

Washington Update⁸

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Recent State AYP Data Suggests That Fewer Districts Are Being Identified for Improvement Thereby Providing Slight Increases in Opportunities for Partnering with Districts to Operate Their Own SES Programs; However, the Number of Schools Identified and Having to Provide Supplemental Educational Services Doubled over the Last Year Which Also Suggests 20 Percent Earmarks for SES Will Likely Be Actually Spent

A recent compilation of state-reported AYP data by Julie Miller in Title I Report, (March) found that, over the last year, the number of districts identified for improvement nationally has actually dropped 13 percent. This happened in the context of most states increasing student performance targets for calculating AYP the effects of which were evidently more than offset by new USED flexibilities provided to states, including the use of “confidence intervals,” higher subgroup N sizes, and allowing 31 additional states to use the new “grade span” policy (i.e., for a district to be identified for improvement it must fail to meet AYP in the same subject areas across all grade spans). Earlier this year, USED allowed Chicago, New York City, and Boston to continue providing their own SES

programs even though all three districts have been identified for improvement and allowed a pilot test in Virginia where SES could be provided by four districts before having to offer the transportation choice. As a whole, trends largely created by such policies suggest that fewer districts will be identified for improvement in the immediate future and the potential for firms to “partner” with districts which wish to provide their own SES programs should increase.

The 2004-05 state data collected by Miller identified states with 50 percent or more districts in improvement status, including Alaska, Florida, Maryland, Nevada, South Carolina, Virginia, and West Virginia. States with 30 percent or more of LEAs identified for improvement include Alabama, Colorado, Idaho, Kentucky, North Carolina, and Utah. One might reasonably conclude that there are small numbers of districts in improvement in the remaining states. States could provide opportunities for partnering where the districts have one or more schools identified for improvement. Opportunities could also exist for states which have been designated as Ed-Flex because districts can receive waivers from the SEA to provide their own SES even if they are identified for improvement. Ed-Flex states include Colorado, Delaware, Kansas, Massachusetts, Maryland, North

Carolina, Oregon, Pennsylvania, Texas, and Vermont.

Depending upon the type of product or service that is being offered, the state-reported data also suggests states with the largest numbers of potential opportunities. For example, in 12 jurisdictions, at least fifty percent of the schools which fall under Title I sanctions were identified for improvement for the first time this year and had to earmark 10-15 percent for professional development. These states included Alabama, Washington (D.C.), Georgia, Louisiana, Oklahoma, Oregon, Rhode Island, Indiana, Texas, Virginia, and West Virginia. Other states with large numbers of schools identified for improvement for the first time included California (397 schools), Florida (328 schools), Illinois (131 schools), Massachusetts (158 schools), Michigan (219 schools), New Jersey (167 schools), New York (132 schools), and Ohio (260 schools). Across all states, about 3,760 were identified for improvement for the first time and were supposed to earmark 10-15 percent for staff development. As we have reported on several occasions, the monies earmarked for staff development do not have to be used exclusively to train teachers in the schools that were identified. A similar number of schools were identified for improvement in 2004-05 for two consecutive years and therefore had to offer SES. Those states in which over 50 percent of the schools which fell under Title I sanctions and which have to provide SES included Arkansas (151), Connecticut (72), Florida (640), Missouri (106), New Jersey (301). States with large numbers of schools

having to provide SES for the first time include California (540), Illinois (116), Massachusetts (185), North Carolina (80), Ohio (159), Pennsylvania (133), and South Carolina (86).

The Title I Report issue noted that about 7,500 schools that offer the transportation option must also offer supplemental educational services; this is more than twice the number that had to offer SES last year. In a personal conversation, Miller stated that the 7,500 included 1,250 schools that were in "corrective action" and 1,850 schools in "Year 4 restructuring." Most of these schools are located in states which had accountability and assessment systems in place, along with state sanctions, prior to NCLB. These included the following states with the number of schools in either "corrective action" or "restructuring": California (800), Georgia (110), Illinois (480), Michigan (140), New Jersey (125), New York (300), and Pennsylvania (120). In addition to SES, schools under corrective action and/or restructuring eventually must consider numerous options included in the Law and reflected in state guidance and policy. These include replacing the entire curriculum and/or staff, coupled with extensive training. While "restructuring" may include a state takeover by an education management organization or recreation as a charter school, recent studies conducted by the Center on Education Policy found, in both Michigan and California, state takeover and/or recreation as charter schools are among the lowest options that have been selected. The most recent study of California school restructuring

found a wide variety of options of being selected. For example, it was determined that one school in Oakland under restructuring had not used the core text instructional materials as recommended by the publisher. Hence, its restructuring plan called for training all teachers, including some new teacher replacements, in the correct use of a direct instructional approach and monitoring its implementation more heavily. For a state-by-state summary go to [Title I Report](#) (March).

During Education Industry Association Congressional Briefing, Private Providers Call for Improved District-Independent SES Provider Relationship to Ensure Better Recruitment and Improved Attendance While at the Same Time Downplaying the Effects of Federal Education Funding Cuts

On February 16, the Education Industry Association conducted a Congressional Briefing for Hill staffers on the problems independent SES providers were having in getting district cooperation in recruitment and attendance of eligible students in SES programs based on a survey conducted by AIR (see related [Washington Update](#) item). At the same time, SES advocates attempted to deflect bottom line questions related to Title I and other funding reductions. At the end of the question-and-answer period, a staffer of a member of the House Education and Workforce Committee questioned whether there would be

enough Federal funds to increase participation in SES programs -- estimates of which now range from between 12 percent (USED) and 18 percent (CEP) of those eligible students - - as a result of funding reductions in 2006-07 in Title I and IDEA. Florida Representative Trey Traviesa and Pennsylvania State Senator Anthony Williams replied that school districts have "plenty available" Title I or discretionary funds; other SES advocates volunteered that other Federal or even state and local funds could be used to pay for SES.

After a presentation by Deputy Assistant Secretary Holly Kuzmich, I posed the following dilemma faced by most school districts this coming year: As a result of the Title I hold harmless provisions most of the four percent state set-aside for school improvement will be reduced significantly -- to zero in many states -- which reduces this potential funding source for SES, as a number of states were planning to use these funds following the report last year by Phyllis McClure (Center for American Progress) entitled *School Improvement Under No Child Left Behind*. Moreover, Comprehensive School Reform Demonstration funds (another potential funding source) have been reduced from \$208 million to \$8 million. In the vast majority of districts, Title I funds will be reduced to some extent which will reduce the absolute amount of the 20 percent set-aside. Her response was that, "This is a very complex issue." At the end of the formal session, I posed a similar situation to an Assistant Superintendent of Baltimore City Public Schools who was the SES advocate

representing public schools on the panel; he stated he was unaware that Baltimore City would likely receive a Title I cut this coming year and he clearly has not thought through the potential impact of the reduction of the state set-aside for school improvement.

During the day of the meeting, an editorial appeared in The New York Times entitled “Tutoring Gap” which criticized both Congress and the Education Department for not providing guidance on crucial and complex aspects of NCLB’s supplemental services provisions, but at the same time noted, “The Federal government needs to make sure that enough money is flowing to the states to get the tutoring job done.”

The briefing was kind of “kick-off” for a new Coalition to Promote Quality Tutoring by deflecting some of the criticisms of SES programs as state reports began to be released (e.g., the New Mexico report on SES, the first in the country, was released in January). During her opening presentation, Deputy Assistant Secretary Kuzmich indicated that most recent data indicated that approximately 200,000 eligible students participated in SES, which according to USED reports was only 12 percent. She identified recruitment and attendance as two major problems and indicated that the SEA role is key, noting that a major priority this year is to expand state capacity. The President’s proposed FY 2007 budget calls for \$200 million to be allocated to SEAs for building state capacity through the use of support teams to provide assistance to identified schools and districts as a major school improvement thrust. In the February 17

Education Week, Jack Jennings, the president of the Washington-based Center on Education Policy, responded to the LEA funding dilemma posed to Kuzmich, “The Bush Administration has identified the right issue, namely that states need more capacity and more staff in going in to help more schools improve,” he said. “But the solution they’re providing isn’t going to work.”

Kuzmich noted that just about “everyone now feels that tutoring should be offered before or at the same time as the parent choice option” pointing to the pilot project in the four Virginia districts which have been allowed to do so. She also mentioned the new flexibility allowing New York, Boston, and Chicago to continue providing SES even though they have themselves been identified for improvement. Until all of the “numbers come in” on the results of these pilots, no additional waivers are likely, she noted. Preliminary numbers from one of the four Virginia districts indicate that there has been a significant increase in SES participation by reversing the two sanctions.

Kuzmich also identified implementation of SES in rural districts was a high-priority focus and, when asked a question about the role of distance education, her response was more positive than was former Deputy Secretary Hickok’s response during the September 2001 EdNet meeting at which time he felt the only role for technology would be in the area of online assessment.

Former Secretary Hickok, who moderated the panel, reflected on the

perspective of many independent third-party providers by suggesting that state education departments should be given the authority to set aside 20 percent for SES before the districts receive their normal Title I allocation, an idea, Kuzmich indicated, the USED would “look into.” Former Secretary Hickok, on numerous occasions, cited examples of districts not acting in good faith to cooperate with SES providers. In fact, he noted that one of the key staff members responsible for SES in the largest California school district was actually providing consulting services to other districts “on the side” to help them minimize the amount of funds they would have to allocate to third-party SES providers. He cited examples of districts telling SES providers that they were not allowed to talk with their students’ school teacher or principal, calling this type of action not only “lacking good faith” but also a “violation of the first amendment.” Other points about which there appeared to be some consensus among the SES advocacy groups included:

- In some districts, there is complete disregard for SES with no attempts to implement it;
- SES is the first “tangible benefit” to meet the “large appetite” for relief on the part of parents and parents will make the right choice regarding what works best with their child;
- Rather than the SES marketplace being unregulated, it has become very regulated at the school

building level, which places various constraints upon SES providers in the actual implementation of contractual obligations.

During the end of the first National Meeting on Supplemental Educational Services, spearheaded by the Education Leadership Council in June 2002, Julie Miller, Editor of Title I Report, quoted a person attending the meeting as having said, “We have attended a political cult meeting.” Whether the newly-formed coalition will gain enough momentum in these days of even tighter district Title I budgets is unclear. However, Diane Piche, Citizen’s Commission on Civil Rights, which supports NCLB choice provisions including SES, noted that many parents feel that the SES earmarks are “their money” to be spent on their child’s education. Pennsylvania’s State Senator Williams called for “SES needing to be part of this year’s election issues” and “prominent” in the upcoming presidential election.

Education Industry Association Releases Results From SES Providers’ Survey

During its Congressional Briefing on supplemental educational services/NCLB on February 16, the Education Industry Association (EIA) released findings from its online survey which were analyzed and reported by the American Institutes for Research (AIR), operator of Tutors for Kids.org website under contract to USED. Below are highlights from the survey; however,

AIR cautions that the sample is not representative of SES providers nationally as only six percent of the respondents were public school entities which have been approved to provide SES. National data compiled by AIR found that 51 percent of SES providers were public school entities, hence the highlights reflect the opinions and concerns primarily of for-profit (50 percent of respondents) and not for-profit (39 percent) SES providers.

The survey found that, “although most providers tutor students at the school site, providers report that access to school buildings is a major source of concern.” During the February 16 Congressional Briefing, all of the SES providers which were panelists or in attendance and/or SES advocates pointed to a number of areas where district administrators often “set up roadblocks” or even attempt to “sabotage” programs of independent SES providers in an attempt to minimize the amount of the Title I 20 percent earmark going to third-party providers (see related item). The survey found that providers expressed general frustration with district interactions --- whether focused on overall support, parent notification, school building access, contractual issues, or finances.

About 65 percent of for-profits and 44 percent of nonprofits report that more than 85 percent of their instructors are state certified. Similarly, 83 percent of for-profits and 48 percent of nonprofits employ a majority of tutors with a college degree. However, the survey found, “Surprisingly, some school districts (2 of 10 who responded to this

question) and some nonprofits (12 of 79 who responded to this question) report using high school students as tutors.”

All respondents reported that they serve at least some students who are either English Language Learners or students with disabilities. Thirty percent of providers say that less than ten percent of their students are students with disabilities and ELL students, while 18 percent say that greater than 30 percent of their students are either ELL or students with disabilities.

As widely reported in the press, recruitment and attendance has presented major challenges to third-party SES providers, an issue corroborated by EIA survey findings: “The survey findings suggest that student attendance may be a challenge for providers regardless of provider type...Attendance does not appear to be associated with student to instructor ratio, number of instructional hours or the location in which the services are offered.” And, while about half of the SES providers used incentives to promote and reward attendance and academic performance, the report found, “Incentives do not seem to systematically impact attendance rates.”

While the survey found the prevalence of much frustration in SES providers dealings with districts, the majority of both profit and nonprofit providers agreed, “...that the State applications and procedures were clear, fair, and reasonable.” Noting that the majority of respondents felt the states had clear policies in substantiating claims of a provider’s scientific research base, the report notes, “As with the quantitative

data, qualitative data suggests that providers have generally positive perceptions of interactions with the state. Although few commented on this topic, some specifically contrasted State (SEA) and the district (LEA) roles: LEAs make it extremely challenging. SEAs have been very helpful in resolving (challenges).”

The survey findings, which are heavily weighted toward third-party perceptions rather than district SES operators, are not too surprising. The high frustration in dealing with district administrations vs. low frustration in dealing with states can be attributed to the fact that districts thus far have been the major “enforcement” mechanism over operations, while SEAs have only approved SES providers and served as “referees” on controversial issues. This could change as SEA evaluations of supplemental educational services in their states begin to be reported to the public. The first such state report was released in January by the New Mexico Department of Education, which provided some “warnings” to larger SES providers usually for the wrong reasons. Certainly, the announcement of the creation of the new Coalition whose primary spokesman appears to be Gene Hickok, former Deputy Secretary of Education, is designed to fend off critics of third-party SES providers and raise critical implementation issues. In calling for the Congress and USED to provide clearer guidance on crucial and complex aspects of NCLB and the SES provisions, The New York Times editorial on the same day of the Congressional Briefing stated, “Most recently, it turns out that both the

Education Department and the states have done a poor job administering the part of the law that requires failing schools to provide children with tutoring.” For a copy of the EIA/AIR report go to:

www.educationindustry.org/documents/EIA-AIRSESsurvey1-04-05FINAL.pdf.

The Congressional Research Service Issues A Status Report on Reading First Implementation Issues and Controversies

In January, the Congressional Research Service issued an update entitled “Reading First: Implementation Issues and Controversies,” an eleven-page “must read” for any elementary reading publisher who may be interested in targeting Reading First or Title I with programs which according to NCLB must be based on scientifically-based research (SBR). This report is also important because CRS is highly regarded as a resource of objective information provided to Congressional leadership and their staff for whom this report is generally directed. The report also provides the context in which several reports will be released over the next few months, including:

- An investigation conducted by USED’s Office of Inspector General based on official complaints filed by the Success For All Foundation, the Reading Recovery Council of America, and Dr. Cupp’s Readers and

Journal Writers, alleging not only USED mismanagement, but also several areas where conflict of interest and a violation of NCLB scientifically-based research provisions existed;

- A forthcoming report by the Government Accountability Office (GAO) which is investigating a number of questions related to USED negotiations with states in approving their initial applications;
- Topic reports on “interventions for beginning reading” and on “comprehensive schoolwide character education interventions” which will be released by the What Works Clearinghouse shortly, according to CRS;
- “Mid-term reviews” to be conducted and reported by the states to USED after three years of implementation which should be released by at least two states shortly and by 27 states within the next nine months.

The CRS report addresses the criticism of Reading First implementation as having been overly prescriptive, at least in the initial state approval process, by citing findings from the Center on Education Policy and a two-month investigation conducted by Title I Monitor. In its report entitled “Ensuring Academic Rigor or Inducing Rigor Mortis? Issues to Watch in Reading First” (June 2005), CEP found that

almost all states use *Dynamic Indicators of Basic Early Literacy Skills* (DIBELS) for their required reading assessments, and “A Consumer’s Guide to Evaluating a Core Reading Program Grades K-3: A Critical Elements Analysis (Consumer’s Guide) to Evaluate and Choose a Reading Curriculum.” The CRS report included a finding from the two-month investigation by Title I Monitor which raises the question about “whether the Department adequately policed the program for potential conflicts of interest and enacted reading policy with sufficient transparency.”

The CRS report also discusses several issues relating to scientifically-based research used in Reading First and the actual implementation of the provision. It cites the Success For All Foundation letter to the USED Office of Inspector General which constituted a formal complaint that USED had inappropriately narrowed the definition of scientifically-based reading research (SBRR) and implementation of the Reading First program: “In essence, through the implementation of Reading First, the U.S. Department of Education has narrowed the definition of SBRR to the five ‘essential components’ of reading as identified by the National Reading Panel. Research on program efficacy has been ignored. Because Reading First was so closely managed by the U.S. Department of Education, and because it contains such a strong focus on the use of scientifically based research, it is paving the way for how states, districts and schools are coming to understand the meaning of SBR, and how they will apply it to other Federal programs.” The Center on Education

Policy report raised the question whether the Reading First definition of scientifically-based research as applied can and should be applied to the other programs such as Title I. In its report, CRS also refers to a forthcoming publication which addresses the limitations of “randomized control trials” (RCTs) which are the gold standard of scientifically-based research: “Finally, there is wide consensus that RCTs are particularly well suited for answering certain types of questions but not others, compared to other evaluation research designs. For example, RCTs typically do not assess how and why impacts occur, how a program might be modified to improve program results, or a program’s cost-effectiveness. RCTs also typically do not provide a full picture of whether intended consequences may have resulted from a program or indicate whether a study is using valid measures or concepts for judging a program’s success. Many of these kinds of questions have been considered to be more appropriately addressed with observational or qualitative designs.” The report also cites other critics of RCT who point out political, practical, and cost problems with RCTs, and that only a very small number of RCT studies exist in seeking answers to specific questions.

CRS also identifies a number of relevant resources to assist states and districts in implementing their Reading First programs and particularly the National Center for Reading First Technical Assistance operated by RMC Research Corporation, which, in turn, has subcontracts with Florida State University, University of Texas at

Austin, and the University of Oregon. CRS cites USED’s March 1, 2004, issue of the Achiever, as stating, “Administrators and teachers will receive training in scientifically based reading research and instruction, assistance in reviewing reading programs and assessments...and training in using assessment data to improve student reading performance...Technical assistance will be provided through a range of learning opportunities, including national and regional conferences, institutes and seminars; training and professional development; on-site, telephone and e-mail consultations; and links to national reading experts.” In her “Dear Colleague” letter on December 14, 2005, Secretary Spellings announced a number of technical assistance materials and initiatives which were to be made available to states and districts in implementing the proposed “interim policy” and “proposed regulations” for selecting and administering modified assessments for academically-impaired students falling under the so-called two percent cap rule. As one of its three Comprehensive Centers, RMC Research Corporation and a separate demonstration project housed at the University of Oregon would assist states in selecting/developing modified assessments and providing additional support on interventions. The CRS report is available at:

www.opencrs.com/rpts/RL33246_20060120.pdf.

New Report Could Help Firms With Specific Products and/or Services Identify Priority States

to Target to Take Advantage of Opportunities Created by New USED “Flexibilities” and “Policy Changes” Related to NCLB

The Harvard University Civil Rights Project entitled “The Unraveling of No Child Left Behind: How Negotiated Changes Transform the Law,” is intended to convince policymakers to make fundamental changes to NCLB rather than tweaking provisions through new “flexibilities.” The report also can be used by TechMIS subscribers with certain products and services (existing or under consideration) in deciding what states to target because some states have either taken advantage of the NCLB flexibility changes or have initiated other changes in their Accountability and Assessment Plan which have been approved by USED. Table 9 of the report summarizes data on state accountability plan amendments for each state ranging from zero state-initiated changes in Vermont to 15 in Washington, and from zero to 18 for all changes. On the average, states have been approved to adopt 2.8 of the rule changes and 5.5 of the state-initiated changes for a total average of 8.4 changes. As the report notes, “The various combinations of amendments within any one state and the range in the number of changes states made show that widely different compromises have been made between ED and the states on what NCLB means. The result is NCLB has no common meaning across states and accountability has little relationship to student achievement.” Some examples of how the state data included

in the Harvard report can be used are highlighted below.

For a firm interested in “partnering” with a district which wants to provide its own supplemental educational services and which has not been “identified for improvement,” the report identifies 33 states in which districts are less likely to be identified for improvement because USED has allowed the state to use the “grade span method when calculating district accountability” (i.e., whether or not a district meets its AYP target). In addition, 17 states have been allowed to increase the minimum subgroup size which, in certain cases, could also reduce the number of districts identified for improvement. States for which both of these two changes have been approved include Arizona, Arkansas, Georgia, Illinois, Nebraska, New Jersey, New York, North Carolina, Tennessee, and Virginia. Another consideration to take into account is whether the state also is an Ed-Flex state which USED has ruled in the past can waive the USED non-regulatory policy that districts could not provide their own SES programs if a district were identified for improvement as USED has done for Chicago, New York City, Boston and other large urban districts.

As we noted in the last TechMIS Washington Update, the Center on Education Policy reported that ten states with exit exams currently provide for some computer-based test retaking or remediation, while five more states with exit exams make public practice or previous test items on exit exams. The Harvard report identifies five states which allow test retaking multiple times;

USED recently allowed the best scores from the different test takings to be used for determining AYP. This is particularly true in those states where the NCLB high school exam is the state's graduation or exit exam. New Jersey, Texas, Virginia, Washington, and Wyoming also include all schools (not just Title I schools) in the accountability system for which AYP is calculated even though some of the sanctions may apply only to Title I schools. The bottom line is that these states represent possible opportunities for firms which develop or otherwise provide online remediation and test retaking services.

Perhaps one of the most important proposed changes in NCLB accountability provisions is allowing states and districts to use "growth models" as long as they meet a number of conditions -- e.g., that in a state's accountability plan all subgroups must have the same N size. Twenty states have submitted applications in hopes of being one of the ten states selected to use "growth models" or even "index" models which are based upon some increases in the performance of students who are well behind their peers in terms of test scores but yet do not meet the targeted proficiency level. As the Harvard report notes, "An Index that measures student progress allows schools to show movement from one performance level to the next and credits improvement in student achievement across different performance levels...An Index also creates incentives for schools to focus on students within performance categories rather than just those students who score close to the cut score level." The

Harvard report identifies eight states that already use an index for determining AYP, including Alabama, Connecticut, Massachusetts, Mississippi, New Mexico, Oklahoma, Pennsylvania, and South Carolina. As we have previously noted, in those states which are approved for using "growth models" and/or "index" levels, the opportunities for integrated learning system type products or even components, such as a diagnostic/prescriptive instructional management system, will increase over time.

In addition to providing useful information to assist firms with certain products and services and to identifying high-priority states to target with these products and services, the recommendations of the Civil Rights Project will have a significant impact on the reauthorization of NCLB. It is no coincidence that, within days of release of the report, the NCLB Commission headed by former HHS Secretary Tommy Thompson and former Georgia Governor Roy Barnes, was launched. According to former Secretary Thompson, the NCLB commission will produce a series of policy papers on key issues as well as final recommendation reports to Congress and the White House. For a copy of the Harvard report go to:

www.civilrightsproject.harvard.edu/research/esea/NCLB_Unravel.pdf.

Rumblings and Reflections Gathered From the AASA Exhibit Floor and During Superintendent Receptions

During the AASA conference in San Diego ending February 26, discussions were held with several high-level executives from firms exhibiting at the conference or attending ERDI (focus groups with selected superintendents) and with key superintendents on topics and trends related to NCLB implementation and other education policies.

Supplemental educational services (SES), much heralded on the AASA exhibit floor three years ago by firms claiming to have such capabilities, was generally down-played and, where SES was included on vendor exhibit signage, it took a distinct new twist. Officials from one of the top five providers of SES, having been approved by over half of the SEAs, indicated that they were “getting out of traditional onsite SES tutoring.” Officials from two other large SES providers questioned whether they would ever be able to make a reasonable profit margin for many of the reasons indicated in the related [Washington Update](#) item (see highlights of EIS conference). A firm which has created and operated alternative schools for more than three decades and which has previously considered seriously providing SES volunteered that it no longer had SES under consideration. While the Sylvan education unit -- which is evidently on the sales block -- did not have an overwhelming prominence on the floor, another one of the largest SES providers, which has been acquiring smaller tutoring firms, positioned its service as a “turnkey SES solution.” Discussions with officials from that company confirmed the movement

toward partnering with districts or turnkeying company solutions to districts which provide their own SES. These same firms questioned the availability of increased funding for SES in light of the cutbacks in Title I (see related item) and the almost elimination of the Comprehensive School Reform Demonstration program, which in some states was used to provide school improvement services, including SES. One of the most seasoned veterans of the ILS industry, segment who with former associates has “rolled out” a new technology family of interventions, concluded that the only way the participation rates of eligible students in SES will increase would be if more and more districts or “related entities” provided such services directly rather than contracting out for tutoring services which costs \$20 per hour or more.

Rather than the overwhelming presence of firms positioning products for “test preparation” four years ago, many of the same firms had signage on their booths listing “formative” or “benchmark” assessments first with test prep further down the line, reflecting an increased demand and expenditures for formative assessments as noted in the article by Thomas Touk (see February TechMIS). While the estimated sales of formative assessments by groups such as Eduventures was \$300-\$400 million last year, discussions with several superintendents suggest that the amount of district expenditures for formative assessments, including those developed by the district, are significantly more, perhaps by 50-100 percent. Most of the firms associated with test publishing or scoring confirmed that the area of

formative and benchmark assessments is their fastest growing assessment segment. On the other hand, some of the leading firms, whose sales have been increasing more than 50 percent annually over the last several years, while agreeing that online formative assessment would continue to grow, believe that most such formative assessments will still be LAN- or WAN-based in the short run. When asked about their interest in the newly-announced “modified assessment” for the so-called “two percent cap” for academically-impaired special education students, many of the small test scoring companies were unaware of these requirements, while some of the larger test publishers were aware but felt the market potential in this area was limited. However, at least one small test scoring company -- which indicated they would be in the test publishing business shortly -- was acutely aware of some of the opportunities for them in this segment of the overall testing arena.

Most of the superintendents from large urban districts with whom we talked feel that NCLB should be completely “overhauled” rather than “tweaked,” as reflected in USED’s newly-found flexibilities and SES “pilot program” waivers. On the other hand, small rural district superintendents for the most part appear to be less concerned than two years ago because many deadlines have been extended for them and other “impossible to meet” provisions have not been enforced. They seem to feel that “the SEA will take care of the problems.” Some simply disregard provisions such as SES and choice while others are not aware of new provisions

under IDEA, such as “early intervening services” and “response to intervention.” Superintendents who viewed NCLB as a civil rights law (i.e., through disaggregation of results and reducing achieving gaps) are becoming more and more aware of some of the unintended consequences of certain provisions impacting their districts; some were even vocal when talking to USED staff or staff of affiliated organizations such as the NAEP Governing Board at their respective exhibits stalls.

On the exhibit floor, “data analysis” and “NCLB reporting” were the most prevalent signages at exhibitors’ booths. Most of the staff among this group of exhibitors downplayed the issue of the quality and accuracy of student and other data provided to them by the district. The veteran firms which have been in this industry segment are acutely aware of these problems and questioned whether, for example, standardized state assessment data are appropriate for use in “growth models” or “indexing” which more than 20 states have proposed this month to USED to implement. Related to the increased use of growth models, firms with integrated learning system type components or total systems had high expectations that their current 10-20 percent sales growth will be become even greater in the future. Also, some traditional publishers and newly-created firms with math products -- particularly those focusing on the middle school level -- were very bullish, especially in light of the President’s newly-announced Math NOW initiative. Both of the firms whose research has received high marks by the What Works Clearinghouse -- Carnegie Learning and I Can Learn --

were on the floor along with at least one other firm which has an artificial-intelligence based math program based on research conducted by the Air Force Personnel Research Lab in Texas. As noted in several Washington Update items in this issue, the expanded SMART initiative would provide incentive grants to students entering math, science, and engineering at the post-secondary level if they attend a high school with a "rigorous" course of study, which would be determined by the Secretary of Education. I had the opportunity to talk with two politically-connected retired Texas superintendents who felt that the intent of that provision was to have more high schools adopt the rigorous course of study/curriculum recommended by the Texas State Scholars program (see February Washington Update). The superintendent of a large Texas district who indicated that the district's high school curriculum meets all the requirements of the Texas State Scholars program also acknowledged that his district is now publishing and selling its curriculum and program of studies to other districts in Texas and across the country.

Compared to the amount of signage at the exhibitors' booth on data analysis and reporting, we found only two new firms which were exhibiting new technology-based instructional solutions --- one in the area of arts and the other for afterschool programs for latchkey students.

While not a top interest of most superintendents or even exhibitors, credit recovery and preventing/reducing

dropout rates is increasing on their list of their priorities. One veteran operator of alternative schools, Ombudsman, and several virtual high school exhibitors clearly positioned their services as general "credit recovery." At least one exhibitor, that in the past has touted SES, also gave equal weight in its signage to "credit recovery," as did numerous firms providing online tutoring, instruction, etc. One new such online instruction provider has targeted charter schools across the country, especially those which placed a high priority on credit recovery. Most of the firms with technology-based instructional and related services appeared to be very interested in the proposed statewide charter school district in South Carolina, which is now in a conference committee in the state legislature and has a good chance of passage. The intent of the proposed statewide charter district would be to allow state funds in about 150 line items in the state budget to be allocated appropriately and directly to charter schools created by the statewide district. Existing charter schools in the state are highly dependent upon districts' willingness to reallocate state funds to the charter schools for the students who generate such funding.

A recent Center on Education Policy policy brief projected that 87 percent of the nation's English language learners, 87 percent of Latino students, and 77 percent of African American students will be enrolled by 2012 in the 26 states which have exit exams which students must pass to graduate. From these estimates one might assume that the demand for effective remedial services

will increase for students at-risk of dropping out.