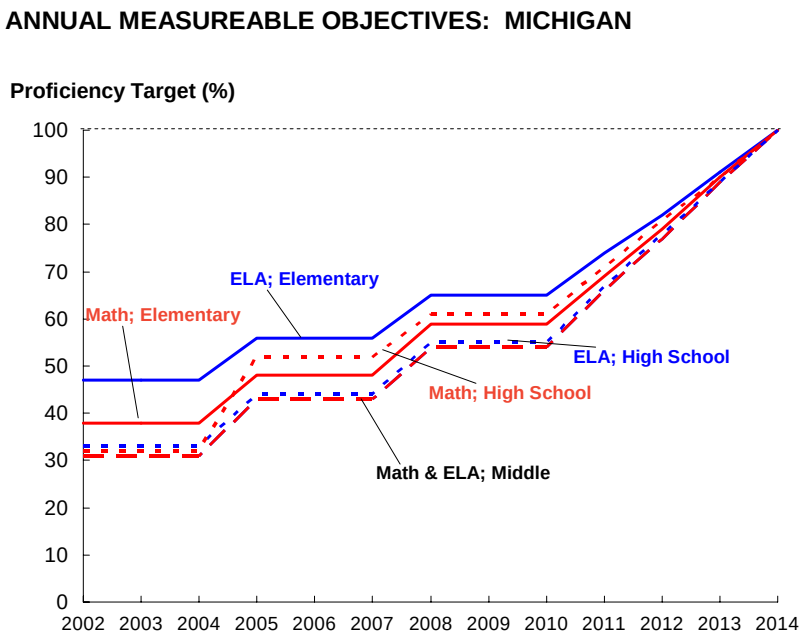
NCLB Protest Activities

Michigan state officials have not registered protest activities like other states. The state board did lower the standards when early projections showed almost immediate and universal failure of almost all schools. The most significant protest activity is the Pontiac School District's role as lead plaintiff in the NEA's federal court challenge. Pontiac contends that the law forces unfunded and illegal mandates on schools.

AYP Parameters

Michigan's annual objectives are based on the stair-step method until 2010, followed by accelerated, back-loaded expectations in the later years. The system used a minimum cell size of 30 and plans on implementing a confidence interval system, but no such system is in place as of this writing.[56] In Michigan, 32.2 percent of students are identified as "economically disadvantaged."

Figure 3



Minnesota

Pre-NCLB Accountability System

The existing state accountability system includes state standards, regular testing, and an improvement plan for schools showing insufficient improvement. The Legislative Auditor found that NCLB has created duplication and disrupted the state's existing system.[57]

NCLB Status

In 2004, 472 (21.6 percent) of the state's 2182 public schools failed AYP, over three times the number (144) identified as failing in 2003.[58] Similar to the other Great

Lakes states, only one percent of schools were implementing required school choice, and less than one percent is listed in other categories.

Nevertheless, the Legislative Auditor's report projects 82 percent of the schools failing under a high improvement rate assumption and 99 percent failing under a modest improvement rate assumption. By 2014, 65 percent of Minnesota schools would be in the restructuring phase.

Funding

The Legislative auditor's report is a careful and complete study of the costs of implementing NCLB. They parse state requirements before NCLB and calculate the costs to modify or add on the new NCLB-required features. The report identifies new, administrative costs related to NCLB alone at $39 million while the state received $42 million in total new money under NCLB. The report does not include the costs of "making all students proficient," nor does it include the costs of curriculum alignment, restructuring, or the cost of qualified teachers and paraprofessionals. Money would have to be taken from services to children, or a new funding source would have to be found the report concludes.

NCLB Protest Activities

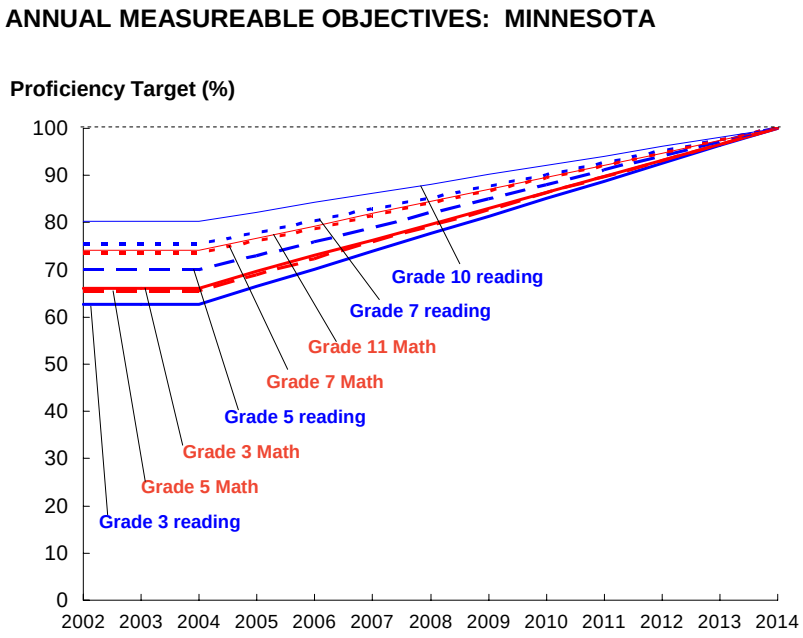
Following release of the costing study, Minnesota policy makers have been among the more vocal national critics of the NCLB act. A January 2005 bill was introduced directing the state Commissioner of Education to file for federal waivers from "ineffective" provisions. If these waivers were not granted, then Minnesota would opt out of NCLB. The bill has passed the Senate Finance and Senate Education committees

with bipartisan support. The state was earlier penalized in a dispute with the federal government over the measurement of AYP.[59] Two other resolutions were introduced in the Senate asking the federal government to refrain from expanding NCLB to high schools and to adopt the National Council of State Legislature's recommendations on improving NCLB. Yet another bill was introduced to revoke contracts with the federal government if it did not accept specific Minnesota accountability procedures.[60]

AYP Parameters

Minnesota's growth expectations are flat in the earliest years, followed by a straight-line increase beginning in 2004 until 2014. The minimum subgroup is a relatively low 20 students. Confidence intervals are employed in the accountability system on a sliding scale; these intervals fall between 95 percent and 99 percent based on the number of subgroups measured in a particular school.[61] A total of 27.5 percent of students are economically disadvantaged.

Figure 4



Ohio

Pre-NCLB Accountability System

The Ohio system was not as highly developed as the other Great Lakes states' accountability systems prior to NCLB. Consequently, Ohio most faithfully replicated the federal system. Compared to the other Great Lakes states, the greatest difference in the Ohio system is in the harsher prescriptions for state takeover at the end of five years. Additionally, the system employs the terms "academic watch" and "academic emergency" to identify schools.[62]

NCLB Status

In 2004, 662 (17.4 percent) of Ohio's 3815 public schools were identified as failing to make AYP; this represented a 20 percent decrease from the 829 identified as failing in 2003.[63] Four percent of schools are subject to choice provisions, one percent offered supplemental services, and one percent were in planned restructuring.

Funding

Ohio has seen significant action related to the costs of NCLB and in general state aid for students. On NCLB costs, Ohio joins Minnesota in providing one of the more finely detailed studies of the costs of NCLB. The state is unusual in having outside qualified and objective judges review its cost study. The reviewer comments were published along with the report. In short, the Driscoll and Fleeter study found NCLB administration costs alone would sum to $105.4 million, but the state only received $44 million in new money. Costs were predicted to escalate to $1.45 billion by 2010.[64]

In terms of general state aid, the state has seen one of the longer and more convoluted funding lawsuits, with five separate court actions in a decade (the *DeRolph v. State* series). The state Supreme Court first declared the system unconstitutional, then reversed itself, and then left the issue in the hands of the legislature. This led one finance scholar to note that an alarming 27 percent of districts were in financial deficit in 2004, and that funding for academic gains "appears doomed."[65]

NCLB Protest Activities

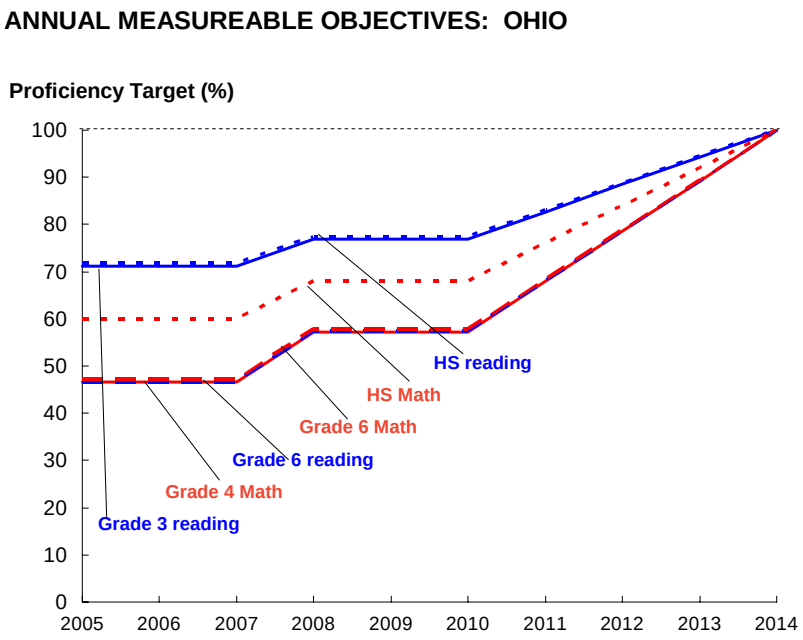
A resolution of opposition to the AYP system was introduced in the U.S. House of Representative by Ohio's Rep Ted Strickland in 2003 but went nowhere. After the

release of the Driscoll and Fleeter cost report, however, Ohio's Republican-controlled House decried the costs imposed on the state and in a 2004 bill asked for waivers and federal funding. Interestingly, Rep. John Boehner (R-OH), Chair of the federal House Committee on Education and the Workforce, has been one of the most vocal supporters of NCLB. He has defended the adequacy of federal funding, saying that states were "making money" off the NCLB appropriations.[66]

AYP Parameters

Ohio's annual objectives are based on the stair-step method until 2010, followed by accelerated, back-loaded expectations in the later years. Targets differ for both reading and mathematics and are unique to elementary, middle, and high schools as well. The minimum cell size is 30, with 45 students required in the special education category before the group is used for accountability purposes. Ohio schools and subgroups can meet their annual objectives on the basis of either current proficiency status or the average proficiency status over the three years immediately preceding.[67] A total of 28.7 percent of Ohio students are identified as economically disadvantaged.

Figure 5



Wisconsin

Pre-NCLB Accountability System

Wisconsin had statewide tests in grades four and eight, plus a test required for graduation that was repealed before implementation. Passing the lower level tests was a requirement for promotion to the next grade. There was no school accountability system of sanctions prior to NCLB.

NCLB Status

Wisconsin reports less than one percent of schools in any of the NCLB sanction areas. This is the lowest percentage in the nation. Fewer that five percent of schools

were identified as failing in either 2004 (108 of 2232 identified) or 2003 (110 of 2208 identified).[68]

Funding

Wisconsin is a relatively high-spending state, yet the funds are not targeted to the cities where the resources are needed if high standards for all are to be achieved.[69] Funding reform has stalled with the effects of the state's recession, however. In costing the amount needed to assure a high quality education for all students, the *Institute for Wisconsin's Future* estimates a need for a 35 percent increase in state educational funding.[70]

