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## MEMORANDUM

**DATE:** February 1, 2008  
**TO:** TechMIS Subscribers  
**FROM:** Charles Blaschke and Blair Curry  
**SUBJ:** SES Policy Change Likely, Impact of Reading First Cuts, State Revenue Gaps Widen, and State Profile Updates

Numerous developments have occurred this month with the FY 2009 budget proposal, scheduled for release in early February, which could have both short- and long-term impacts on K-12 market niches, such as Title I and IDEA special education programs. Below, we highlight some of these developments, several of which have not been picked up in the education media.

The Washington Update includes the following:

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As more districts are identified for improvement for this coming school year, USED recently sent a policy letter to SEAs, reiterating its policy -- reflected in regulations -- that districts identified for improvement cannot provide supplemental educational services unless they are part of the National Pilot Program. This has occurred in spite of a ruling by the USED Office of Inspector General that USED's SES policy conflicts with the Law, which gives sole responsibility for approving SES providers to SEAs. It also conflicts with statements by the President and Secretary Spellings that, through the regulatory process, USED will develop a "compact" with states providing greater flexibility in return for accountability. If its current policy changes, at stake is more than \$1 billion of SES set-asides that could be used by districts to operate their own SES programs and provide opportunities for firms to partner with such districts.
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While USED officials claim they are attempting to provide greater flexibility by allowing funds from other titles to be reallocated at the district level to restore Reading First cuts, the probable impact of the 60 percent reduction in Reading First funding in FY 2008 will vary considerably among states, depending on when their state Reading First plan was approved. In districts where Reading First

results were very positive, Reading First staff will be influential in facilitating the adoption of Reading First approaches, interventions and assessment instruments by non-Reading First schools and districts, as some increases in Title I funding will be used for such purchases.

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The implications of the recent Appeals Court ruling that NCLB is an unfunded Federal mandate which violates NCLB provisions will depend on several scenarios of actions undertaken by the NEA, USED, and/or states and districts.

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According to the Center on Budget and Policy Priorities (CBPP), 13 states face total budget shortfalls of \$23 billion in 2009, while 11 other states expect budget problems a year or so later. During the last recession, “rainy day” funds and property taxes were used to soften the impact on education; however, today rainy day funds are 50 percent of their balances in 2001. During this recession, property taxes are the “cause” of the problem, and not part of the solution. The negative impact is already occurring in proposed budgets for FY 2009 in large states such as California and Florida.

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USED has begun to award states the newly-funded School Improvement Grants for \$125 million which will be targeted primarily on schools in corrective action and restructuring. The demand for data-driven decision-making tools and systems which provide continuous feedback, along with related professional development, will increase now with an expected greater increase in FY 2008 when SIG funding will increase to almost \$500 billion. Grants to targeted schools will range from \$50,000 to \$500,000 annually and for up to two years after schools meet improvement goals.

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The pro-NCLB Education Trust finds state funding gaps exist for districts with high enrollments of English Language Learners (ELL), in spite of Federal encouragement and slight increases in Federal funding for programs serving ELL. The best sales opportunities for firms with products used by ELL students and teachers are in set-asides, such as supplemental educational services, in which a large percent of student participants are ELL, rather than in general education programs for ELL students.

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Growth opportunities for professional development exist in Title I program areas with annual expenditures exceeding \$1 billion. Specific opportunities include districts identified for improvement through the use of the 10 percent set-aside, schools in corrective action and restructuring which will increase in number from 4,509 last year to 6-7,000 next year and in middle schools which have been identified for improvement due to poor performance in mathematics.

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Non-public school participation in Title I declined slightly after NCLB was enacted, in spite of the Administration's policies encouraging greater participation. The non-public, faith-based school summit announced by the President in his State of the Union address represents another attempt to increase non-public school participation in areas such as providing supplemental educational services and after school programs.

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The President's State of the Union address mentioned several new initiatives; the White House website provides some additional details on new proposals, such as the K-12 Pell Grant program, details of which should be included in the February 4<sup>th</sup> proposed FY 2009 budget. Support in Congress will be minimal.

**This just in!!!** As this memorandum was being prepared, a draft copy of a letter sent within the last 24 hours to Chief State School Officers by Secretary Spellings was made available to us. The letter urged Chief State School Officers to find other sources of funding to make up for Reading First cuts and stated, "Please be aware that there are other Federal funding sources that LEAs may use, consistent with statutory requirements, to improve literacy instruction in grades K-3, including the following:

- Title I, Part A in schoolwide programs and, in some cases, targeted assistance schools (with support from the Administration, the Title I-A program received an increase of more than \$1 billion this year);
- Title II, Part A, especially for professional development in practices grounded in scientifically based reading research; and
- Title III, for limited English proficient students in some circumstances."

In addition, the Secretary noted, "States may want to encourage LEAs to support K-3 literacy instruction using the authority in the Individuals with Disabilities Act (IDEA) for LEAs to spend a portion of their IDEA funds on early intervening services for students who are not children with disabilities, but who need additional academic or behavioral support to succeed in regular education." The letter also notes that LEAs may use the transferability authority under ESEA Title VI to support scientifically-based reading instruction. The Secretary rightfully notes that these funds could be used to support Reading First as long as they are "consistent with statutory requirements." The requirements and compliance issues of using the above mentioned Federal funds are addressed in the Washington Update and could be addressed in a conference call with reporters and the Secretary on February 1<sup>st</sup>. An in-depth Frequently Asked Question document will be available in the near future.

The state profile updates focus primarily on Governors' proposals and budgets for K-12 education and some new initiatives.

If you have any questions please contact me directly about the Washington Updates, or Blair Curry regarding state profiles.

# Washington Update

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Vol. 13, No. 2, February 1, 2008

## **As More Districts Are Identified For Improvement, USED Adds Fuel to Smoldering District/SES Provider Tensions in Spite of Earlier Recommendations by the Government Accountability Office and Ruling Questioning Legality of USED SES Policy by its Own Office of Inspector General (OIG)**

On January 4<sup>th</sup>, USED Assistant Secretary Kerri Briggs sent a letter to nine of the ten Ed-Flex state education agencies (SEAs) stating that they could not overrule USED's SES policy by providing a waiver to districts identified for improvement to provide their own supplemental educational services (SES). The letter states, "It has come to my attention that some States have been using their Ed-Flex waiver authority to waive the regulation in 34 CFR 200.47 (b)(1)(iv)(B), which prohibits districts identified for improvement or corrective action from being providers of supplemental educational services (SES) under Part A of Title I...I wanted to make it clear that the Ed-Flex legislation expressly prohibits States from waiving requirements related to sections 1111 or 1116 of the Elementary and Secondary Education Act....Thus, States do not have the authority to waive this regulation."

As we reported in our December 12<sup>th</sup>, 2006 TechMIS special report, the USED Office of Inspector General questioned the legality of USED policy, stating, "The Department's policy of not allowing schools or LEAs in improvement to operate as SES providers

may override SEA authority to evaluate and approve SES providers operating in their states and may unnecessarily increase the cost of delivering SES by eliminating school or LEA providers that could deliver SES at a lower cost than private providers. Therefore, we suggest the department reconsider its policy on this matter and explore strategies for evaluating the quality of each SES program operated by a school or LEA that is identified as in need of improvement." An earlier report by the Government Accountability Office recommended that USED consider allowing more districts identified for improvement to enter into flexibility agreements to provide their own SES (see September 1, 2006 TechMIS [Washington Update](#)).

The January 4<sup>th</sup> letter from Briggs to Chief State School officers in nine of the ten Ed-Flex states (Colorado, Delaware, Kansas, Maryland, North Carolina, Oregon, Pennsylvania, Texas and Vermont) appears to be in conflict with statements by the President and the Secretary of Education several days later that would increase flexibility for states and districts to implement NCLB provisions through the regulatory and administrative process, if Congress fails to act appropriately on the NCLB reauthorization. The Briggs letter is even more puzzling because it was sent only to Ed-Flex states which, under the 14-year-old program, are provided waiver authority on regulatory requirements which interfere with implementing district school reform. As reported in January 24<sup>th</sup> [Education Daily](#), Jim Scheffer, Pennsylvania SEA Title I

Director for 30 years and now Executive Director of the Pennsylvania Association of Federal Program Coordinators, commented on the alleged “confusion” in the letter, “There wasn’t any confusion; they’ve created confusion...They’ve changed direction in midstream.” Both Pittsburgh and Philadelphia, which have been identified for improvement for several years, have, through their BOCES legal structure, continued to provide SES, which was also buttressed by the state’s waiver to do so. Scheffer stated that USED cleared the state to waive the SES provider restriction at least two years ago.

Undoubtedly, the letter which apparently conflicts with the earlier OIG ruling and subsequent policy-related comments by the President and Secretary Spellings, will add fuel to the smoldering tensions between districts and SES providers because the number of districts identified for improvement is likely to increase as the Annual Measurable Objectives for determining AYP will increase in all states for at least one tested subject or grade this year. According to January 24<sup>th</sup> Education Daily, AMOs will “skyrocket” by as much as 21 percentage points in some states, with many states seeing double digit increases in their annual proficiency targets. Under existing USED policy, poor districts will have to set aside 20 percent of their Title I budgets for SES and parent choice transfers, with SES payments made to third-party providers, thus reducing the districts’ regular operational Title I budgets. In some states, this will happen as state funds for compensatory education are likely to be reduced. Hence, the diversion of SES funds to third parties outside of a district will become an even more contentious issue.

The impact on the Ed-Flex states is unclear. Apparently, Massachusetts, which provided waivers to several districts other than Boston (which is participating in the formal USED Pilot Program), has agreed to allow identified districts to continue providing SES until the end of this school year, but not thereafter. The January 4<sup>th</sup> letter does provide somewhat of a “carrot” in that Briggs stated, “While the Department is not able to authorize such a State-wide waiver under Ed-Flex, I would suggest that you encourage interested districts to apply for the Department’s pilot program, which allows districts in need of improvement to provide supplemental educational services in certain circumstances.” Many “identified” districts have felt that the conditions for participation in the Pilot Program are not worth the flexibility for participation, while several districts that were initially approved have decided not to participate. As veteran former Title I State Director Scheffer noted in Education Daily, “Is it going to be as easy to go through the ED pilot program process? Of course not.”

Since publication of final NCLB regulations several years ago, the Council of the Great City Schools has continued to argue that USED’s policy prohibiting districts identified for improvement from providing their own SES program is not in the Law and that, if an identified district has a demonstrated record of improving student performance (such as districts participating in the Trial Urban District Initiative sponsored by the Council), it should be allowed to provide such services. The Council’s own internal studies, which have been bolstered by findings from the Center on Education Policy, found district-operated SES programs were as cost-effective, if not more so, than private third-party providers

and served about twice as many participating students. Indeed, the Council was a chief negotiator between member districts and USED in establishing the Pilot Program which allows Chicago, Boston, Memphis and Hillsborough County (Florida) to operate their own SES programs, along with private third-party providers. In a recent conversation, Council officials said they were unaware of new priority USED initiatives to expand the Pilot Program dramatically.

If USED changes its policy or approves many more districts for participation in the national Pilot Program by relaxing conditions, then, for firms that wish to “partner” with districts that provide their own SES, almost \$1 billion is at stake. According to a January 18<sup>th</sup> USED press release, during her recent trip to California, Secretary Spellings emphasized, “In partnership with States, it is time to take more aggressive steps to address and improve high school graduation rates; ensure that more eligible students are taking advantage of free tutoring; create a more nuanced accountability system to better distinguish schools making progress toward performance goals...” Perhaps the quickest way to increase student participation rates in SES, beyond the 20 percent high mark, is as GAO recommended...to allow more districts identified for improvement to provide their own SES programs. To change the current policy would not require a technical amendment because the prohibition is not in the Law which provides the SEA the sole responsibility for approving SES providers. During the National State Title I Directors conference in Nashville in January, the issue is likely to be addressed by state Title I directors. Interestingly, a key USED official and

several state Title I directors with whom we discussed the January 4 letter were not aware of the USED Office of Inspector General 2006 report and its ruling. We will keep you posted on developments in this area.

### **Probable Impact of 60 Percent Reduction in Reading First Funding in FY 2008 Will Vary Across States and Districts**

The impact of the FY 2008 60 percent (or more) reduction in Reading First funds will vary across states and districts, depending on a number of factors including when the state’s Reading First plan was finally approved and funds were allocated and relationships at all levels among Reading First programs, Title I, and IDEA special education. Looking through a crystal ball darkly, we share some of our thoughts on possible impacts and opportunities.

Perhaps the single most immediate impact in most states will be felt at the state education agency level, largely because the SEA Reading First set-aside was 20 percent of each state’s allocation -- significantly higher than the one to five percent set-asides for Title I and most other Federal programs. As designed by Reading First’s architects, the SEA has a key role in designing the initial state plan, including what reading interventions and assessment instruments would be used, and providing 15 percent (three-quarters of its set-aside) for technical assistance and professional development. In virtually all states, the SEA created an office with appropriate staff -- generally separate from Title I -- and hired consultants and/or contractors to provide technical assistance and professional development. One likely

impact will be a reduction in the use of consultants and contractors hired by the SEAs to provide such technical assistance and professional development. Any funding provided to BOCES, regional service centers and other intermediate education units would also likely be reduced. Some of these individuals could continue providing such services directly to districts that are expanding the use of Reading First interventions and instruments and that are in need of professional development. The SEA will likely continue to maintain a “skeleton” Reading First office because of the monitoring, enforcement, and funds allocation responsibilities assigned to them in the Law.

The immediacy of this impact will vary, however, based on several factors, one of which is when the SEA’s Reading First plan was finally approved. For the states that were approved first, the likely impact will be more immediate, as next year they will have received reduced Reading First funding; however, the 25+ states that received USED approval a year and a half to two years after Reading First guidelines were published in April 2002, will be operating on their allocation from the FY 2007 budget next year because they are one year or more behind the earlier states in terms of funding allocations. Discussions with former SEA staff in one of the largest states suggest that the funding impact on this state next year will be minimal, although some planning changes may be initiated. Also if the SEA Reading First office and the Title I office have developed good working relationships and if the state encourages districts having over-representations of minorities in special education to reallocate a 15 percent set-aside for early intervening services to district-level Title I offices, some of these staff may

be assigned to the SEA Title I or “intervention” office.

One of the most important findings made by the Center on Education Policy during its six years of monitoring the implementation of NCLB and Reading First has been the dramatic increase in the number of non-Reading First schools and non-Reading First districts adopting the reading interventions, instructional approaches, and student assessment instruments used in Reading First programs. This is especially happening in states and districts which feel significant gains have been made by students participating in Reading First schools. Moreover, CEP reported that twice as many non-Reading First teachers have received SEA-provided Reading First professional development as have teachers in Reading First schools. With the possible reduction in Reading First funding for Reading First schools, one can anticipate that districts will maintain is at least a skeleton administration office to operate, with some of the district Reading First staff being reassigned to the Title I office or a Reading First office being given additional responsibility for local district implementation of early intervening services, where appropriate, through the use of the 15 percent IDEA set-aside. This will be particularly likely in situations where districts are able to transfer up to 50 percent of funds from one title to another, particularly transferring funds into Title I schoolwide programs. According to an article by Kathleen Manzo in Education Week January 16<sup>th</sup>, USED is attempting to identify potential sources to make up for the Reading First shortfall such as Federal Title I and Title II. As noted in our December TechMIS Washington Update, use of the 15 percent EIS set-aside, along with Title I funds, to support the use of response-to-

intervention approaches may require some regulatory changes or non-regulatory guidance, which may or may not be forthcoming in the immediate future. As Amanda Ferris, Deputy Assistant Secretary for Elementary and Secondary Education noted in the Education Week article, “The funding cuts do not release the Reading First grantees from any of the program’s strict regulatory requirements,” she noted. Changes in Title I guidance would relate to “supplement not supplant” provisions, and how IDEA early intervening services funding set-asides are reported, particularly if allocated to schoolwide programs which typically do not have to report how commingled funds are used. A strict interpretation from Title II would allow the use of these funds for professional development only for reading specialists because such funds can be used for training teachers of core subject matters. And, if a state provides some new state funded initiative to expand the adoption of Reading First approaches in all districts, a major problem regarding using Title I funds emerges because Title I funds could no longer be used to provide such expanded use.

In a subsequent, related article in January 25<sup>th</sup> Education Daily, Deputy Assistant Secretary Ferris reiterated that USED is assessing the degree to which Title I or Title II funds could be transferred into Reading First and then noted, “While states have some flexibility in how to spend funds, the department has no authority to transfer funds from Title I or Title II into Reading First. It would be up to the local districts to determine how they use their Title I and Title II funds in accordance with the statute.” A strict interpretation of the Law and NCLB regulations would not allow

transfer of any Title I funds into any other title; rather, while up to 50 percent of Title II funds could be transferred into Title I schoolwide programs, such funds could not be allocated to schools in corrective action or restructuring, which are the very schools that were given the highest priority under Reading First guidelines and that were initially selected to receive Reading First funding. This specific prohibition in the Law conflicts with the intent and use of School Improvement Grants to help improve schools in corrective action or restructuring and legally would require a technical amendment. An alternative could be to encourage districts to transfer Title IIA teacher grants or Drug Free funds to Title V, which provides the greatest flexibility to fund Reading First activities.

Ferris also stated that the department would work with the National Reading First Technical Assistance Center to “ensure they provide the support that the states need.” However, the Education Daily article notes that funding for these Technical Assistance Centers would decrease from \$25 million to \$10 million under the new budget. Reliance on the three regional Reading First Technical Assistance Centers may raise a red flag from key Representatives and Senators, such as Chairman David Obey who justified the reduction in Reading First funding based on mismanagement and conflict of interest attributed to staff in at least two of the three regional Reading First Technical Assistance Centers, uncovered in investigations conducted by the Government Accountability Office and USED’s Office of Inspector General. As Chairman Obey stated when the initial \$600 million Reading First cut was proposed in December, increases in the Title I formula program could be used to provide instruction for

Reading First participants using scientifically-based reading instruction rather than restoring cuts in Reading First by reallocating Title I funds to Reading First programs. If the Reading First “mess is cleaned up,” serious consideration would be given to restoring the FY 2008 Reading First reduction in FY 2009.

Regardless, under the assumption that some funding from various sources can be used to expand further the adoption of Reading First approaches, local Reading First offices and their staff are likely to play a critical role in expanding Reading First and response-to-intervention (RTI) approaches, especially under the Early Intervening Services provisions in IDEA. At the least, some of these Reading First staff will become influential “gatekeepers,” providing advice on identifying, selecting, and possibly purchasing instructional and assessment materials and providing professional development at the district level.

### **Implications of the Recent Appeals Court Ruling that NCLB is an Unfunded Federal Mandate Which Violates NCLB Provisions Depends on What Comes Next**

On January 7<sup>th</sup>, the U.S. Court of Appeals 6<sup>th</sup> Circuit ruled that NCLB was an unfunded Federal mandate, as filed in a lawsuit by the National Education Association (NEA) and its allies, in 2005. The ruling agreed with the NEA that implementation of NCLB provisions cost states and districts much more than USED provided and, as a result, was in conflict with an NCLB provision that stated, “Nothing in this Act shall be construed to mandate a state or any subdivision thereof to

spend any funds or incur any costs not paid for under this Act.” This is similar to a provision in the 1994 ESEA reauthorization that was sponsored by the Republican leadership. The plaintiffs argued that NCLB conflicted with the 2006 Supreme Court decision (Arlington Central School District v. Murphy) by conflicting with the doctrine of “spending-clause legislation” and that NCLB did not give states upfront notice of their responsibilities and obligations before states and districts decided whether to receive specific Federal funds. As education law reporter Mark Walsh stated in Education Week (January 11<sup>th</sup>), “The appeals court returned the case to a federal district judge in Detroit, although any appeal by the federal government would likely put off action in the district court. What happens next is further muddled by the fact that the NEA essentially got what it wanted in the suit: a declaration that the law was restricted by the unfunded-mandates provision.”

Shortly after the ruling, Secretary Spellings argued that NCLB is a “compact between” USED and the states which asks that in exchange for Federal dollars results be demonstrated.” Some observers feel that USED will file an appeal in the District Court or even the Supreme Court; however, other reporters who attended a recent briefing by the NEA noted that the case would not be heard by the Supreme Court until October or later which could be right before the election. An alternative scenario would have USED provide greater flexibility through the regulatory process which would result in reduced financial burdens on states and districts. In her recent press conference, Spellings supported some of the principles included in a legislative proposal by Senator Lamar Alexander submitted last year (see November 30<sup>th</sup>

Washington Update) which would basically allow 10 states to enter into performance contracts, while providing them much greater flexibility in implementing key accountability provisions in the law. States and districts would also have greater flexibility in how to use Federal funds, how a state determines annual student progress, and what methods are used to raise student achievement when goals are not met. In addition to withholding funds if the goals of the five-year performance contracts are not met, states would allow districts to combine Title II, Title IV, Title V and Title I and do away with set-asides for SES, parent choice, staff development and other current requirements in USED regulations. States would also be responsible for determining what serious interventions are to be used for schools identified for corrective action or restructuring (see November 30<sup>th</sup> Washington Update).

Yet another alternative would be a significant increase in the Administration's proposed FY 2009 budget for implementing the most costly provisions of NCLB for which the states and districts are using their own funds to make up for Federal shortfalls -- perhaps in return for support from Senator Kennedy to speed up the NCLB reauthorization process, while maintaining some of the core principles which the President and Secretary Spellings support. The mechanisms which could be used to implement some of the changes could range from non-regulatory guidance to individual negotiations with states as they submit annual amendments to their NCLB state plans (which will be submitted to USED shortly).

According to several attendees at the NEA briefing, Robert Chanin, General Counsel of

the NEA who filed the lawsuit, felt the ruling could have several impacts, including the following:

- generating more support for additional lawsuits by states and districts which were uncertain about going in with the NEA on the initial lawsuit, but felt that the risks outweighed the potential benefits;
- provide an impetus for districts and states, not to implement costly provisions for which their resources will be required;
- increase the number of districts and states which may opt out, such as over 20 schools in Oregon which have turned down NCLB funding and anticipated legislation in Minnesota which would allow the state to opt out of NCLB.

During the NEA briefing, Chanin stated that the Appeals Court ruling was binding only on states in the 6th Circuit which included Kentucky, Michigan, Ohio and Tennessee, but according to the Education Week article, he said it would give "comfort and heart" to states and school districts who might consider filing lawsuits in their areas. Also, as reported in the Education Week article, Connecticut Attorney General Richard Blumenthal, who filed a friend of the court brief on the NEA's side with the 6th Circuit Court, issued a statement calling the decision "a bolt of legal lightning igniting new, powerful momentum to our No Child Left Behind case and congressional reform." The Connecticut case is still pending in a Federal district court.

## **According to the Center on Budget and Policy Priorities (CBPP), 13 States Face Total Budget Shortfalls of at Least \$23 Billion in 2009, While 11 Other States Expect Budget Problems a Year or so Later**

In November, the Center on Budget and Policy Priorities reviewed state fiscal reports and conducted a phone and email survey of state legislative and executive budget officials in 50 states and found that ten states (Arizona, California, Maine, Massachusetts, Minnesota, Nevada, New Jersey, New York, Rhode Island and Virginia) will have revenue shortfalls of between seven and nine percent of the FY 2008 general fund. Three additional states (Florida, Kentucky and South Carolina) are projecting lower revenues in FY 2009 which they anticipate will lead to budget gaps. In total, the 13 states anticipated revenue shortfalls will be between \$23-30 billion. In six additional states (Alabama, Illinois, Maryland, Michigan, Oklahoma and Vermont), the CBPP estimates there will be gaps in the FY 2009 budget, but the size of the expected deficit is not clear. Five other states (Connecticut, Missouri, Ohio, Texas and Wisconsin) are projecting budget gaps in FY 2010 and beyond.

Because state budgets have to be balanced and states cannot run deficits when the economy turns down, they must cut expenditures, raise taxes or draw down the “rainy day” reserve funds to balance their budget. According to CBPP, the upcoming recession could have an impact similar to, or even more serious than, the last recession which began in 2001. In that recession, CBPP reported that 34 states cut real per-pupil aid to school districts for K-12 education between 2002-04. As CBPP

notes, “While the property tax is usually the most stable revenue source during an economic downturn, that is not the case now. If property tax revenues decline because of the bursting of the housing “bubble,” localities and schools will either have to get more aid from the state -- a difficult proposition when states themselves are running deficits -- or reduce expenditures on schools, public safety, and other services.” In some states, there exist “structural deficits” (i.e. the inability of state revenues to grow in tandem with economic growth and the cost of government). During the last recession, many states used “rainy day reserve funds” to fund existing state government supported services; however, the Center notes that at the end of FY 2006, rainy day funds balances totaled 11 percent of state funding which was about the same level of reserves states had going into the last recession. In FY 2007, the balances declined to 9.6 percent and are projected to decline again in FY 2008 to 6.7 percent.

An analysis conducted by CBPP of state budgets for fiscal year 2005 clearly indicated that, even though state revenues were up in 2004-05, K-12 state funding continued to fall short of the amount needed to maintain current service levels or to restore cuts made over the first several years of the recession. These included:

- California, which reduced per-pupil state funding by \$175 and was \$2 billion below the funding level guaranteed by Proposition 98;
- Georgia, where the legislature passed cuts totaling more than \$180 million;
- Maryland, where the legislature reduced school funding by an additional \$30 million;

- Massachusetts, where the governor’s proposed budget increased over the last year, but still remained \$134 million, or three percent, below FY 2003 levels;
- Michigan, in which the legislature reduced by \$50 million services below the previous year’s level;
- New York, which proposed funding would be \$600 million less in state aide to maintain current services;
- Oklahoma, which proposed to increase funding for teacher’s health insurance programs, by cutting more special education, reading remediation and other categorical programs;
- Oregon, which school districts received less state support in FY 2005 than in FY 2004.

For a copy of the report go to:  
[www.cbpp.org/1-15-08sfp.htm](http://www.cbpp.org/1-15-08sfp.htm)

**USED Begins Awarding States Newly-Funded School Improvement Grants Which Should Increase the Demand for Data-Driven Decision Making Tools and Systems Which Provide Continuous Feedback Along with Related Professional Development; in FY 2008 SIG Funding Will Increase by over 300 percent**

On December 20<sup>th</sup>, USED announced the allocation of more than \$52 million of the newly-funded \$125 million under the School Improvement Grant Initiative to 21 states, with funding for the remainder of the states expected shortly. As we analyzed the School Improvement Grant application

guidelines in the November 2007 TechMIS Washington Update, one of the three measurable outcomes for “successful” use of such funds is the creation of student and other data gathering and analyses systems which allow for continuous feedback for the purpose of improving student performance, which normally would be considered only a “means,” not an “end” in itself. However, such data-driven decision-making tools and systems for continuous feedback also remain an integral component of the five school improvement strategies that must be implemented by districts that have schools in improvement, corrective action or restructuring. These strategies include:

- use of research-based strategies or practice to change instructional practices that address academic achievement problems that cause a school to be identified for improvement, corrective action or restructuring; and
- provide professional development to enhance the capacity of school support team members and other technical assistance providers who are part of the statewide system of support that is informed by student achievement and other outcome measures.

In FY 2008, slightly under \$500 million will be allocated under the SIG to states and, in turn, to districts. Not only will the demand for data-driven decision-making tools and systems which provide continuous feedback to inform instruction grow, but also the demand for effective reading and math curriculum and interventions should also grow. The Government Accountability Office reported that, in 2005-06, 60 percent of schools in corrective action or restructuring provided professional

development, while 40 percent replaced the entire school curriculum. The Center on Education Policy also reported that, in 2005-06, 97 percent of districts with schools in corrective action or restructuring were implementing a strategy of using student achievement data to inform instruction.

As noted in the November TechMIS Washington Update, USED urged SEAs to develop criteria to identify what districts are to receive SIG funds, to ensure that schools “with greatest need” and “strongest commitment” be funded. One indication of “strongest commitment” would be the LEA’s use of data to drive its decisions regarding school improvement strategies. One potential disincentive for schools to meet their school improvement goals and move from the corrective action or restructuring status has been removed; such schools meeting improvement goals will continue to receive funding for two additional years. This is one of the NCLB reauthorization proposals made by the Center on Education Policy. The SIG grants to schools cannot be less than \$50,000 or more than \$500,000.

