

**Representative David N. Cox** proposes the following substitute bill:

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

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David N. Cox**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This resolution:

- urges the United States Congress to immediately repeal the No Child Left Behind Act of 2001.

**Special Clauses:**

None

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

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

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

WHEREAS, the state of Utah recognizes that certain philosophies of the No Child Left Behind Act are educationally sound, specifically the expectation for curriculum to be grounded



in scientifically based research;

WHEREAS, the state of Utah nevertheless believes the No Child Left Behind Act has generally gone awry as it tramples on rights guaranteed in the 10th Amendment to the United States Constitution, is poorly constructed in that it violates legal and statistical standards, creates unrealistic funding expectations, and produces unintended consequences that actually harm public education;

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

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

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

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

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

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

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

WHEREAS, the No Child Left Behind Act violates the legislation originally authorizing the U.S. Department of Education which states, "The establishment of the

Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and the local school systems and other instrumentalities of the states";

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

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

WHEREAS, studies in several states have found that the No Child Left Behind Act will ultimately identify all schools and school districts as being "in need of improvement";

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

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

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

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

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

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

88 of the Act;

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

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

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

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

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

100 WHEREAS, there have been minimal federal increases since and most recently, for  
101 fiscal year 2006, Congress has cut funding of the No Child Left Behind Act by over \$1 billion  
102 dollars and overall education funding by approximately a half billion dollars, and further  
103 decreases are projected;

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

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

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

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

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

118 WHEREAS, the No Child Left Behind Act causes and will continue to cause increased

119 and costly litigation involving schools and educators;

120 WHEREAS, there are hundreds of pages of inappropriate federal regulations that are  
121 not addressed in this resolution; and

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

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

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