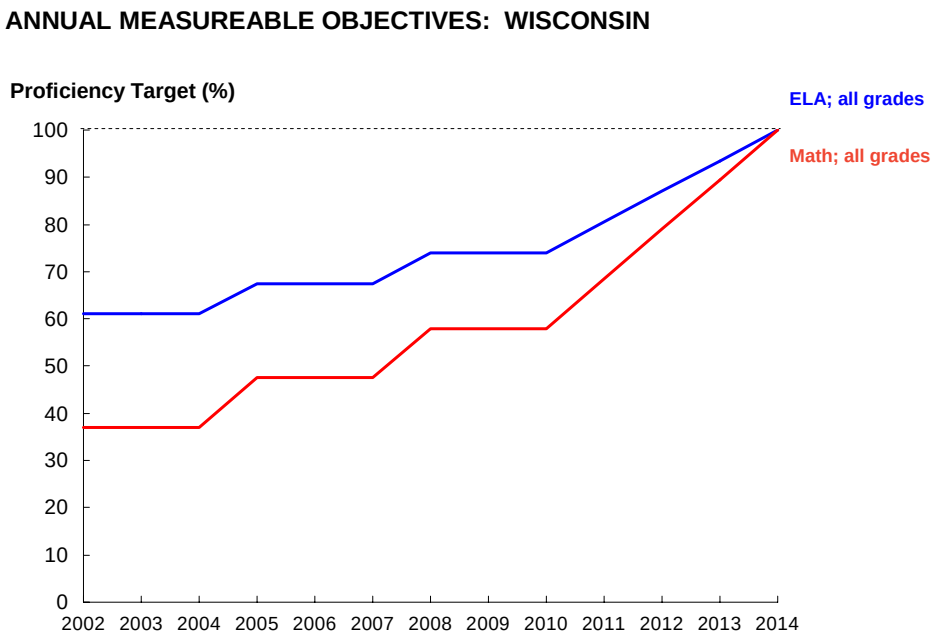
NCLB Protests

Wisconsin Attorney General Peggy Lautenschlager provided one of the stronger protests against NCLB under funding, stating in 2004 that states are not compelled to fund any NCLB mandates not funded by the federal government.[71] A resolution for full funding subsequently passed the Senate but failed in the Assembly.

AYP Parameters

Wisconsin's annual objectives are based on the stair-step method until 2010, followed by accelerated, back-loaded expectations in later years. The minimum cell size is 40 for most subgroups and 50 for special education students Likewise, the state uses a standard error of measurement as a confidence interval, which results in lower numbers of schools being identified. Wisconsin employs a two-tail 99 percent confidence interval (as opposed to the one-tailed interval of Indiana) for this purpose.[72] The student population includes 27.6 percent of students identified as economically disadvantaged.

Figure 6.



Early National Trends and Findings

The Northwest Evaluation Association, which tracks achievement test score gains of 320,000 students in 23 states, found small gains during two NCLB years, but growth scores decreased and "student growth in every ethnic group has declined."[73] Based on surveys of states and districts, the Center on Education Policy (CEP) comes to the opposite conclusion, saying that achievement is increasing and the achievement gap is narrowing.[74] Since the individuals completing the surveys have a vested interest in showing growth, however, some caution must be used in interpreting survey results.

CEP estimates about 8,000 schools have been identified as in need of improvement for 2005, while the National Education Association (NEA) estimated 21,000, and Education Week projected 20,000.[75] No explanation is provided for such

widely disparate projections. Thus, NEA and *Education Week* project large increases in identified schools, while CEP shows basically a flat trajectory. *Education Week* reported that the predicted "tidal wave" of identified schools has, so far, not yet occurred. CEP and the *Education Trust,* a pro-accountability think tank, cite the number of schools moving in or out of "needing improvement" status as evidence that NCLB is working. Yet, a number of federal rule changes, and states' and local districts' increased sophistication in applying the rules, offer alternative explanations for the plateau in the number of identified schools. Indiana, for example, chose to count only those schools receiving Title I money which shrank that state's number of identified schools. Joel Packer of the NEA says there are simply too many confounding variables in play to draw definitive conclusions based on the number of identified schools.[76]

There is universal agreement that schools most frequently identified under AYP tend to be middle schools, urban schools, or in very large districts. Schools with larger numbers of Hispanic and Black students are also identified more frequently. Small, rural, and suburban schools are identified less frequently. Schools with fewer minority groups, less poverty and higher pre-existing achievement are less likely to be identified. A number of analysts have concluded that the tests and the AYP system identify poverty rather than the quality of a school's academic program.[77]

Michigan state researchers, and many others, point to a number of compounding factors that, in time, will lead to all schools being declared as in need of improvement:

- Standards continue to increase at regular intervals.

- More grade levels are being tested, which means that minimum cell size requirements are more easily met, resulting in more subgroups in the AYP analyses and more opportunities to fail.
- Since one year "gains" from previous changes to rules will no longer be available, the number of schools identified as failing AYP, and the number of schools in the various stages of "in need of assistance," will grow exponentially.
- Expectations for special education students and English Language Learners are, *prima facie*, illogical and impossible to attain.

Predicting the Impact of AYP in the Great Lakes states

Although some earlier studies such as those in Indiana and Minnesota predicted massive, if not universal, AYP failure rates; there is no clear estimate of how many schools in the Great Lakes region will be affected by the AYP requirements. This section projects the outcomes of AYP for schools in the Great Lakes states, taking into consideration the parameters each state used to establish its annual objectives.

AYP projections are made for each year through 2014. The projections are based on:

- each state's current NCLB accountability system (as planned through 2014);
- the AYP parameters for each state as presented in section ZZ;
- the current (2003-2004) AYP status in each state/school/subgroup; and
- the projected rate of growth for state/school/subgroup according to three separate scenarios.

The number of schools making or failing AYP is also affected by two other factors: changes in student body makeup and the number of grades tested. These factors influence the number of students per subgroup. An increase in the number of students per subgroup is relevant because larger group sizes increase the possibility that subgroups will reach the minimum student count thresholds necessary for inclusion in the AYP analyses.

Demographic shifts (e.g. an influx of ELL students) will increase the size of the student subgroups and states have little control over these demographic changes. The expansion of state testing programs, however, is built into NCLB because the law requires that all students in grades third through eighth and high school beginning in 2005-2006. The increase of students in state testing programs will also increase the number of students in each subgroup. Our projections hold demographic makeup constant. But they do account for the expansion of state testing programs and the impact that increasing the number of students tested will have on the size and the numerical significance of student subgroups.

