

1 **RESOLUTION URGING CONGRESS TO**
2 **REPEAL NO CHILD LEFT BEHIND**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: David N. Cox**

6 Senate Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This joint resolution of the Legislature urges the United States Congress to repeal the
11 No Child Left Behind Act of 2001.

12 **Highlighted Provisions:**

13 This resolution:
14 ▶ urges the United States Congress to immediately repeal the No Child Left Behind
15 Act of 2001.

16 **Special Clauses:**

17 None

19 *Be it resolved by the Legislature of the state of Utah:*

20 WHEREAS, the state of Utah has called for increased rigor and expectation in its
21 public schools and has created its own system to guarantee a laser-like focus on this work;

22 WHEREAS, the state of Utah acknowledges that improving student achievement was
23 the intent of the No Child Left Behind Act of 2001;

24 WHEREAS, the state of Utah recognizes that some aspects of the No Child Left Behind
25 Act are educationally sound, specifically the expectation for curriculum to be grounded in
26 scientifically based research;

27 WHEREAS, the state of Utah nevertheless believes the No Child Left Behind Act has



28 generally gone awry as it tramples on states' rights, is poorly constructed in that it violates legal
29 and statistical standards, creates unrealistic funding expectations, and produces unintended
30 consequences that actually harm public education;

31 WHEREAS, the No Child Left Behind Act unconstitutionally centralizes educational
32 policy as it disenfranchises local and state officials, which leads to a lack of faith in the system
33 by the public;

34 WHEREAS, the No Child Left Behind Act inappropriately shifts accountability for
35 learning from parents and their local schools to the national government and usurps state and
36 local control of public education by bringing the federal government into the day-to-day
37 operation of schools;

38 WHEREAS, the No Child Left Behind Act provides only eight cents of every dollar
39 spent on public elementary and secondary education, yet influences 100% of the educational
40 program;

41 WHEREAS, the No Child Left Behind Act represents one of the most sweeping federal
42 intrusions into state and local control of education and disregards the time-honored American
43 principle of balanced federalism and respect for state and local prerogatives, especially in
44 education;

45 WHEREAS, the No Child Left Behind Act violates the Tenth Amendment of the
46 United States Constitution, which states that, "The powers not delegated to the United States
47 by the Constitution, nor prohibited by it to the states, are reserved to the states";

48 WHEREAS, the No Child Left Behind Act violates every state constitution, which has
49 wording similar to the Utah State Constitution which states that, "The general control and
50 supervision of the public education system shall be vested in a State Board of Education";

51 WHEREAS, the No Child Left Behind Act violates the Enabling Act for the State of
52 Utah, which states that, "The schools, colleges, and university provided for in this act shall
53 FOREVER remain under the exclusive control of said State";

54 WHEREAS, the No Child Left Behind Act violates the legislation originally
55 authorizing the U.S. Department of Education which states, "The establishment of the
56 Department of Education shall not increase the authority of the Federal Government over
57 education or diminish the responsibility for education which is reserved to the States and the
58 local school systems and other instrumentalities of the states";

59 WHEREAS, the No Child Left Behind Act violates itself when it states, "Nothing in
60 this act shall be construed to authorize an officer or employee of the Federal Government to
61 mandate, direct, or control a State, local educational agency, or school's curriculum, program of
62 instruction, or allocation of State or local resources, or mandate a State or any subdivision
63 thereof to spend any funds or incur any costs not paid for under this Act";

64 WHEREAS, the No Child Left Behind Act, in attempting to provide accountability,
65 actually creates significant accountability problems;

66 WHEREAS, studies in several states have found that the No Child Left Behind Act will
67 ultimately identify almost all schools and school districts as being "in need of improvement,"
68 which does not provide state policymakers with an effective way of identifying the schools in
69 most need and results in resources being directed away from the schools and students who need
70 them the most;

71 WHEREAS, the exorbitant number of schools identified as being in need of
72 improvement requires states to spread resources so thin that it will have little, if any, impact on
73 improvement;

