

# ***ARIZONA STATE SENATE***

***Forty-eighth Legislature, Second Regular Session***

## **FACT SHEET FOR H.B. 2392**

### NCLB opt out; cost study

#### Purpose

Requires the Arizona Department of Education (ADE), the State Board of Education (SBE) and the School Facilities Board (SFB) to jointly conduct a cost study to determine the fiscal and policy impacts of a state opt-out of the “No Child Left Behind Act of 2001” (NCLB) by June 30, 2009. Requires Arizona to opt-out of NCLB if the Legislature appropriates monies to fund the potential loss of federal monies that would result from the NCLB opt-out beginning in FY 2010-2011.

#### Background

The NCLB reauthorized the Elementary and Secondary Education Act of 1965 (ESEA) and incorporated education reforms proposed by President Bush in his “No Child Left Behind” initiative, such as: 1) increased accountability for schools through annual assessments and adequate yearly progress measurement; 2) expanded choice options for parents and students; 3) broad flexibility and local control for schools; and 4) stronger emphasis on research-based reading programs. Currently, Congress is considering the reauthorization of the NCLB.

Several Arizona public schools do not accept any NCLB funds; however, according to the ADE, these schools continue to comply with NCLB accountability requirements. The schools may not experience “sanctions” directly; however, a lack of participation or declining performance, if meaningful, could affect state aggregate data, which could then result in state sanctions. This position is supported through correspondence between the State of Utah and the United States Department of Education (USDOE). When questioned on the subject of an “opt-out,” the USDOE stated that while Utah school districts could elect to forfeit funds, they are still subject to NCLB as a condition of the state’s acceptance of federal monies.

A full state opt-out of the NCLB has not yet occurred. However, several states (such as Utah and Colorado) have passed or attempted to pass legislation or resolutions to the federal government seeking state nonparticipation or attempted through waivers and amendments to remedy conflicts related to testing and student measurement, particularly those affecting special education and English language subgroups. Additionally, several individual states (most notably Michigan and Connecticut) and the National Education Association allege in legal complaints against the USDOE that the NCLB is an “unfunded mandate” and thereby in violation of a provision of the NCLB that prohibits a

state from incurring additional costs as a result of the act. Preliminary rulings have not been in the states' favor; however, each case is still pending or on appeal.

There is no significant fiscal impact to the state General Fund unless the Legislature elects to appropriate monies to offset losses in federal NCLB monies. A state opt-out or state noncompliance of NCLB could result in the full or partial loss of NCLB funds. The loss of federal funds could potentially be offset with a reduction of state funds that are currently used to support NCLB; however, this amount is currently unknown. For the current federal fiscal year, according to USDOE budget estimates, Arizona will receive approximately \$806.8 million in federal monies for K-12 schools, of which approximately \$591.1 million are earmarked as NCLB funds.

### Provisions

#### *NCLB Opt-Out*

1. Requires Arizona to opt-out of NCLB if the Legislature appropriates monies to fund a separate line-item appropriation that the ADE is required to request as part of its budget submittal to offset the potential loss of federal monies if Arizona opts out of NCLB, beginning in FY 2010-2011.

#### *Cost Study*

2. Requires the ADE, the SBE and the SFB to conduct a cost study of the effects of an Arizona opt-out of NCLB to include:

- a) potential loss of federal monies.
- b) potential sanctions against public schools.
- c) if public schools would be required to continue to adhere to NCLB mandates after an Arizona opt-out of NCLB.
- d) current impact on public schools that do not accept federal monies.
- e) current and future expenditures necessary to comply with NCLB.
- f) amount of funding needed to replace the loss of federal monies received, if Arizona opts out of NCLB.

3. Directs the ADE to complete and submit the cost study to the Governor and the Legislature by June 30, 2009, and provide a copy to the Secretary of State and the Director of the Arizona State Library, Archives and Public Records.

4. Becomes effective on the general effective date.