The method each state used to set the annual objectives is a key element of the study. As detailed earlier, states vary dramatically in how they set the annual objectives that schools are required to meet in order to make sufficient progress toward the "100 percent proficient" requirement by 2014. Some states (e.g., Minnesota; Illinois) set annual objectives in a more or less even, steady growth fashion, using primarily the straight-line method. Other states (e.g., Michigan, Indiana, Ohio, and Wisconsin) use the stair-step method and ramp up the annual objectives every few years until 2011, at which

time the annual objectives are back-loaded with rapid, straight-line growth required to reach the 100 percent goal in 2014.

We should also note that the AYP requirements are a changing landscape. For example, some states (e.g., Michigan, Ohio) plan to replace their state testing program which, depending upon where the standards are set, could dramatically influence both the failure rates as well as the year-to-year growth expectations. Also, states are seeking flexibility from the U.S. Department of Education on the implementation of AYP. Margaret Spellings, the Federal Education Secretary, recently signaled a willingness to consider gain scores and other modifications that would allow schools to be measured using growth indicators.[78] At this writing, though, the Secretary's signal for flexibility remains undefined. Obviously, changes in the AYP requirements would influence the rate and number of schools identified. As an example of how proposed changes might affect the status of schools under AYP, we include projections for one state based on its request to the U.S. Department of Education for flexibility.

Projecting the progress of schools under AYP is particularly complicated because schools start at different points (meaning varied rates of growth are needed to reach the 100 percent proficiency goal) and schools can reasonably be expected to advance at different rates. For example, growth expectations for schools starting out with 90 percent of students meeting the standards in 2004 cannot be expected to be the same as schools starting out with ten percent of students at proficiency. Furthermore, observed growth and the standard setting assumptions which underlie the proficiency determinations differ by school type; elementary schools will likely advance at a different rate than middle or high schools. Studies that use a common growth rate across all schools, therefore, fail to

recognize the important relationship between starting point, differential growth rates, and school type.

For this study, the projected growth rates are conditional upon both starting level and school type. The projected growth rates are established based on an empirical study of annual growth rates observed over three years in Illinois (the only state where sufficiently detailed data are available). For each school type (elementary, middle, and high school), the growth rates are projected uniquely by ten percent bands according to the school's starting point in 2004 (0-10 percent students meeting standards, 11-20 percent of students meeting standards, etc.). The estimated impact of AYP is projected based on three possible scenarios (High, Medium, and Low Growth). The scenarios correspond to the observed annual growth rates at the 75^{th}, 50^{th}, and 25^{th} percentiles of schools within each starting band in the empirical study. For example, under the High Growth assumption, elementary schools that start out with between 10 percent and 20 percent proficient are projected to grow at an annual rate equivalent to the 75th percentile of annual growth observed for schools starting out between 10 percent and 20 percent proficiency in the three-year Illinois study.

The annual projections are provided for three school status categories: (1) Made AYP, (2) Failed AYP but eligible for Safe Harbor, and (3) Failed AYP and not eligible for Safe Harbor. As noted above, schools which fail to meet the annual objectives may avoid being designated as "Failed to meet AYP" if they meet the Safe Harbor criteria; (1) reduce the percentage of students in a subgroup <u>not</u> meeting standards by ten percent and (b) demonstrate improvement on an alternative measure of academic achievement. In this study, "Failed AYP but Eligible for Safe Harbor" refers to schools which meet the

first criterion only. These schools are eligible for Safe Harbor but have not necessarily made AYP. "Making AYP with the Safe Harbor option is contingent on the relevant subgroups meeting targets on alternative measures, which this analysis does not take into consideration. Therefore, the projections in this study provide an upper bound, or a conservative estimate, of the schools that will actually achieve Safe Harbor; in reality, some proportion of schools eligible will fail to demonstrate progress on the alternative measure and will subsequently be designated as failing to meet AYP.

In other ways as well our projections provide *conservative* estimates of school identification as having failed to meet AYP. Under NCLB, schools and subgroups must not only meet proficiency targets but must also meet an assessment "participation" target (95 percent of students taking the state assessment); in this analysis all schools and subgroups are assumed to have met the participation target, meaning that no schools are estimated to have failed AYP on that basis. AYP also requires measurement of all numerically significant subgroups made up of ethnic minority students, limited English proficient (LEP) students, students with disabilities, and economically disadvantaged students. In this study, only ethnic minority subgroups are assessed, as they are the only ones that are mutually exclusive or non-overlapping. In other words, our projections do not consider the schools that may fail to make AYP because of targets missed by subgroups of LEP students, economically disadvantaged students, or students with disabilities. Finally, in 2007 NCLB will require testing in science along with English/language arts and math, potentially increasing by 50 percent the number of participation and proficiency targets that a given school must meet. This analysis

includes only math and English/language arts, as no data is available to guide projections of growth in science achievement. The science tests are required beginning in 2007.

Finally, the results are presented with minimum technical detail. The interested reader is directed to the accompanying technical report for detailed information ("Technical Details of Projecting AYP Success and Failure in Great Lakes States"). For each of the Great Lakes states, the projected percentage of schools failing AYP, schools failing AYP but Safe Harbor eligible, and schools making AYP are shown below:

Illinois

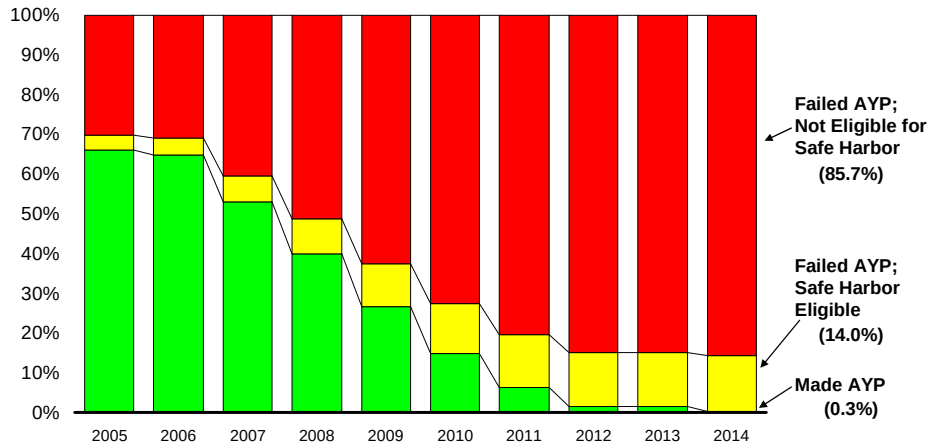
Even under the most optimistic growth projections (High Growth) over 65 percent of schools are expected to not make AYP by 2014 and nearly 30 percent more do not make AYP but are Safe Harbor eligible. Most of the decline occurs after 2006 when the Illinois annual objectives increase in a straight-line fashion. Furthermore, the projected number of schools making AYP is expected to decrease precipitously until nearly all schools are projected to have not made AYP.

Figure 7: Projected Outcome of AYP in Illinois

PROJECTED SCHOOLS MEETING AYP: ILLINOIS (HIGH GROWTH)
Percent of total public schools

PROJECTED SCHOOLS MEETING AYP: ILLINOIS (MEDIUM GROWTH)
Percent of total public schools

PROJECTED SCHOOLS MEETING AYP: ILLINOIS (LOW GROWTH)
Percent of total public schools

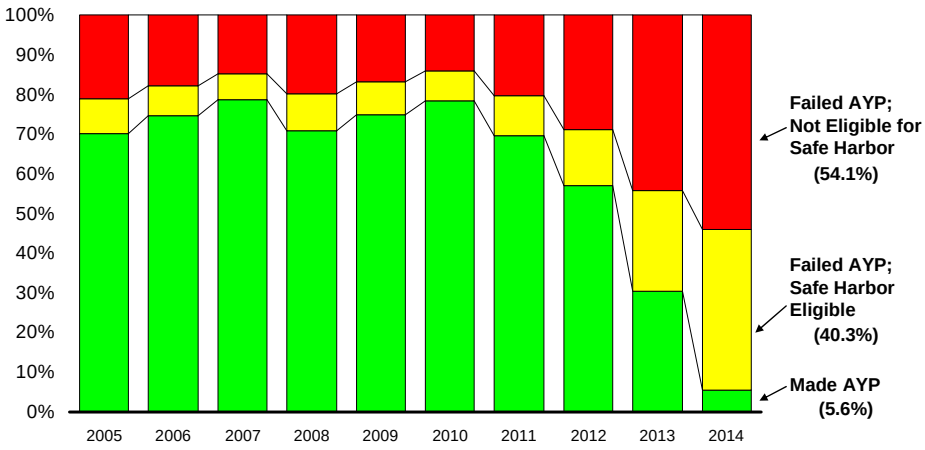


Indiana

If one assumes Indiana schools will progress at a high rate (equivalent to the 75th percentile of schools in the empirical study), then the percentage of schools not making AYP is limited to 54 percent come 2014. The percentage of schools making AYP, however, even at this aggressive rate, is less than ten percent. Under the other scenarios, the school outcomes are bleak and similar; 80 to 85 percent of schools eventually do not make AYP.

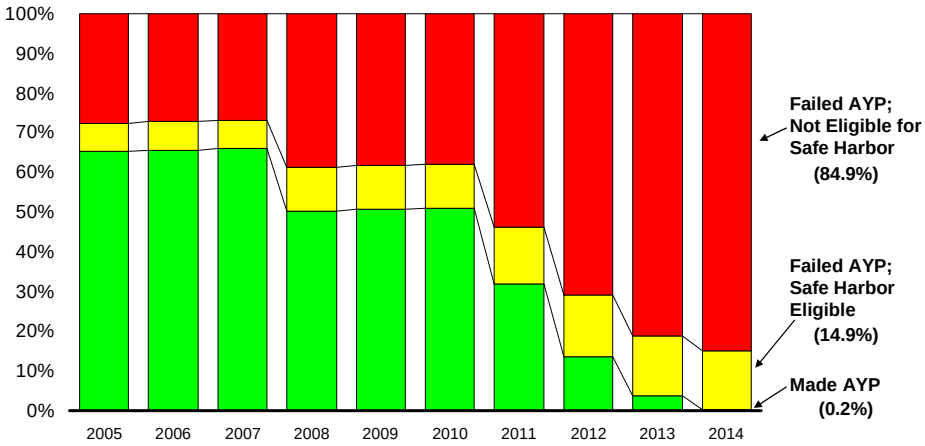
Figure 8: Projected Outcome of AYP in Indiana

PROJECTED SCHOOLS MEETING AYP: INDIANA (HIGH GROWTH)
Percent of total public schools



PROJECTED SCHOOLS MEETING AYP: INDIANA (MEDIUM GROWTH)
Percent of total public schools

PROJECTED SCHOOLS MEETING AYP: INDIANA (LOW GROWTH)
Percent of total public schools



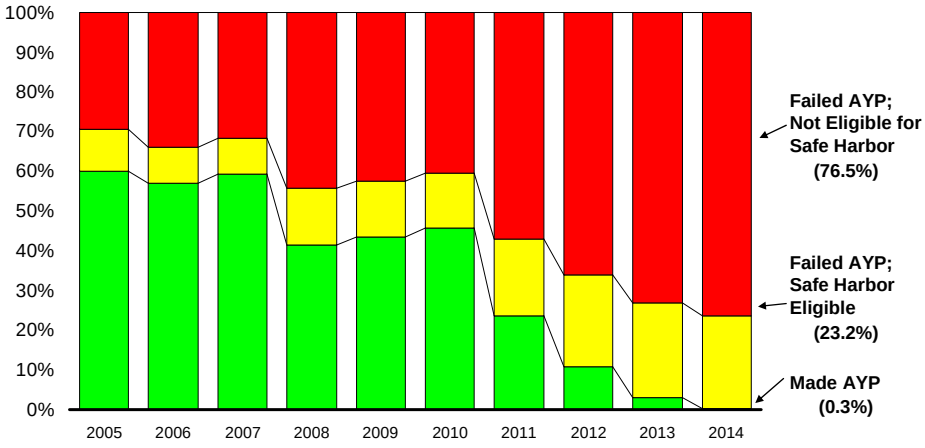
Michigan

Under the high growth scenario, nearly 50 percent of schools are projected to not make AYP but are Safe Harbor eligible. Under the medium and low scenarios, however, many of the schools protected by the Safe Harbor provision do not make AYP outright and less than one percent of schools are projected to make AYP.

Figure 9: Projected Outcome of AYP in Michigan

PROJECTED SCHOOLS MEETING AYP: MICHIGAN (HIGH GROWTH)
Percent of total public schools

PROJECTED SCHOOLS MEETING AYP: MICHIGAN (MEDIUM GROWTH)
Percent of total public schools



PROJECTED SCHOOLS MEETING AYP: MICHIGAN (LOW GROWTH)
Percent of total public schools

Minnesota

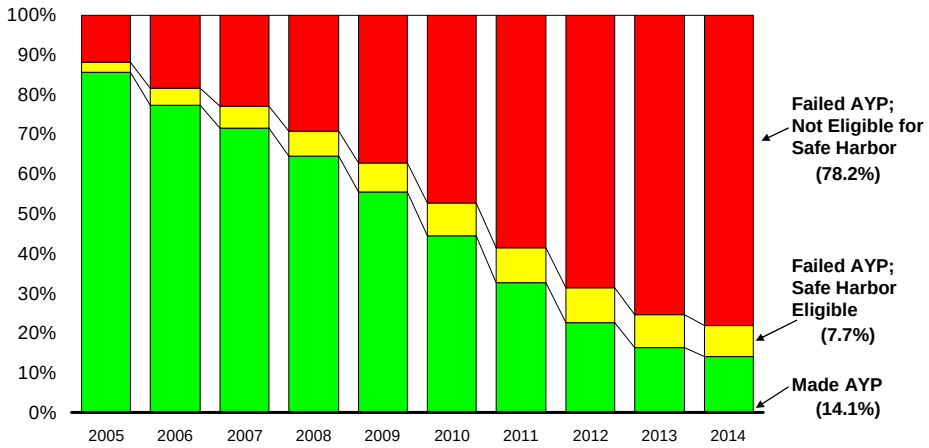
Minnesota set annual objectives primarily according to the straight-line method and the percentage of schools not making AYP increases steadily as the percentage of schools making AYP declines inversely. The percentage of schools making AYP in 2014 is projected to be fairly consistent, approximately 15 percent, under all three scenarios.

Figure 10: Projected Outcome of AYP in Minnesota

PROJECTED SCHOOLS MEETING AYP: MINNESOTA (HIGH GROWTH)
Percent of total public schools

PROJECTED SCHOOLS MEETING AYP: MINNESOTA (MEDIUM GROWTH)
Percent of total public schools

PROJECTED SCHOOLS MEETING AYP: MINNESOTA (LOW GROWTH)
Percent of total public schools

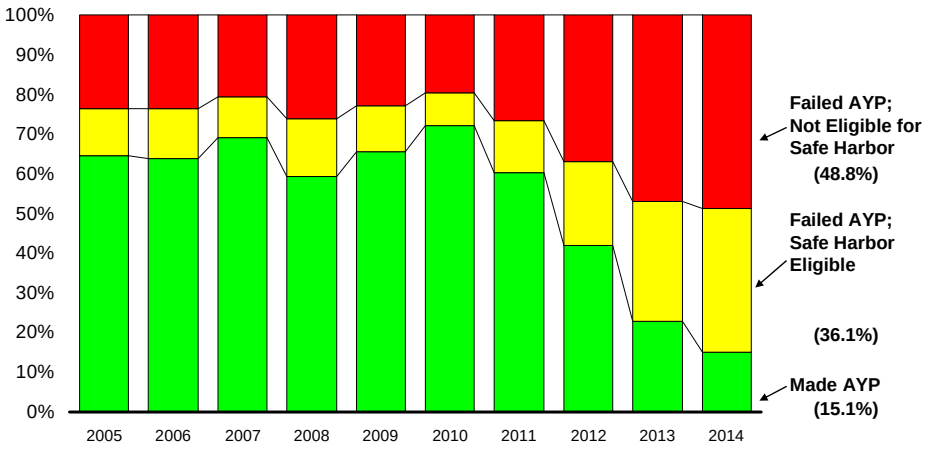


Ohio

Ohio's annual objectives are based on the stair-step method. Therefore, the AYP requirements have the greatest impact at the years when the annual objectives are ramped up (2008 and 2011) and when the annual objectives are back-loaded (2012-2014). In these later years, the annual objectives escalate steeply. By 2014, the percentage of schools projected to not make AYP varies from 45 to nearly 80 percent based on the scenario. Yet, the percentage of schools projected to make AYP remains less than 15 percent across all three scenarios.

Figure 11:. Projected Outcome of AYP in Ohio

PROJECTED SCHOOLS MEETING AYP: OHIO (HIGH GROWTH)
Percent of total public schools



PROJECTED SCHOOLS MEETING AYP: OHIO (MEDIUM GROWTH)
Percent of total public schools

PROJECTED SCHOOLS MEETING AYP: OHIO (LOW GROWTH)
Percent of total public schools

Wisconsin

Under all three scenarios, Wisconsin is projected to be impacted by the AYP requirements in the later years of the NCLB timeline (beginning in 2011). Prior to those years, approximately 15 percent or fewer of schools are projected to not make AYP. From 2011 to 2014, the number of schools identified as not meeting AYP is expected to increase at a rapid pace; in 2014, even under the most ambitious growth scenario, only 15 percent of schools are projected to make AYP.

Figure 12: Projected Outcome of AYP in Wisconsin

PROJECTED SCHOOLS MEETING AYP: WISCONSIN (HIGH GROWTH)
Percent of total public schools

PROJECTED SCHOOLS MEETING AYP: WISCONSIN (MEDIUM GROWTH)
Percent of total public schools

PROJECTED SCHOOLS MEETING AYP: WISCONSIN (LOW GROWTH)
Percent of total public schools

When and at what rate schools are threatened by the possibility of failing AYP differs significantly across states due in part to the aggressiveness of the annual objectives. For example, Ohio's annual objectives are relatively low until 2011, at which time they increase substantially (ten percent annually) to 100 percent in 2014. As such, Ohio's rate of meeting targets stays high until 2011, at which point it drops dramatically. An even more pronounced drop in AYP success is evidenced in Wisconsin, a state for which targets step up only minimally until the 2011 onset of a rapid ascent. Minnesota, on the other hand, requires straight-line growth forward from 2004 onward; it is little surprise, then, that the percentage of schools making AYP in Minnesota's declines consistently with the increases in annual objectives.

Although states differ in the timing and rate at which schools fail to make AYP, the ultimate outcome is clear and consistent across all states: even in high-growth

scenarios, states are likely to observe high rates of school failure relative to the annual objectives, especially as targets increase in later years. This is the case regardless of built-in easements of confidence intervals (common to IL, IN, MN, and WI), rolling averages (OH), partial credit for nearly proficient students (MN), and safe harbor requirements (all states).

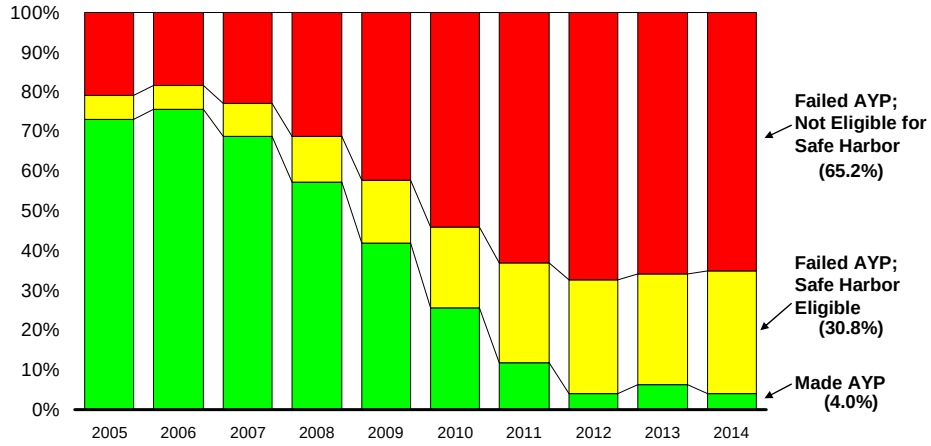
Anticipating substantial and increasing numbers of schools facing the severe sanctions associated with schools in "corrective action" or "restructuring," many states have proposed changes to their No Child Left Behind requirements. In fact, the U.S. Department of Education expects nearly every state to apply for changes in the AYP requirements.[79]

In most cases these changes are intended to ease the requirements for the annual objectives. Though such changes will likely improve school "success" rates in the short term, the ultimate widespread identification of schools as "needs improvement" will ultimately be delayed rather than avoided. Illinois, for example, recently petitioned the Department of Education to increase its standard for subgroup "numerical significance" from 40 students to the greater of 50 students or 15 percent of the test-taking population. As evidenced from the projections under Illinois' proposed systems provided in Figure 13 below, proposed changes do partially stem the tide of schools failing AYP in the early years (increasing AYP "success" rates by two to five percent). Ultimately, though, the changes do little to prevent the widespread identification of schools as failing AYP in the subsequent years of the NCLB timeline.

Figure 13: Projected AYP Success Illinois with Proposed Change to Numerical Significance Requirement

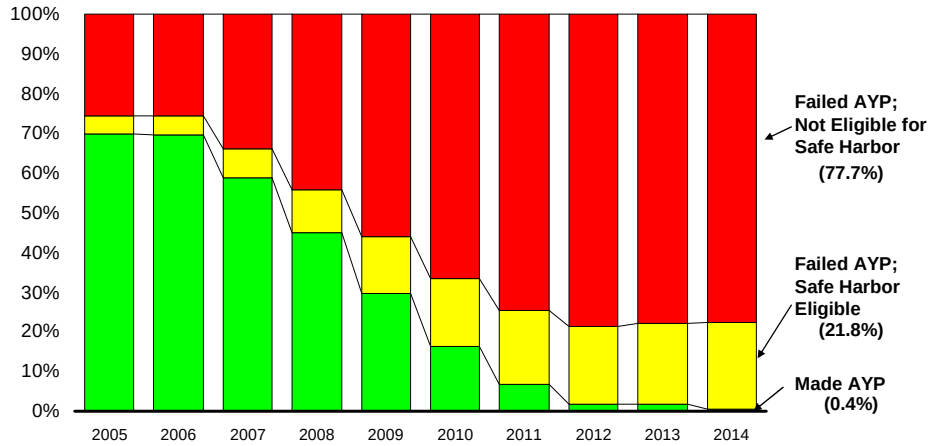
PROJECTED SCHOOLS MEETING AYP UNDER PROPOSED CHANGES: ILLINOIS (HIGH GROWTH)

Percent of total public schools



PROJECTED SCHOOLS MEETING AYP UNDER PROPOSED CHANGES: ILLINOIS (MEDIUM GROWTH)

Percent of total public schools



PROJECTED SCHOOLS MEETING AYP UNDER PROPOSED CHANGES: ILLINOIS (LOW GROWTH)
Percent of total public schools

Conclusions and Recommendations

Each of the six Great Lakes states has a different pattern of schools failing AYP depending upon the characteristics of the state AYP parameters, but they share important commonalities. Many states are expected to experience accelerating numbers of schools failing AYP as 2014 approaches. Even in states with the most positive projections, 50 percent of schools are still expected to not make AYP, and the Safe Harbor options holds little promise to remedy the trends.[80] Note that these projections do not include the effects of failure to make AYP for the subgroups of children with disabilities and for economically disadvantaged or does not account for school failure rates on account of the 95 percent minimum testing requirement. Thus, these projections are conservative.

Some hope that this grim prognosis can be mitigated if Secretary Spellings grants significant and meaningful flexibility to states. In a May 2005 decision, she granted Florida flexibility on the size of subgroups and in shifting from a stair-step to a linear AYP model. A decision on Florida's request for a gain model was postponed.[81] Little can be interpreted from the Florida request because the changes were no more than what had already been granted to other states. The federal government has signaled a willingness to consider more fundamental changes, such as the use of gain or value-added models or following the same group of students. Certainly such models would address one of the existing problems with the AYP requirements, but it would also introduce a new set of problems regarding equating scores across grade levels.

Of relevance to this report is whether the announced flexibility will make a meaningful difference to the projections presented here. As shown using Illinois' request for flexibility under AYP as an example, if the end goal is still all children in all groups reaching test standards by 2014, the end result remains unchanged. Schools will continue to fail, at a minimum, at the rates projected in this study. Secretary Spellings has pronounced that the "bright line" of non-negotiable flexibility is annual testing. This was reaffirmed in the denial of Connecticut's request for alternate-year testing.[82] Final growth expectations are defined in the law. If testing and growth expectations remain in their current form, then flexibility pronouncements will be cosmetic rather than meaningful.

There is considerable speculation about the shape of the law as a result of the reauthorization process in 2007. Such scenarios involve extensive political prognostication, however, and are well beyond the scope of this paper. But if the end

goal of AYP requires all groups and subgroups to reach proficiency by 2014, the estimates of massive proportions of schools failing AYP in this report remain valid.

The education of all children to high standards is a moral imperative. This requirement has been embraced by educators and policy makers across the political spectrum. Perhaps the single greatest attribute of NCLB is that it has brought this issue to the forefront. While the lower performance of poor and minority populations has been well known among educators and researchers for the last century, there has been a lesser will in political circles to fund and support equal educational opportunities for all children. This is well-exemplified in Ohio's *DeRolph* case and in countless other court cases across the land.[83]

In the minds of some, NCLB is a purposeful effort to declare the public school system a failure and replace it with a privatized system of education. Needless to say, such a massive shift would have incalculable effects on society, education, and democracy. Whether such a purpose was intended resides in the minds of those who crafted and approved the law. Nevertheless, based on these projections and assuming states use the forced re-organization requirements of NCLB to contract with private companies, the effect will be to force the public education system into a privatized model or, at least, one that broadens the role of private service providers in public education.

Groups such as the Center on Education Policy, the American Association of School Administrators, the National Council of State Legislatures, and the National Education Association have made recommendations to improve NCLB. While such recommendations vary considerably, all groups find the AYP system unrealistic or unworkable.

This report includes broad conclusions and recommendations, as well as, specific recommendations to improve the AYP requirements.

Broad conclusions and recommendations:

- Schools are not capable of closing the achievement gap without resolving the social problems that underlie this gap. While schools, as well as all other institutions, must continuously strive for maximum efficiency, the fundamental assumption of NCLB is that schools can solely resolve the inequities in our society. As these models demonstrate, there is simply no empirical rationale for this assumption. Closing the achievement gap requires the strengthening and inclusion of families, community, health providers, childcare, early education, summer, after school activities, and technical education among other vital and essential services.

- Adequate funding for remediation and social infrastructure is essential to meet the proposed goals. Many of the current estimates of NCLB funding levels commonly include only the costs of the administrative and bureaucratic procedures for implementing the law. Large investments in both remedial opportunities and social opportunities are necessary to overcome disparities and meet student educational needs. The median cost of adequacy studies, which project the costs to bring all children to standards, indicate an additional national investment of $138 billion is needed.[84]

- The AYP system does not measure the quality of a school's academic programs. The system of annual goals as required in NCLB inevitably identifies nearly all schools as failing AYP, even if the school makes

exceptional growth. School evaluation is necessary to assure educational quality, but it must be based on realistic and comprehensive expectations.

- The multiple purposes of education are not properly measured through a test-based accountability system. It is essential that other measures of school and student success also be used in state accountability systems. For example, the social and democratizing goals of American education are neglected in the AYP and NCLB systems.

Specific conclusions and recommendations on the AYP process include:

- **Standard Setting:** The standards themselves are pivotal in any test-based accountability system. Not only must standards be realistic, they must accurately reflect both the skills and the attributes needed by citizens in society. Standards in the Great Lakes states as well as other states are not linked to external expectations.

- **Gain Models:** AYP requirements must include gain models that accurately credit student achievement over time. Despite technical problems, gain or value-added models are a great improvement over the current system. Comparing different student cohorts introduces unacceptable levels of error.

- **Realistic Growth Expectations:** The goal of all students achieving standards by 2014 is a political construction. The goal is not grounded in research. As demonstrated with the Great Lakes states, the growth expectations in NCLB are unrealistic, regardless of the rates of growth. Growth expectations must be recalibrated empirically in order to set reasonable expectations. Further, the

greatest gains are required from those schools with the greatest challenges in reaching standards. The result is inevitable failure regardless of the quality of educational programs.

- **Confidence Intervals and subgroup sizes:** While NCLB is still based on unrealistic rates of growth, immediate damage to schools from false labeling can be partially and temporarily averted by the aggressive use of confidence intervals and subgroup sizes.

- **Unique subgroup issues:** The rules applied to special education, English language learners, and schools with migratory populations are particularly troublesome and will result in great over-identification regardless of the quality of the schools' educational programs. Standards and growth expectations for these groups must be modified or eliminated if a fair and reasonable system is desired.

The projections for schools in the Great Lakes states warn against the sustainability of NCLB as the AYP requirements are currently constructed. The projections for the Great Lakes states are applicable nationwide. Many states have AYP parameters similar to the Great Lakes states and their schools are facing a similar fate. Thus, the entire country faces tremendous failure rates even under a conservative estimate with a number of forgiving assumptions.

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