74 WHEREAS, these provisions are counterproductive to the law's goal of improving
75 student achievement;

76 WHEREAS, some of the sanctions that are imposed on schools and districts identified
77 as being "in need of improvement," including school choice and supplemental tutoring
78 services, are inappropriately prioritized and have not been proven to be grounded in
79 scientifically based research in order to increase student achievement;

80 WHEREAS, methods for measuring school performance are not focused on the
81 individual student and do not acknowledge the progress of students, yet the No Child Left
82 Behind Act holds all students and schools to the same standards, regardless of availability of
83 resources or differentiated challenges that are faced;

84 WHEREAS, the No Child Left Behind Act compares one group of students against a
85 different group each year, a statistically inappropriate measurement to use to make summative
86 judgments on performance;

87 WHEREAS, several studies claim that the consequences the No Child Left Behind Act
88 places on test results in mathematics and reading are forcing schools to emphasize the teaching
89 of such subjects to such a degree as to take time, money, and focus away from other academic

90 subject areas;

91 WHEREAS, the No Child Left Behind Act, de facto, is causing states, local education
92 agencies, and schools to change their curriculum, which is in direct violation of Section 9527
93 of the Act;

94 WHEREAS, the No Child Left Behind Act inadvertently encourages the lowering of
95 state standards so as not to fail requirements in the Act;

96 WHEREAS, the No Child Left Behind Act conflicts with competing federal education
97 laws that govern the treatment of students with special needs;

98 WHEREAS, the No Child Left Behind Act has significant funding problems;

99 WHEREAS, the Congress and the President of the United States promised that the No
100 Child Left Behind Act would be accompanied with unprecedented levels of federal funding for
101 public education;

102 WHEREAS, while there was a large increase in the first year of the law's enactment, the
103 increase did not result in a significant, positive change in the overall federal percentage spent
104 on education in Utah;

105 WHEREAS, there have been minimal federal increases since and most recently, for
106 fiscal year 2006, Congress has cut funding of the No Child Left Behind Act by over half a
107 billion dollars and overall education funding by approximately one billion dollars;

108 WHEREAS, the lack of federal funding has thwarted states' efforts to implement the
109 federal law and jeopardizes the future of public education;

110 WHEREAS, while the No Child Left Behind Act has provided more funding for testing
111 and data retrieval, it has provided little additional funding for other major impacts, such as the
112 need for teacher development;

113 WHEREAS, the No Child Left Behind Act has been determined to be a tremendous
114 underfunded mandate;

115 WHEREAS, the No Child Left Behind Act greatly expands the authority of the United
116 States Department of Education by impacting all students in the state, without a significant
117 increase in education funding to the state;

118 WHEREAS, the No Child Left Behind Act forces states and their political subdivisions
119 to spend funds, direct state and local resources, and incur costs that are not paid for by federal
120 appropriations related to the federal law, which is in direct violation of Section 9527 of the

121 Act;

122 WHEREAS, the No Child Left Behind Act causes and will continue to cause increased
123 and costly litigation involving schools and educators; and

124 WHEREAS, the focus of federal education policy should not be on adding to the
125 bureaucracy schools already face by imposing on them another accountability system that
126 makes them spend more time, money, and energy away from the classroom and our children:

127 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah
128 strongly urges the United States Congress to immediately repeal the No Child Left Behind Act
129 of 2001, leaving the Elementary and Secondary Education Act of 1965 in its place.

130 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority
131 Leader of the United States Senate, the Speaker of the United States House of Representatives,
132 the United States Department of Education, and to the members of Utah's congressional
133 delegation.

Legislative Review Note
as of 1-10-06 3:29 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number: HJR011

Resolution Urging Congress to Repeal No Child Left Behind

21-Jan-06

2:41 PM

State Impact

Mailing requirements of this resolution can be handled within existing budgets.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst