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M E M O R A N D U M

DATE: June 1, 2007
TO: TechMIS Subscribers
FROM: Charles Blaschke
SUBJ: Supplemental Educational Services, Early Intervening Services, Impact of Reading First Investigations, State Profile Updates

This TechMIS issue includes a number of Washington Update items which are timely and relevant to subscribers. Several updates address developments related to Supplemental Educational Services, the impact of Reading First investigations, and some changes in purchasing cycles as a result of long-awaited SEA guidance on Early Intervening Services and Response to Intervention provisions in IDEA. Also included are some recent miscellaneous developments which are in the process of working their way through Congress or the USED policy making process. The following Washington Updates are included:

- The traditional special education funds allocation and purchasing cycle will change as more states provide guidance to districts in implementing early intervening services and response to intervention provisions under IDEA which will create opportunities in certain districts. One new purchasing cycle should begin early this summer in time to use interventions for borderline students to determine whether they should be placed in special education before December 1st, when the official state “counts” are reported to the state to generate state funds for special education students.
- A detailed description of the funds allocation process for Title I and special education which can be used to counter the Administration’s argument that funding increases in Title I and special education provide opportunities for purchases of instructional software and materials. This article can also be used by marketing officials to “educate” higher level corporate officials about the reality of Federal funding beyond what’s reported in the press.

- The impact of Reading First investigations and hearings appear to be surfacing in several quarters beyond the conflict of interest findings and could have an impact on the timing of NCLB reauthorization and/or technical amendments which “fix” Title I including Reading First.
- National Instructional Materials Accessibility Standard (NIMAS) Update: The new USED “anticipatory access” policy would allow Accessible Media Producers (AMPS) access to publishers’ electronic files which are sent to the NIMAC before LEA and SEA contracts are signed which could increase possible copyright violations. As a result some states are “opting out” not going through the NIMAC due to potential copyright liabilities, while other states are going beyond just working with NIMAC but are also bringing additional pressures on publishers to ensure instructional materials are grounded in “universal design principles,” which will continue to increase the developmental cost of products.
- Supplemental educational services, one of the Administration’s flagship priorities, is likely to receive additional funding and priority in the NCLB reauthorization as a result of groundwork being laid by the Administration and its allies in Congress. Congressional leaders appears to accept the concept and are proposing ways to improve the process and increase participation rates of eligible students.
- The third-year evaluation of the Chicago Public Schools SES tutoring program concludes that the district-operated program is by far the least expensive and demonstrates significantly more improvement in student math and reading achievement than many other more expensive providers. This could bring additional pressures upon USED to change its current policy and allow many more districts identified for improvement to operate their own SES program, thus creating opportunities for firms to partner with such districts.
- During a recent SIIA Webcast, several comments by officials involved in the USED Study of the Effectiveness of Reading and Math Software Interventions raised additional questions about the study design as implemented and the validity of findings. By failing to analyze all the data collected on the “fidelity” of implementation of each intervention, important reasons for the reported findings might not have been considered. The findings suggest that USED is not equipped to conduct such a massive study and that firms should be skeptical about participating in any such future studies.
- USED plans to fund the creation of an institute designed to evaluate web-supported instruction for students with disabilities, possibly creating opportunities for firms that have web-based instructional programs evaluated by an independent third party. This planned institute is much smaller and better focused using multiple outcome measures and alternative evaluation designs than the above USED study. Moreover, USED officials currently responsible for its creation are seasoned veterans of technology use in special education.

- New report by Center on Education Policy finds vast majority of SEAs unable to provide technical assistance and support to the increasing number of districts and schools identified for improvement because of inadequate Federal and state funding, however, increased Federal funding for SEA capacity building could come at the expense of district Title I operational programs.
- Census Bureau Report Highlights Public School Spending in 2005; State Funding for Special Education was Nearly \$15 Billion With Almost \$6 Billion for Compensatory Education.

During May, a number of developments occurred which are highlighted below:

- In the May 18th Federal Register, USED posted a notice inviting applicants for new awards under the Smaller Learning Communities grant program similar to last year. The priority is to provide intensive interventions to assist students who enter high school with reading/language arts or mathematic skills that are significantly below grade level to “catch up quickly” and obtain proficiency by the end of the twelfth grade. A total of \$86 million will fund projects involving high schools with enrollments 1,000 or more students with an average grant size estimated to be \$4,500,000. Proposals are due July 17th.
- The House and Senate have arrived at a “budget resolution” which would increase Labor, Health and Education Function 500 discretionary funding by almost \$9 billion more than the President requested for FY 2008. The appropriations committees could conceivably increase the education budget for FY 2008 by \$4-5 billion dollars, most of which is likely to be for Title I, IDEA special education, and the student loan program. Some observers feel the final FY 2008 appropriations could be passed before the end of September.
- The ATTAIN Act, supported by education technology coalition (SIIA, SETDA, ISTE, and COSN) would refocus the E2T2 technology grants program. Submitted in the House (HR2449), ATTAIN would continue to focus on professional development, place a higher priority on the use of 21st century technology to leverage systematic reform, and which would be more closely tied to school improvement activities under NCLB, while it would place a higher priority on the development of technology literacy skills which states would have to assess. The House version does not require states to report how many students become technology literate by the end of the eighth grade which is in the current Law, but has not been enforced by USED.
- While Congress has been debating and even passing specific legislation related to Science Technology Engineering and Math (STEM), the Administration has released the findings of the Academic Competitiveness Council which could diffuse the momentum in Congress. The Council reviewed 105 Federally funded programs in 13 Federal agencies which spend slightly over \$3 billion, including

24 K-12 programs representing \$574 million and concluded that the programs are too small to have an impact, lack any evaluations on effectiveness and fail to share best practices where they were found. The Administration is likely to use the findings to counter any new Congressional initiatives with proposed new funding.

- The National Conference of State Legislatures most recent survey indicates that state law makers in 42 states report additional resources have become available for distribution for fiscal years 2007 and 2008. While many states plan to increase deposits for their “rainy day funds,” education will be the beneficiary of unexpected revenues in Georgia and Alaska. As of March, 20 states reported some budget overage in terms of expenditures with serious overruns in Connecticut, Maryland, Michigan and a limited number of other states.
- In a late-breaking development, USED will be allowing 25 states, whose assessment programs have been fully approved or approved conditionally, to nominate up to seven districts to be allowed to provide supplemental educational services when a school is identified for improvement for the first time -- following the so-called “switch pilot program” which began in Virginia two years ago. Some observers believe USED will also allow more districts identified for improvement to participate under certain conditions in the so-called National Pilot Program involving Chicago Public Schools and four other districts. The bottom line is that more Title I funds will be allocated for supplemental educational services, thus providing increased opportunities for firms to “partner with” districts that operate their own SES programs.

The state profile updates cover a number of important topics and trends including:

- information on new state budgets;
- results of state assessments;
- state actions on voucher plans;
- new charter school arrangements;
- state leadership appointments;
- use of growth models under NCLB; and
- a number of special reports affecting certain states.

Washington Update

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The Traditional Special Education Funds Allocation and Purchasing Cycle Will Change as More States Provide Guidance to Districts in Implementing Early Intervening Services/RTI Provisions under IDEA, Creating Opportunities in Certain Districts

The traditional funds allocation and purchasing cycle for special education will change somewhat this year for many districts who will be implementing EIS/RTI provisions following state education agency guidance which is just now beginning to be officially or unofficially provided to districts. Below, we have provided an update of the chapter in our 2005 Sales Guide for Special Education which takes into account the recent and anticipated increases in the number of districts purchasing products and services to implement these provisions.

The new IDEA provides funds allocation to SEAs and from SEAs to LEAs under a formula that has several components. One formula component determines the maximum amount a state can receive based upon numerous factors, including the number of students receiving special education ages 3-5 and 6-21. The formula also takes into account average per-pupil expenditure. Another component of the formula must be used for allocating any increase in appropriations over the previous year which takes into account the relative population of students 3-21 with disabilities

and the portion of these students from low income families.

The new IDEA establishes “risk pools” to help districts pay for the education of high-need students and any unexpected increases in the number of students with disabilities. States can reallocate ten percent of the amount in the state “reserve” to districts with extremely high-cost services for students with serious disabilities. Several implications are likely to result from the new formula. First, because “risk pool” funds are available for high-cost severely handicapped students, IDEA funds will likely be more stable, especially for small districts in which the enrollment of one high-cost severely handicapped student could result in large reductions in expenditures for products and services for other special education students. Second, because at least a portion of IDEA funding is tied to poverty thresholds, in many instances, if a state receives a large increase in Title I funds based on the most recent census counts, it can expect some increases in IDEA funding.

Congress’s “advanced funding” budget gimmick greatly affected IDEA funds allocation seven years ago when only 60 percent of the program’s funds were made available in July and the remainder in October. For 2001-02, only 15 percent was allocated in July with the remainder not until mid-October. For the last two years, between 40-50 percent has been allocated in July with the remainder in October-November. For next school year, about 45 percent of IDEA funds will go to states in July 2007, with the remainder in October,

which includes all of the \$200 million increase in state grants included in the “continuing resolution” signed by the President in February 2007.

The state funds allocation process varies among the states but the following is typical. Between 50 and 80 percent of state special education funds -- which are usually much greater than IDEA funds -- are allocated in July through September. During October, districts submit to the state estimates of the numbers of special education students who will likely be enrolled. The state then makes adjustments for the remainder of the state funds, which are allocated to the districts after December 1, when the final districts counts are submitted.

Some special education purchasing occurs throughout the school year -- particularly for evaluation services, software, supplemental materials and interventions -- because these purchases are often made by special education teachers when needs for a student or groups of students are identified. A traditional purchasing cycle is April through June when end-of-year state money is identified and has to be obligated. Another lesser purchasing period occurs in August-September when newly-identified students are placed in special education programs. A moderate-to-large purchasing cycle will occur once again this coming year in October through December when the final amount of IDEA funds will be allocated to the SEAs and, in turn, to LEAs.

Beginning with the 2006-07 school year -- and most likely growing next school year -- will be an additional purchasing cycle that has been created -- if not significantly influenced -- for “interventions” by the increasing number of districts that are implementing EIS/RTI provisions. This will particularly occur in districts identified as

having disproportionality or overrepresentation of minority students in special education and even in those districts not so identified but which are allocating up to 15 percent of their IDEA funds, as well as state and Federal funds such as Title I, for such purposes. While \$1 billion or more of IDEA funds could be reallocated for EIS/RTI, the amount used for purchasing interventions and directly related services such as training and support could be a third to half that amount.

In many of the districts, IDEA funds will be reallocated for EIS/RTI for K-3 students in order to remediate reading problems and, therefore, avoid placement of mostly minority students in special education. Many districts will purchase interventions in July - September and use them intensely before November-December so that any student who is placed in special education will be included in the December 1 count in order to generate state funding to serve that student during the remaining school year. The number of students who are placed in special education because of learning disabilities (as reported in the December count on which state funds allocations are based) is likely to be reduced somewhat in certain states because of EIS/RTI reducing the amount of state funds allocated to districts. Federal IDEA funds, which will be allocated for EIS/RTI interventions will result in a de facto reduction in Federal IDEA funds going to and/or remaining in the district special education office. While EIS/RTI implementation funding uncertainty is likely to exist in some districts, some of the up-to-15 percent of IDEA funds earmarked for EIS will likely be used for purchases of interventions and professional development.

Clearing the Air in the Administration's "Smoke and Mirrors" Budget Justification Process

In the budget justification process, the Administration has masterfully used "smoke and mirrors" and a surprisingly large number of Congressional leaders and committee staffers have been gullibly accepting the Administration's justifications. The Administration has been telling groups advocating increasing use of instructional software and supplemental materials, "The two largest programs -- Title I and IDEA -- which have increased over 40 percent since the Administration came aboard could be used to purchase such products." In reality, over the last year, Title I has received a 30-35 percent cut in its operational programs at the district level, while IDEA has received about a 15 percent cut, all because of "set-asides." Firms with appropriate "intervention" type products and services certainly can benefit from these set-asides, however, the industry as a whole has suffered because operational Title I and special education programs at the district level have had difficulty just maintaining salaries for existing staff after setting aside funds for Title I supplemental educational services (SES) and early intervening services (EIS) under IDEA.

That Title I is a good source of district funds for purchasing instructional software and supplemental materials is a "big joke," a key person in the National State Title I Director's Association voiced vehemently recently. Under current regulations, districts with schools identified for improvement for two year have to provide supplemental educational services, and must set aside 20 percent of their Title I budgets for SES and the parent choice transportation option. If a

district is identified, an additional ten percent must be earmarked for professional development and can only be spent on professional development; unspent funds must be carried over to the next year and added to the new ten percent amount. Schools identified for improvement for the first time have to set aside an additional 10-15 percent of their Title I budgets for professional development, unless they can prove the need does not exist. And, if a district receives an increase in Title I funds in one of 10-15 states which receive overall state increases for FY 2007-08, then the likelihood is high that an additional four percent of that district's Title I allocation will be withheld by the SEA for the four percent school improvement set-aside. This school year, the total amount set-aside for school improvement by SEAs was slightly over \$300 million, which was actually 40 percent less than what the states were supposed to set aside.

In addition to the above set-asides, Title I operational programs are also being cut as USED auditors are focusing more and more on whether Title I districts are providing Title I funds for "equitable services" to non-public schools and/or charter schools, which along with vouchers in some cities are resulting in more "funds following the child" as they enroll in non-public schools. And, in districts where the annual Census Bureau sample surveys do not count all of the eligible students (which generate Title I funds for the district), decreases in Title I allocations occur while services are still provided to students from such families. One might speculate that the significant Title I cuts in preliminary allocations to Miami and Los Angeles for FY 2007 may have occurred because many children of undocumented workers were not included in the Census data used in the Title I formula (see March 30 Special Report).

In special education programs, the impact of set-asides is being felt greatly this year for the first time. If a district has an over-representation of minorities enrolled in special education programs, then the state must direct the district to set aside 15 percent of its IDEA funds to be provided to another district office to provide early intervening services (EIS) for borderline minority students to reduce inappropriate placements in special education. And, if a district receives an increase in IDEA funding, up to 50 percent of the increase can be used to support, for example, the superintendent's pet projects which don't have to serve special education students. The funding impact of implementing EIS is even greater in districts that implement EIS which take place over a period of four or more months. If students who participate fail to progress enough and still have to be placed in special education programs that year, but this does not occur before December 1 (when the so-called December counts have to be submitted to the state), this can result in no state funding for the remainder of the year generated for that student. Indeed, the Administration's stated strategy is to use early intervening services to reduce the number of students placed in special education and thereby reduce the cost of special education programs. By doing so, it is easier to achieve the 40 percent Federal contribution, as "required" in the original special education law (PL94-142) now IDEA, than asking Congress for more funds for IDEA.

As to the future, several state groups, such as the CCSSO, as well as the NCLB Commission, have proposed that additional funds be set aside for states to develop longitudinal data systems which would be funded from another four percent set-aside of each state's Title I allocation. And the Council for Exceptional Children has

proposed that the re-authorized Title I also include the IDEA EIS provisions with an equal amount of a district's Title I allocation set-aside to match the district's IDEA set-aside for early intervening services.

For firms that have appropriate instructional interventions and related services, increased set-asides for SES could result in greater sales to districts that operate their own SES program or to other SES providers. However, the sales cycle can be disjointed because of state "use it or lose it" policies related to unspent Title I funds which can't be carried over to the next year. Moreover, one should carefully target those districts which received moderate to significant increases in preliminary Title I allocations for this coming year, which will not have portions of their increase reallocated for state set-asides or other purposes (such as having portions of their increase given to districts receiving a 10 percent or greater cut due to "hold harmless" provisions). Carefully targeting districts that are setting aside up to 15 percent of their IDEA for early intervening services is also a must.

If NCLB has any chance of meeting any of its goals, as Jack Jennings (President of the Center on Education Policy) recently testified, funding must be increased for Title I and also for IDEA. The FY 2007 Continuing Resolution, which constitutes a budget, does call for a \$250 million increase in Title I funds beginning in July and a \$200 million increase in IDEA funding, both of which are at the least a morale booster compared to the slight across-the-board cut for the 2006-07 school year.

Impact of Reading First Investigations and Hearings Appears to Be Surfacing

As widely reported in the education press, hearings in the House and a report on further Senate investigations into conflict of interest allegations and favoritism in the Reading First Program confirm and go even further in identifying improprieties than did the Office of Inspector General and GAO reports. We have had numerous discussions with key reporters who have been covering the Reading First developments, knowledgeable observers, and key officials within associations and the publishing community. All of these individuals have a strong interest in the impact of these inquiries -- thus far and possibly in the future -- on the Reading First program as well as on USED plans and policies which could be affected. On several issues, there appears to be a growing consensus as noted below.

- The directors of the three regional Reading First Technical Assistance Centers made statements or acted in such a way as to give the appearance of conflict of interest. The gravity of allegations and findings was serious enough for the Office of Inspector General to turn over evidence to the Department of Justice for possible criminal investigations for one former director who recently resigned his position at the U.S. Office of Education.
- The guidance and advice provided by USED Reading First officials and their consultants during the initial implementation was overly prescriptive, reflecting “selective implementation” of key provisions of

the Law, such as the types of evidence which would satisfy scientifically-based research criteria and allowable uses of funds.

The investigative findings recently reported (and most likely those yet to be reported, particularly by the Senate HELP Committee), could have an impact on other key individuals who have yet to testify and even publishers yet to be implicated. In a number of areas, the fallout has already occurred and announced initiatives are underway including:

- Replacement of the key management of the Reading First program and the departure from USED of a former director of a Reading First Technical Assistance Center; and
- Announced initiatives to ensure greater disclosure and vetting of potential conflict of interest among USED consultants and contractors

One can reasonably expect some state education agencies to submit amendments to their initially approved state Reading First program plans which could include one or more of the following:

- Expansion or deletion of previously “approved” supplemental programs (and possibly core reading basals and evaluation instruments including possibly DIBELS;
- Expansion of SEA-sponsored professional development which is targeted to Reading First schools and even non-Reading First schools which have the greatest needs; funding for Reading First schools is “Pro-rated,” with newly-funded

schools receiving the largest amount which will be reduced over time beyond the start-up phase;

- Replacing Reading First schools which are no longer in “improvement” or receiving other sanctions as a result of increased student reading scores with those entering “corrective action” and/or “restructuring”; and
- Allowing states to develop criteria for determining the quality of evidence which is acceptable for the SEA to approve instructional and evaluation programs and instruments

One can legitimately expect more SEAs to approve some of the programs which have been found by the What Works Clearinghouse or the Institute of Education Sciences to be effective including: *Success for All*, *Reading Recovery*, *Renaissance Learning*, *Early Intervention in Reading*, *Read Write & Type*, and *Peer-Assisted Learning Strategies*. At least one observer has noted that pressures to modify state Reading First applications might be due to threats of lawsuits from groups of parents or civil rights groups who may argue some of the evaluation instruments currently used are racially biased.

The May 10th House Committee hearing at which Secretary Spellings testified may have served as a catalyst for another possible scenario which would involve technical amendments to fix Title I, of which Reading First is a component, rather than reauthorizing all of the NCLB/ESEA Law. The day after she appeared before the House Education Committee, Secretary Spellings sent a letter to the Committee Chairs stating, “I am hopeful that the pursuit of oversight will not delay moving forward

legislatively on these two important laws. Indeed reauthorization of NCLB and the HEA is an effective way to address the issues raised by your oversight activities...So that we may best prepare for this essential work, I offer to convene at the earliest opportunity a working luncheon with you and your staff.” While several reporters and observers considered the technical amendment approach to be “novel,” they believed that it probably would not occur because:

- most of the major NCLB fixes are required for Title I, so why not reauthorize the whole NCLB/ESEA and resolve a large number of problems in one action;
- fixing Title I, including Reading First, through technical amendments would not leave the appropriate legacy for key Democratic leaders, one of whom may decide to retire in the near future.

Thus far, no Congressional staffer involved in reauthorization has verbally mentioned the technical amendment ploy as an alternative to overall reauthorization of NCLB if it hits a “brick wall.” The Administration, however, may use the Reading First hearings as a catalyst to bolster the momentum for reauthorization of at least Title I, including Reading First. As numerous Bush advisors have noted over the last several years, the Administration basically wrote off Title I and put all of its “eggs in the Reading First basket.” If the results that have so far been leaked hold up when the final findings are reported, then Reading First may be only Bush education legacy when he leaves office. Most key Congressional staffers involved in reauthorization won’t acknowledge that there is a Plan B alternative which is not

surprising because, to do so, would take the “wind out of the sails” of overall NCLB/ESEA reauthorization. The great irony is that, in spite of USED’s misadministration, bad judgment, and perhaps illegal actions, the Reading First program could be viewed as one of the most successful Bush achievements when the final data on its effectiveness are released.

The hearings and investigative findings which have been made public thus far will undoubtedly have an impact on the role and influence of the Reading First Technical Assistance Centers. It is not clear how much assistance they are currently providing to states and districts regarding aspects of Reading First implementation. Several publishers of products which have been sent to the Centers for review have been told such reviews are impossible because funds have been depleted and there is insufficient staff at the centers to review products. At the least, one could expect significant reorganizations of one or more of the Centers and possible rebidding of contracts that are expiring or could be terminated for or without cause. About two years ago, Deputy Secretary Simon and Secretary Spellings stated that Federal funds would be set aside to assist states in implementing the “2% draft regulations,” which would use modified standards and assessments for certain special education students and that the Reading First Technical Assistance Centers would be contracted to provide assistance to SEAs and LEAs. Deputy Secretary Simon subsequently also noted that the Reading First Technical Assistance Centers could also assist states in implementing the early-intervening services/RTI provisions in the reauthorized IDEA. Since then, in several discussions of the modified assessments and intervention implementations, the Reading First Technical Assistance Centers have not been

mentioned by Simon as playing any role. Indeed, USED continues to fund various other research centers which could be involved in providing technical assistance in these two areas.

The full impact of the Reading First investigations will have to wait until the Senate HELP committee completes its investigation and conducts hearings which are likely to involve former Secretary Rod Paige and his advisors, including Beth Ann Bryan and perhaps others.

National Instructional Materials Accessibility Standard (NIMAS) Update: New USED “Anticipatory Access” Policy Would Allow Accessible Media Producers (AMPs) Access to Electronic Files Sent to NIMAC before LEA and SEA Contracts are Signed, Increasing Possible Copyright Violations

The new “anticipatory access” policy of USED would allow AMPs earlier access to publishers’ electronic files submitted to NIMAC before states and districts sign contracts with publishers; it is designed to prevent “log jams” from being created by allowing AMPs, which might not be protected from copyright infringement under the “Chaffee amendment,” to have access to such files to convert them to specialized formats to be used by blind and print-disabled students. This most recent NIMAS development could present a major dilemma to print publishers of supplemental materials or even textbook publishers that have aligned supplemental materials. Another major issue which has yet to be resolved is whether or not all print supplemental

instructional materials fall under the NIMAS requirement. The dilemmas and scenarios that could play out are outlined below.

A supplemental print material publisher that feels that its supplemental materials might fall under the NIMAS requirement could decide to have the electronic format created and provided to NIMAC, especially if several competitors with similar products have also submitted electronic formats to NIMAC. This could occur before an LEA or SEA purchases the print version for use with non-blind or non-print-disabled students. If the number of supplemental print material publishers submitting electronic formats to NIMAS increases significantly, some publishers argue that one major implication of this phenomena would be a tacit acceptance by the supplemental publishers industry that all such materials should fall under NIMAC, which would increase costs for many small supplemental publishers whose products would not likely otherwise fall under NIMAS requirements as specified in the legislation and previously negotiated agreements between the NIMAS Committee, USED, and publisher associations, including AAP and AEP.

A second and perhaps more serious potential concern would be that the “authorized entity” to perform the specialized format conversion, such as the Accessible Media Producer, may not be protected from copyright infringement under the Chaffee amendment, in which case the print supplemental publisher has little recourse if significant copyright infringement occurs through unauthorized distribution of the firm’s electronic files to entities serving not only blind and print-disabled students, but possibly other students. As the March 16 letter from USED Assistant Secretary Don Hager states, in order to prevent unauthorized use and copyright

infringement, “...the NIMAC must adopt copyright procedures that would protect against copyright infringement by all AMPs (who may or may not be authorized entities protected from copyright infringement under Chaffee).” This copyright issue is a serious concern among both textbook and supplemental publishers.

As an alternative, a supplemental print materials publisher could decide to develop a NIMAS electronic format file for its print materials for which it projects substantial sales, but not submit the files to NIMAC. Rather, when an SEA or district purchases the print material, the print publisher would submit the NIMAS format file to the SEA or district. If the purchaser is an SEA, then the SEA would have to negotiate copyright protection provisions with the publisher to ensure that whatever “entity” or AMP develops the specialized format for blind or print-disabled students’ use does not infringe on the publisher’s copyright. According to the Association of Education Publishers (AEP), as of April, about 20 SEAs have not finalized their agreements with NIMAC and may opt not do so due to potential abuse because of the complexity of copyright provisions. One direct implication could be that the demand for a publisher’s print product and subsequent NIMAS files would be low or non-existent in those states that have “opted in” to work only with the NIMAC. Recent discussions with district special education directors in Michigan (which is strongly committed to NIMAC) indicate that virtually all of the districts in the state are also willing to work through the NIMAC process. A very real question is whether or not SEAs and LEAs are willing to negotiate anti-copyright infringement provisions in their purchase agreements with publishers and have the will and capability of enforcing such agreements among AMPs that may or may not be protected under the

Chaffee amendment.

Another growing concern among some supplemental publishers is that the new “anticipatory access” policy is not only in conflict with negotiated NIMAC procedures, which allow files to be released when school or state purchases are made, but could also result in subsequent reduced sales if unauthorized copyright infringement by AMPs occurs.

The NIMAS issue is a concern of both the American Association of Publishers and the Association of Education Publishers which appear to be working closely together to ensure that their memberships’ copyrights and other protections are adequately addressed in negotiated agreements and NIMAC procedures. From our recent discussions with district special education directors, we know that the availability of print instructional products in a NIMAS format is even more important as a “desirable feature” than meeting Section 508 accessibility standards. Another implication of increased NIMAS awareness among district special education directors and technology coordinators has been the greater demand for instructional software products that have been developed following “universal design principles.” The Committee created to develop regulations and policy guidance for NIMAS implementation is the Center for Assistive Specialized Technology (CAST) in the Boston area, an organization that also works with SEAs and publishers in various ways, including the application of universal design principles.

Supplemental Educational Services Likely to Receive Additional Dedicated Funding and Increased Priority in NCLB Reauthorization

A number of activities over the last several months strongly suggest that supplemental educational services (SES) will receive a higher priority with increased SES set-asides, including “intensive tutoring.” Over the last three months, Secretary Spellings has been holding regional meetings throughout the country to generate grass roots enthusiasm for SES and to increase participation rates for students who are eligible to receive such services. In addition, the first round of USED monitoring reviews of local districts’ implementation of SES provisions has been completed; the results, including identification of best practices, will be discussed at the National Summit on SES scheduled in July.

In Congress, the ranking minority member of the Education and Labor Committee, Buck McKeon (R-CA), has held hearings providing the opportunity for the new Coalition for Access to Education Resources -- made up of civil rights activists and school choice advocates -- to discuss ways of increasing student participation in SES. McKeon has also announced that he will be submitting legislation which would increase parent awareness of the availability of SES and require districts to spend 20 percent of their Title I funds on SES for schools that are identified for improvement for the first time. Districts would be required to carryover any unspent SES funding from one year to the next and added to the 20 percent set-aside that year for SES.

In its proposal for the reauthorization of NCLB, the Council for Exceptional Children

(CEC) has recommended that a portion of Title I funds be set aside to implement “early intervening services” for borderline students in order not to have to place them in costly special education programs. The Title I set-aside would be equal to the amount of IDEA funds that districts, which have been identified for “disproportionality,” would have to reallocate to another office (such as Title I) to serve these students in order to reduce the inappropriate placement of minority students in special education. The New American Foundation recently announced its proposal for NCLB reauthorization which recommends that school districts use existing NCLB Title I funding for early intervention in grades pre-K-3 and that all new NCLB Title I funds a district receives be dedicated for this purpose. The proposal was drafted by a seasoned former Congressional staff person who has a pulse on Congressional “thinking,” which often occurs among staff behind closed doors.

The President’s proposed FY 2008 budget also would set aside between \$300-400 million to provide opportunities for students enrolled in schools under “corrective action” or in “restructuring” to receive “intensive tutoring” in schools of the parents’ choice, including private schools. Currently the proposal would allow Title I funds amounting to \$3,000-\$4,000 to “follow the child” to the institution providing intensive tutoring, through the use of vouchers. A former state Title I director who now heads his state’s coalition of Title I district administrators indicated that his districts would support such a proposal which provides an alternative dedicated funding stream for SES, but that it would have to be done through mechanisms “not called vouchers.”

On the Democratic side, Congressional

leaders have addressed some of the problems which have arisen related to SES during hearings, particularly the lack of quality among some SES programs, inadequate evaluations, restricted use of funds for administering SES, and the lack of parental knowledge and support. Legislation which has been submitted by the two committee chairmen has addressed directly-related issues such as extended learning (Senate Chairman Kennedy), teacher quality (House Chairman Miller), and administrative costs and evaluation of SES programs (Senator Clinton). Committee staff members, on several occasions, have noted that the draft NCLB reauthorization will address issues such as allowing SES to be provided one year earlier, similar to the McKeon proposal, and allowing districts identified for improvement to continue providing SES under certain conditions.

As noted in a related Washington Update item, the evaluation results of SES tutoring programs in Chicago Public Schools once again point to the advantages of allowing districts identified for improvement to continue providing their own SES programs in terms of increased student participation in SES at one-third or one quarter of the cost than that charged by third-party independent providers. Coming on the heels of the release of the Chicago third-year evaluation, the Education Industry Association has published a report entitled “The Performance and Promise of Supplemental Educational Services under ‘No Child Left Behind’” which highlights examples demonstrating the positive impact of SES.

For a copy of the EIA report, go to www.educationindustry.org; click on SES/Public Policy and then click on “SES Evaluation Report: Preliminary Compilation”

Third-Year Evaluation of Chicago Public Schools Supplemental Educational Services Tutoring Program Concludes District-Operated Program Is by Far the Least Expensive and Demonstrates Significantly More Improvement in Student Math and Reading Achievement Than Many Other More Expensive Providers, Which Could Pressure USED to Change Current Policy and Allow Greater Opportunities for “Partnering”

The findings from the third-year evaluation of SES tutoring in Chicago Public Schools, (one of five districts participating in the National Pilot Program of “identified” districts allowed to continue their own SES programs), are likely to have an impact on current USED policy, which is likely to allow more districts identified for improvement to operate their own SES programs.

For the third year in a row, the CPS AIM High program, operated by the district, was the least expensive, costing about \$375 per student for an average of 80 tutoring hours per student. Because of the lowest per-pupil cost, the district’s AIM High served slightly more than over 23,000 of the 55,000 eligible students who participated in the overall district-wide SES program. The evaluation also reported that AIM High students demonstrated “significantly more improvement in math and reading achievement than did students tutored by many of the other more expensive providers.” The cost per student of third-party SES providers was between \$1,500 and \$1,800 per student. The inference from the evaluation report is that the CPS-operated program could serve three to four

eligible SES students for each one served by a third-party SES provider.

One of the primary goals of the five urban district “pilot programs” is to determine whether district-operated programs can increase SES participation rates above the current level of about 18 percent. A survey conducted earlier this year by the Council of the Great City Schools found that the SES student participation rate in seven districts that operate their own SES programs, had increased overall student participation rates to about 25 percent, while participation rates in districts where only third-party providers were allowed to provide SES were about 11 percent.

Most of the analysis in the report attempted to compare the costs per pupil and achievement gains in math and reading of students in third-party SES programs with the CPS AIM High program. The analysis concluded that, when compared with the CPS tutoring program, only students in the EdSolutions Inc. Program performed better in reading and in math only the Unparalleled Solutions Inc. students did better. The analysis also addressed the “cost-effectiveness” of the different SES programs and generally found that the more costly per-pupil providers “did not translate into higher reading and math scores.” The exceptions were EdSolutions Inc. (\$1,792), Unparalleled Solutions Inc. (\$1,581) and Score Education Centers (\$1,096). It would appear that the cost per pupil to the district was a negotiated fee which may have been different from the actual cost. What was included in the AIM High cost per pupil of \$375 is also unclear. One interesting cost-related item was that the third-party providers which used online tutoring sometimes in combination with onsite instruction, had costs per student generally of \$1,700 or more. The USED policy says

that SES fees, which can be paid using Title I funds, can be: (a) the cost per student as determined by the service provider or (b) the amount of Title I funds allocated to the district per eligible Title I student which is higher than the average Title I allocation per student served (e.g., nationally, about \$1,800 per eligible student versus about \$500 per student served).

As we reported in the April TechMIS Washington Update, Deputy Secretary Simon, in an offline discussion, during the Council of the Great City Schools conference, all but stated that if the results from the five district pilot program justifies the need for more districts “identified” to be allowed to provide their own SES tutoring in order to increase participation rates, then USED could “suspend” the non-regulatory guidance reflecting current USED policy.

For a copy of the CPS study go to: <http://cpsafterschool.org/SESreportyear3.pdf>

Comments by Officials Involved in the USED Study of the Effectiveness of Reading and Mathematics Software Raise Additional Questions About the Study Design as Implemented and the Validity of Findings

During a SIIA webcast on May 15, comments made by USED officials and the Mathematica Inc. principal investigator involved in implementing and reporting on results of the effectiveness of reading and mathematics software study raised additional questions about the study design and its implementation. This further suggests that the first-year findings of no significant difference between treatment and

control students were not as valid as they could have been.

We and other groups questioned the single-form used by observers to determine whether or not the sixteen individual products/interventions were implemented as recommended by the publishers.

Mark Dynarski -- Mathematica Policy Research principal investigator -- confirmed that the pedagogical and other differences among interventions were “very significant.” In light of this, one attendee asked why only one general form for observation was used rather than one specifically recommended for use by the publisher. Dynarski indicated that the observers also completed an appendix that was a checklist observation instrument customized for the specific intervention. In response to another question, Dynarski stated that the use of these appendices for assessing fidelity of implementation was not mentioned in the report, nor did the findings take into account the results from data gathered through the use of the appendices. He argued that to have done so would have required the results to be reported by single interventions and not groups of similar interventions as initially agreed to by the participating firms (which was as we noted another major “bone of contention”). Dynarski did suggest that, when the findings are reported by individual interventions for the second year cohort of participating students, the results from the appendices’ observation forms would be taken into account to determine whether the fidelity of implementation has a causal relationship with the student results.

In response to another related question, Phoebe Cottingham, who directs the office within the Institute of Education Sciences that conducted the study, indicated that the

report on the second-year cohort “would be available within the year.”

In her presentation, Deborah Sterling, Research Science Director from Pearson Digital Learning which participated in this study, confirmed what other participating vendors have unofficially stated, namely that USED has not lived up to its promise to provide firms with access to their specific product findings after the release of the April 4 findings by “families” of intervention types by grade level and by subject. The firms have yet to receive such data. She emphasized that one of the incentives for the firms to participate was to be able to have such data to be used for formative purposes. Failure to release these findings to the participating firms make the study and its findings more suspect, especially since the initial agreement said the firms would have “unrestricted use of those findings,” as these data could counter, in certain cases, the overall findings released by USED. Moreover, related to the implementation observation form and appendix, Sterling indicated that Mathematica's subcontractor SRI said the fidelity index and developed instruments were proprietary and would not be shared with the firms.

In our May TechMIS Washington Update, we pointed out that the study design was changed at the last moment to require interventions to be randomly assigned to teachers, which we have found in conducting similar studies over the last 30 years, does not engender “teacher buy-in.” Perhaps in anticipation of such a question, Dynarski volunteered “there was little reluctance to random assignment of interventions to teachers which was a surprise!”

In response to a question regarding the treatment of the study findings by the press, Cottingham noted that everyone has a vested interest in encouraging the press to “pay greater attention to details and findings.” However, because the study findings were leaked to a Washington Post reporter several days before other reporters had a chance to review the findings in any detail, most of the press basically repeated the findings that already appeared in the Post as soon as they had a copy of the study. An editorial by Greg Downy at eSchool News criticized the press for being “repeaters” and not “reporters.”

In a related story on May 17, eSchool News Online published “Special Report: eSchools Work! Setting the Record Straight on EdTech Efficacy.” It announced a brand new Special Report documenting positive findings from meta-analyses and studies that will culminate in a specially called mini-conference sponsored by eSchool News during NECC in June. I suggested to the editor, Greg Downy, that some of the above comments should be probed in depth with USED officials and project staff to assess the validity of the findings as reported and why individual firms have not received their product-related findings. It was also suggested that because the pre-test, post-test for the second year of cohort were conducted almost a year ago that at least preliminary findings of the second year be reported as soon as possible.

The April 4 release of the study findings will undoubtedly have an impact on appropriation debates regarding E2T2 funding for FY 2008 and will likely affect willingness of firms to participate with USED and/or the Institute of Education Sciences in future studies. One conclusion that several observers noted is that USED/IES is incapable of conducting such a

massive large-scale study, especially in a short time frame, and that other agencies such as NSF are better equipped to conduct such evaluations of education technology.

USED Plans to Fund the Creation of an Institute Designed to Evaluate Web-Supported Instruction for Students with Disabilities, Possibly Creating Opportunities for Firms to Have Their Web-Based Instructional Programs Evaluated by an Independent Third-Party

On April 30, USED announced in the Federal Register its second grants competition to select a contractor to establish an “Institute on Technology Effectiveness for Children with Disabilities: Web-Supported Instructional Approaches.” The first announcement of the competition, on September 26, 2006, did not generate any acceptable applications. The latest announcement comes on the heels of the release of findings from the USED-designed evaluation of software interventions in reading and math which, for a variety of reasons, found no significant differences between treatment and control students’ scores during the first year of implementation. We and others criticized the design that \$15 million USED/IES study design from the onset, as well as the way the results were reported (see May 2007 TechMIS Washington Update and related Update item). The proposed Institute, which would be funded at \$500,000 per year for five years, could offer firms with appropriate web-based instructional programs opportunities to have their programs evaluated in a responsible manner and at lower costs. The new Institute’s project officer is Jane Hauser, a career veteran within the Office of Special

Education Programs with years of experience in evaluating different technology programs and services for students with disabilities.

The “absolute priority” under which this institute will be funded is to conduct a systemic program of research on the use of “web-supported instructional approaches to improve access to, and participation and progress in, the general curriculum for students with disabilities. In carrying out its research, the Institute must apply the principles of universal design.” The contractor selected to operate the institute must have “access to existing web-supported instructional materials that will allow the Institute to proceed quickly with the research (without substantial time devoted to additional development) on proposed instructional approaches and products to be examined.” These approaches and products must represent a range of features of web-supported instruction relevant to education of students with disabilities. Perhaps the most important research question is: “Do the web-supported instructional approaches and products identified improve learning of academic content for students with disabilities in education settings with typical resources and levels of teacher support?” This research question must be addressed separately for students with learning disabilities, students with mental retardation, students with visual impairments or blindness, students with hearing impairments or deafness, students with emotional disturbance, and students with physical disabilities. While the research is “intended” to test causal relationships, implying the use of rigorous experimental designs using randomized assignments, the application states, “experimental research may be supplemented with qualitative and non-experimental methodologies providing sufficient rigor is maintained.” The

guidelines also state that the majority of the research must be conducted in “educational environments using typical resources and levels of teacher support.”

If a firm currently has a web-based instructional program for intervention, which is used in a typical education setting, with one or more types of the students with disabilities, then opportunities may exist for having such programs evaluated independently by the Institute. Other important considerations are whether the web-based instruction has incorporated “universal design” features for ensuring access for students with certain disabilities and whether the web-based intervention is also available in print or another format if the resulting study design calls for randomized assignment of students to different configurations of the intervention or instructional program.

The proposal deadline is May 30, 2007; the anticipated award date is likely to be in September. The contact person, Jane Hauser, can be reached by phone at 202-245-7373 or by email at jane.hauser@ed.gov.

New Center on Education Policy (CEP) Report Finds Vast Majority of State Education Agencies (SEAs) Unable to Provide Technical Assistance and Support to Increasing Number of Districts and Schools Identified for Improvement Because of Inadequate Federal and State Funding; However, Increased Federal Funding for SEA Capacity-Building Could Come at the Expense of District Title I Operational Programs

A new CEP report, part of its fifth annual study of the implementation of NCLB, found that only 11 states reported they were able to provide assistance “to a great extent” to schools identified for improvement and “restructuring,” the number of which will increase greatly next year. Lack of SEA capacity to provide assistance and support was attributed to inadequate Federal funds (41 states), or lack of state funds (36 states), both of which contributed to insufficient numbers of staff available to provide assistance (45 states). CEP reported that the problems were greater in states within the top 50 percent in terms of population and in states in which more than 26 percent of schools did not make AYP. In Northeastern states, inadequate funding was a bigger problem than in Southern states, while inadequate Federal funding was a larger problem in Western states than in Southern states. The CEP recommends that USED “review and enhance” its efforts to assist SEAs in implementing Federal programs; that NCLB be amended to allow states to provide “differentiated” levels of technical assistance to schools identified, based upon individual needs; and that additional Federal funding be provided to SEAs to enable them to effectively carryout NCLB. The CEP

conclusion that, if SEAs are not effective, Federal policy to improve schools will not succeed, appears to be gaining traction in various important quarters ranging from the President's FY 2008 proposal to the NCLB Commission Report, among others.

In the FY 2008 budget, the President requested \$500 million to fund the SEA school improvement grant (which would receive \$125 million for the first time under the FY 2007 Continuing Resolution), even though the grant was "authorized" in 2002. While some of these funds are supposed to be reallocated to districts identified for improvement, former Assistant Secretary Henry Johnson called for at least \$100 million to be allocated for state capacity-building to implement formative assessments. Thus far, the only funds for SEA capacity-building and reallocation to districts have come from the four percent state set-aside for school improvement, which came from increases in district Title I allocations. Few districts received increases this year and, where increases did occur, most had to be reallocated to districts receiving more than ten percent cuts because of "hold harmless" provisions. The state set-aside for 2006-07, according to CEP, was only around \$300 million, down from more than \$500 million the previous year. With the number of schools entering "corrective action" or "restructuring" almost doubling over the next year, and with many large districts identified for improvement having to earmark 20 percent of their Title I budgets for SES and parent choice transfer, as well as an additional 10 percent for professional development, districts are having great difficulty in keeping the "doors open" in existing Title I schools, much less reallocating remaining Title I funds for schools in restructuring. Even though new Federal funds for school improvement are

likely to be appropriated in the future, how much will be reallocated to districts and schools in restructuring is unclear.

In the immediate future, while SEAs will be unable to provide the amount of technical assistance and support required under school improvement, opportunities could exist for outside groups including firms with appropriate products and services to partner with districts. At the least, SEA initiative could be helpful in promoting certain products and services. The CEP report identifies a number of strategies that states are using to provide school improvement technical assistance. One strategy involves the use of skilled professionals, including local school improvement specialists, regional school improvement coaches, and school support and assistance teams. In many states, these "teams" represent potential means of disseminating information about effective products and services involved in "turnaround activities." Other opportunities may exist in providing technology tools and applications for planning and implementing restructuring strategies or in the area of professional development and ongoing support. Another widely used strategy identified by CEP is web-based support -- ranging from professional development to databases on effective turnaround practices and the use of data analysis tools. States report the need for technical capabilities to develop and implement such tools. Another SEA strategy which appears to be widely used is the use of USED-supported Comprehensive Centers and Education Labs, although CEP was "inconclusive" about their effectiveness. In 2005, USED funded 21 Comprehensive Centers, 16 of which were regional and five of which are content-focused. USED also awarded five-year contracts to ten Regional Education Labs that are supposed to provide the best

available information from research and practice to help districts involved in education improvement. In some states, the opportunity for developing partnerships with these USED-supported labs and centers, as well as state-funded regional service agencies, could result in sales of products and services and should not be overlooked.

CEP also recently launched its newly-designed website which includes an announcement that, on June 5, CEP will release a major report on student achievement under NCLB at the National Press Club in Washington, D.C. On June 12, along with AIR and the Rand Corporation, CEP will present findings from each of the three organizations' multi-year NCLB studies in a briefing at the George Washington University Conference Center.

For a copy of the CEP study, entitled "Educational Architects: Do State Education Agencies have the Tools Necessary to Implement NCLB?" go to www.cep.dc.org.

Census Bureau Report Highlights Public School Spending in 2005; State Funding for Special Education was Nearly \$15 Billion With Almost \$6 Billion for Compensatory Education

A new report from the U.S. Census Bureau presents data from FY 2005 on the revenues and expenditures of America's schools. According to the report -- Public Education Finances 2005 -- total K-12 revenues for the 2004-05 school year were \$488.5 billion of which states provided 47 percent, localities

provided 44 percent, and the Federal government provided nine percent. The \$427.5 billion in current spending is comprised of 60.5 percent for instruction, 34.3 percent for support services, and 5.3 percent for other spending.

Overall, the average per-pupil expenditure in FY 2005 was \$8,701, up five percent from the previous year. Per-pupil expenditures ranged from a high of \$14,119 in New York State to a low of \$5,257 in Utah with 11 of 13 highest spenders located in Northeast or mid-Atlantic states. Moreover, of the 13 highest-spending states, all except D.C., Alaska, and Wyoming (all three of which have a large Federal presence) receive Federal education contributions well below the nine percent national average.

The primary Federal funding source for K-12 education is compensatory (Title I), followed closely by special education and child nutrition. State education funding is generally distributed in the form of formula assistance (68 percent of state support). Other state programs that distribute funding to local schools include special education (\$14.7 billion), compensatory programs (\$5.7 billion), and transportation (\$4.0 billion).

The report also found that, of total school construction spending of approximately \$40 billion in FY 2005 nearly a third came from California (\$8.7 billion) and Texas (\$4.7 billion) alone.

The full report is at: www.census.gov/govs/www/school.html

Arizona Update - June 2007

Education Week reports that 23 Arizona school districts -- including the 60,000-student Tucson school system -- have failed to meet adequate yearly progress standard under the No Child Left Behind Act for at least three consecutive years. These districts are, therefore, subject to “corrective actions,” a sanction that has never been implemented in Arizona. State officials are considering the steps to be taken.

The Arizona Republic reports that economist Robert Lynch has analyzed state-by-state spending for early childhood education and has predicted that state preschool programs for three- and four-year-olds from low-income families could pay for itself in 16 years. The presumed savings would come from students needing fewer costly services -- special education, tutoring -- later in life. Currently, Arizona districts spend about \$12 million for more than 5,000 preschool children. This past Fall, voters approved Proposition 203 that will provide \$186 million -- from cigarette tax revenues -- for early childhood health and education programs.

California Update - June 2007

As reported in the San Francisco Chronicle, over the next seven years, 488 of California's lowest-performing public schools will share a total of \$2.7 billion in new State funding. The funds come from the new Quality Education Investment Act which is the result of a lawsuit by the State Education Agency and the California Teachers Association seeking to reclaim nearly \$3 billion withheld from the State budgets in 2004 and 2005. The schools -- which were rated 1 or 2 on the State's ten-point performance scale -- will receive \$500 for each student in kindergarten through third grade, \$900 for students in grades 4 to 8, and \$1,000 for each student in grades 9 to 12.

An analysis by a UCLA professor says that California's reported pass rate for the State's high school graduation test has been distorted to show positive results. The State reported that, by March 2006, 88 percent of high school seniors had passed the two-part (English and math) exam. According to the Los Angeles Times, the UCLA research argues that the actual rate was closer to 78 percent because the State did not count students who dropped out or special education students who were later exempted from the test. Moreover, the analysis concluded that, Statewide, 50,000 fewer seniors graduated compared to prior years and that perhaps the existence of the graduation exam has caused students to drop out. The State counters that the UCLA analysis was flawed.

The San Diego Union-Tribune reports that California's last two budgets have contained \$20 million for career technical education (formerly known in the State as vocational education) and Governor Arnold Schwarzenegger's budget proposal for next fiscal year includes another \$57 million. Moreover, \$500 million out of a school construction bond approved last fall by the voters will be allocated for career technical facilities. Other factors influencing California's emphasis on career education are: (1) two studies that found students who take career tech courses tend to do better academically and; (2) the creation of Connect Ed: The California Center for College and Career, a think tank for the advancement of career technical education.

As reported in Education Week, California has decided against the establishment of an alternative assessment for students with disabilities and, next year, may require such students to take the same California High School Exit Exam (CAHSEE) as other students. Required of regular students starting with the Class of 2006, the CAHSEE requirement was delayed for special education students in the Classes of 2006 and 2007. The State legislature is considering how to apply the CAHSEE to students with disabilities.

According to Education Daily, a group of charter schools have filed suit against the Los Angeles school district for equal access to school facilities. The California Charter Schools Association claims that the district has violated a State law requiring “reasonably equivalent” facilities for all public school students. The State estimates that capital infrastructure costs are the largest part of the gap between regular public and charter schools -- as much as \$2,000 per student.

Colorado Update - June 2007

Education Week reports that, in its latest session, the Colorado legislature has increased the State's budget for K-12 education by 9.2 percent, to \$3.7 billion. The \$313 million increase will pay for: (a) a 4.6 percent hike in per-pupil State aid (to \$5,088 per student); (b) added funding for full-day kindergarten; and (c) more slots for preschoolers. The law also approved a new method of measuring student achievement; test scores of one class of new students can be compared with the scores of the same students one year later, instead of with the scores of the previous class. The law also reconciled the State's testing requirements with those of the Federal No Child Left Behind Act.

The Colorado legislature is considering a bill that would allow online schools and establish a new State division to develop and monitor quality standards. As reported in The Denver Post, there are about 6,200 Colorado students participating in cyber schools - up from 1,900 in 2003. Annual funding for these online schools has increased from \$8.4 million in 2003 to \$32.8 million in 2006.

District of Columbia Update - June 2007

The Washington Post reports that the D.C. City Council has given preliminary approval for a plan that would shift control over the schools to the City's mayor. The school board would still be elected, but the Superintendent would report directly to Mayor Adrian Fenty. The school board would set academic standards, but the Council would have line-item budget control. The plan contains a provision that would give the City Council authority to rescind the Mayor's control if sufficient educational progress is not made within five years.

Florida Update - June 2007

As reported by Education Week, Florida legislators are planning to revise the State's academic standards and expanding its assessment system to include social studies. Under the plan, an advisory panel of teachers -- with input from other educators, parents, and business leaders -- would be appointed by July to devise the new standards, submitting its report by December. And by January, the State would have to submit a schedule and implementation plan. The State would provide teacher training on the content and implementation of the standards, as well as on any testing changes.

The legislature is also calling for State standards in foreign language instruction and for development of an elementary foreign language curriculum. The pending legislation recommends that students performing at grade level, beginning in the fourth grade, be given foreign language options, including online and other technology-based courses.

As reported in the Miami Herald, Florida's share of the Microsoft settlement, amounting to more than \$90 million to the schools, has been distributed to school districts across the State in the form of purchase vouchers. It is estimated that about 1,800 schools -- those in which at least half of the students are from low-income families -- have received vouchers from the settlement. The vouchers may be used for purchases of computers and software made after April 2003 and must be used by June 2010. For lists of eligible schools and products go to: www.fmal.info/

The Miami Herald also reports the percentage of Florida's third-grade students who scored at or above grade level on the Florida Comprehensive Assessment Test (FCAT) has fallen from 75 percent to 69 percent in the last year. The percentage of third-graders who scored at grade level in math, however, rose from 72 percent to 74 percent. Overall, nearly 20 percent of the 200,000 third-graders who took the FCAT failed the test and are subject to being retained in the third-grade. Students who fail can be promoted through other mechanisms including: (1) results from another exam: (2) attending

summer school and passing another test; (3) comprehensive work portfolio; and (4) students with learning disabilities and English language learners can be exempted.

It appears that the apparent drop in third grade reading performance was the result of the 2006 FCAT exam being too easy. Statewide, all results -- at all grades and in all subjects -- were positive except sixth-grade reading and math and third-grade reading. Because the third-grade FCAT reading scores are used to determine grade promotion, the lower 2007 scores have caused the State to order that they be rescored. State education officials also agreed that, beginning next year, all FCAT results will be independently audited before they are released.

Georgia Update - June 2007

As reported in The Atlanta Journal-Constitution, Governor Sonny Perdue has signed into law a measure that would allow up to five school systems to convert to charter status. The new law provides \$5 million in start-up funding and appoints a charter advisory committee to make recommend which applications to approve. Starting operations next year, the new charter systems will contract with the State to meet specified performance goals. The new systems are expected to use innovative approaches and have the freedom to ignore many Federal and State rules.

Hawaii Update - June 2007

The Honolulu Advertiser reports that the W.K. Kellogg Foundation has given a \$10 million grant to Hawaii's "Capturing the Momentum-the P-3 Initiative" intended to have every third-grader in the State reading at grade level by 2015. A collaboration of the University of Hawaii, the Hawaii Department of education, and the Good Beginnings Alliance, the P-3 Initiative plans to "replicate successful community-based and statewide initiatives already in place and provide support for these strategies in other communities."

Although not yet final, Hawaii's FY 2008 budget for K-12 education, as approved by the legislature, will be about \$2.4 billion, up from \$2.26 billion during the current fiscal year. As reported in Education Week, Governor Linda Lingle has asked for \$15.3 million over the next two years for FIRST (Fostering Inspiration and Relevance from Science and Technology) Academies and HIEST (Hawaii Excellence through Science and Technology) Academies. The legislature has not approved this funding.

Illinois Update - June 2007

As reported in the Chicago Tribune, Illinois has appointed Christopher Koch as its new State superintendent. Koch, a former special education teacher, has been serving as interim superintendent since December. Koch has affirmed his intent to implement Governor Blagojevich's new education initiative that includes \$10 billion in additional funding over the next four years targeted at early childhood education, new textbooks, special education, and school construction.

Indiana Update - June 2007

Indiana's K-12 general fund budget for the FY 2008-09 biennium is \$8.6 billion, a 3.7 percent increase in each of the next two years. According to Education Week, the budget includes \$39 million each year for textbooks for low-income students and \$41 million (up from \$31.5 million) for testing and remediation. The legislature increased State kindergarten grants to \$92 million (a \$75 million hike) but did not provide the \$250 million requested by Governor Mitch Daniels for full-day kindergarten. Currently, about 30,000 Indiana students attend full-day kindergarten; about 10,000 of those children are supported by the current \$8.5 million in State grants. School districts offering full-day kindergarten will receive up to \$2,500 per student in State funds, the actual amount to be determined by the number of schools that participate.

eSchool News reports that on the last day of the legislative session, the Indiana legislature has deleted from the new budget any funding for two new virtual charter schools that were expected to open in the Fall. The Indiana Virtual Charter School and Indiana Connections Academy planned to enroll about 2,200 students in September. Opponents of the virtual charter schools, led by Democrats, argued that the programs were unproven, would have taken \$11 million a year out of traditional public schools, and would constitute taxpayer funded home schooling.

Iowa Update - June 2007

Education Week reports that the U.S. Department of Education has approved Iowa's growth model proposal for FY 2006-07 adequate yearly progress (AYP) calculations. USED's growth model pilot program -- now with seven states -- allows states to determine AYP compliance using each student's year-to-year progress as well as the existing status model comparing one year's students with the next year's class. Under Iowa's proposal, students would have to meet proficiency standards within three years.

Kansas Update - June 2007

Education Week reports that Kansas' new education commissioner, Alexa Posny, has calmed the political infighting between the State school board's new moderate majority and its conservative members. A former high-ranking special education official at the U.S. Department of Education, Posny has promised to work with the board's conservatives who were in the majority before being defeated in last year's elections.

According to the Lawrence Journal World, there are currently 18 virtual school programs in Kansas, up from only four in 2004. Online enrollment has grown from 165 students in 2004 to a projected 1,000 next year. The State legislature has initiated a special audit to study the supervision and performance of the virtual schools.

Maine Update - June 2007

According to the Maine Department of Education, only 36 of the State's 118 public high schools made adequate yearly progress (AYP) last year, in both reading and mathematics, under the Federal No Child Left Behind Act. A total of 51 high schools failed to make AYP for the second or third consecutive year, while 19 schools missed AYP for the first time last year. As part of the State's reform strategy, it has replaced the Maine Educational Assessment (MEA) with the SAT in order to prepare students better for college.

Maryland Update - June 2007

Education Week reports that the Maryland legislature has passed a funding increase of \$600 million this year for the State's schools and another \$400 million for school construction even though the has a big shortfall in revenues. This increase, the last of a \$1.3 billion increase mandated in 2003, brings Maryland's total education budget to \$6 billion. The budget bill also includes language that will require public meetings to address improvements in the State's high school assessments, which all students will have to pass in order to graduate beginning in 2009. Currently, for example, only 67 of all students pass the algebra test, including only 46 percent of African-American students and 27 percent of special education students.

The Baltimore Sun reports that Maryland has experimented with the use of comic books in third-grade classrooms in eight of the State's elementary schools and plans to expand the use of comics and graphic novels to the middle-school level. The State has worked with Disney Publishing and Diamond Comics to assemble kits for use in 200 elementary classrooms. The State will convene a group of middle school teachers to select comic materials for that level.

Nevada Update - June 2007

The Nevada legislature is considering Senate Bill 540 that would authorize the Governor to appoint the State Superintendent, a position currently appointed by the State Board of Education, and would also strip the Board of its regulatory authority. As reported in the Las Vegas Sun, the publicly elected Board would become essentially an advisory council to the Superintendent. Critics of the plan -- including current Board members -- argue that such a shift would take authority away from an elected body.

The Nevada Appeal reports that the Nevada Senate have unanimously approved a limited voucher program for the State. The bill, if passed by the State Assembly and signed by the Governor, would allow special needs students with IEPs to enroll in private schools or public schools other than their neighborhood school. The State would certify the eligibility of participating schools which would receive a proportionate share of public funding for each student.

New York Update - June 2007

The New York Times reports that, for the first time since 1999 when New York State adopted more rigorous academic standards, eighth-grade students showed substantial gains on the State assessment. Students in all grades -- third through eighth -- showed improved reading performance, but eighth-graders were most improved; 57 percent reading proficiently vs. 49 percent in 2006. In New York City, which enrolls more than three-quarters of the State's students with limited English proficiency held steady with 51 percent reading proficiently -- the same as last year. State scores were adjusted to account for the fact that, because of a Federal mandate, 40,000 more English language learners took the exam in 2007 compared with 2006.

North Dakota Update - June 2007

As reported in Education Week, North Dakota has approved a school aid budget of \$796 million for the biennium starting July 1, an increase of \$91.5 million. Another new funding provision provides money for full-day kindergarten beginning in 2008-09 (currently, the State funds only half-day programs). Another new measure increases the number of course units required for high school graduation from 21 to 22 in 2010 and to 24 in 2012. Students will have to take four years of English, tow year of math, two years of science, and three years of social studies.

Ohio Update - June 2007

Governor Ted Strickland and officials from Ohio's eight largest school districts have proposed ending the State's school voucher program and banning for-profit charter schools. According to the Cleveland Plan Dealer, Ohio currently has more than 300 charter schools and local districts are concerning about the loss of students -- and funds -- to the independent schools. The Governor was to eliminate the existing program by which 3,000 students in low performing districts receive vouchers to attend private schools and proposes a moratorium on all new charter schools. The separate voucher program in Cleveland will not be affected.

The U.S. Department of Education has approved Ohio's application to be part of USED's growth model pilot program which now includes seven states. As reported in Education Week, Ohio's model uses prior test data to project whether each student will be proficient within a certain time frame. Under the model, the State will include a large number of assessments and track many years of data. Ohio's approach has been questioned by some because it would allow some K-8 students to take four years -- rather than three as in most states -- to reach proficiency.

Oregon - June 2007

As reported in the Salem Statesman Journal, the high school dropout rate in Oregon fell to 4.1 percent for the 2005-06 school year -- a continuation of the steady decline since the State's dropout rate of 7.4 percent in 1994-95. The dropout rate does not include about 15 percent of Oregon seniors who receive "modified" diplomas for special education students or those working toward a GED.

The Oregonian reports that public high school seniors in Oregon must complete an extended career-related project as a requirement for graduation. In addition to the traditional academic graduation requirements, every high school student must complete at least one career-related learning experience and demonstrate they have gained some career-related skill. Both academic and career activities must be part of an education plan created by students, with advice from teachers and counselors, at the beginning of high school.

Pennsylvania Update - June 2007

A recent study by the director of Harvard University's program on education policy and governance has found that students in privately-operated schools performed better than those in district-run schools. As reported in Education Week, cohorts of fifth-graders in privately-managed schools reading at the "basic" level by eighth grade (between 2003 and 2006) improved 25 percentage points on the Pennsylvania State System of Assessment compared with 15 percentage points in "restructured" district-operated schools. Similarly, the proportion of students performing at or above the "basic" level in math improved 23 points compared with 12 points in restructured district schools. These results are in conflict with some other studies (e.g., RAND Corp.) which found "restructured" district schools outperforming schools with outside managers.

Beginning next school year, the salaries of principals in the Pittsburgh school district will be tied to performance as part of the districts new program called Pittsburgh Urban Leadership System for Excellence (PULSE). As reported in the Pittsburgh Post Gazette, instead of automatic annual step raises, principals will be eligible for increases in base pay of up to \$2,000 as well as bonuses of up to \$10,000. The district is hoping to fund the \$8.9 million, five-year pay-for-performance by applying for a Federal grant.

Tennessee Update - June 2007

An evaluation by the Tennessee Department of Education has found that two supplemental educational services providers in 2005-06 had a negative impact on their students' achievement. As reported in Education Daily, the State plans to work with the providers and to call for a timeline by which their performance will improve. The State has also developed a mechanism for removing providers who fail to show student improvement for two consecutive years.

Governor Phil Bredesen has proposed a spending plan that could increase funding for Tennessee's school districts by \$280 million next year. As reported in The Tennessean, the Governor's plan would increase school funding by \$415 million over the next few years with most of it coming next year. The plan would increase the State's share of funding for instructional programs from 65 percent to 75 percent and would raise the amount of money to hire teachers of English language learners. The Governor expects to pay for the increase from surplus tax revenues plus a hike in the State's cigarette tax.

The Tennessean also reports that nearly half of the entering freshman at Tennessee state colleges and universities require remedial or developmental course work. Students scoring below 19 on the ACT are flagged for additional classes. Developmental courses are for students who are only slightly behind. Remedial courses offer more in-depth instruction for students who need additional help in particular subjects. These programs are costly in both time and money; they don't count toward graduation and cost about \$300 for each student. The State has received a three-year Federal grant to study new ways to deliver developmental and remedial education in college. Moreover, the State will join 26 other states in the American Diploma Project, a program designed to align K-12 and college standards. The Project will provide more professional development for teachers and will target struggling students in eighth-through-tenth grade – particularly in math and reading – to ease their transition to college.

Texas Update - June 2007

The Texas legislature is considering a bill that would give vouchers to allow students to move from “poor-performing, inadequate, or unsafe schools.” As reported in School Reform News, to be eligible for the vouchers, students must live in a large county (at least 750,000 population) and be enrolled in a school with at least 90 percent economically disadvantaged students. Individual students to receive vouchers must be in some special needs category -- limited-English-proficient, special education, at-risk of dropping out, victims of bullying. The voucher plan is strongly opposed by the Texas teachers’ unions.

The Dallas school district has entered into the second phase of its ambitious reform plan. As reported in The Dallas Morning News, the reform plan -- known as Dallas Achieves -- calls for repairs and updates to the district’s buildings and computer infrastructure, as well as performance-based pay scales for teachers. Under the plan’s first phase, Dallas is reallocating \$20 million in district funds to curriculum and classroom needs and is revising its overall curriculum. Dallas officials, concerned that only about five percent of district ninth-graders eventually earn college degrees, hope the reform plan will better prepare students for college, stem the movement of families to the suburbs, and strengthen the local economy.

Utah Update - June 2007

Opposition to Utah's new voucher program has grown -- 130,000 signatures during a petition drive to overturn the nation's first universal state-funded voucher law. Pending validation of the petitions, the newly enacted private school voucher program will go before the public at a time determined by the Governor -- a special election in June or September, the February 2008 presidential primary, or the November 2008 general election. The State Board of Education recently voted to halt implementation of the new voucher law until the election.

Virginia Update - June 2007

As reported in School Reform News, a voucher bill for special needs students -- known as the Tuition Assistance Grants for Children with Disabilities Act -- has been defeated in legislative committee. Opposition to the voucher plan was led by the teachers' union and the Virginia School Boards Association.

As reported in Education Week, Democratic Governor Tim Kaine, during the Winter legislative sessions, requested \$4.6 million for a preschool initiative intended to test the feasibility of responding preschool to all Virginia early learners. The legislature approved only \$2.5 million. The legislature did, however, add \$4.3 million to an early-reading-intervention program for students in grades K-3. The adjustments during the legislative session bring to total State aid-to-education allocation for the 2007-08 budget year to \$5.83 billion, a three percent increase over the previous budget.