In addition to the 4% SEA set-aside funds, states such as Maryland have appropriated even more state funds for districts with schools in corrective action or restructuring in 2006-07. In about 20 states, which have received moderate to significant increases in Title I funding for this year (see August TechMIS Special Report), up to four percent of the district Title I allocation would be set aside for school improvement under the SEA set-aside. These funds, in turn, will be reallocated to districts with schools identified for improvement, corrective action or restructuring. The states which are funded in this initial SIG round and the

amount of SIG funding are:

- Alabama - \$1,861,720
- Arkansas - \$1,190,751
- California - \$16,620,295
- Delaware - \$328,808
- Florida - \$5,729,854
- Hawaii - \$358,793
- Idaho - \$431,188
- Indiana - \$2,253,964
- Maryland - \$1,804,240
- Montana - \$361,711
- Nebraska - \$527,388
- Nevada - \$771,291
- New Jersey - \$2,397,833
- Ohio - \$4,325,232
- Oregon - \$1,259,126
- Pennsylvania - \$5,021,980
- South Carolina - \$1,814,877
- Tennessee - \$1,961,679
- Utah - \$576,478
- West Virginia - \$796,450
- Wisconsin - \$1,936,898

### **The Education Trust Finds State Funding Gaps Exist for Districts with High Enrollments of English Language Learners In Spite of Federal Encouragement and Slight Increases in Federal Funding for Programs Serving English Language Learners**

The pro-NCLB Education Trust, in its 7<sup>th</sup> *Annual Poverty Funding Gap Report*, includes a special analysis on “an emerging issue in school funding equity: districts that serve English language learners do not receive their fair share of state and local funding.” Calling it an issue in school funding equity, the report found that English language learners constituted 11 percent of

public school enrollment in 2003-04, up from six percent four years earlier and projects a likely increase from 12 million in 2005 to 14 million in 2010.

In conducting the analysis, the Trust identified ten states whose ELL student populations in 2005 were greater than ten percent of the total student enrollment. These states included Alaska, Arizona, California, Colorado, Nevada, New Mexico, Oregon and Texas, whose combined enrollment is more than 2.8 million students in need of ELL services. The Trust then compared the average state and local revenue per student in high ELL enrollment districts within these states to per pupil spending in lowest enrollment ELL school districts. Based upon its analysis, which includes the use of “adjusted cost of living indices,” the Trust found that Texas and Nevada had the largest ELL funding gaps of over \$1,000 per student in each. It also notes that California had a gap of \$357; however, in California’s high ELL enrollment districts, ELL students represent 53 percent of the total student population. Districts provided more funding per pupil for high ELL enrollment only in New Mexico (\$5 more). Funding gaps between highest and lowest ELL districts were the following in the remaining states: Arizona (\$420 gap), Colorado (\$587 gap), Oregon (\$158 gap). The amount of state and local funds spent on English Language Learners in high ELL enrollment districts is generally higher than the funding gap in 2005 between highest and lowest minority districts. In Texas and Nevada, the English Language Learner funding gap was similar to the overall minority per pupil funding gap in 2005.

In terms of overall poverty funding gaps, the

Trust reported that five states (Illinois, Delaware, New Hampshire, New York and Pennsylvania) spend over \$1,000 less per student in state and local funds in their high poverty districts, compared to low poverty districts. This contrasts with Massachusetts, Minnesota, New Jersey and Alaska, in which high poverty districts get at least \$1,000 more per student.

While the Trust does compare high ELL enrollment districts within states to low ELL enrollment districts on an overall per pupil allocation of state and local funds, it does not really compare the cost per ELL students in those districts. In the Trust briefing, according to reporter Sarah Sparks in the January 18<sup>th</sup> issue of Education Daily, Trust officials noted that because of the state and local funding gap, districts with large ELL enrollments have to rely on ESEA Title III grants; however, the official noted that in California, Title III provides only 95 percent per pupil in 2007-08 compared to a funding gap for ELL learners in districts of \$357 per overall student. The report and briefing did not address the amount of Title I funds that were used to serve English Language Learners, which according to the National Assessment of Title I constituted 15% of students receiving Title I services in 2004-05; however, because most of the ELL Title I students are served in schoolwide programs, the amount of funding per student actually enrolled in those schools is much smaller than in Targeted Assistance Schools which serve only Title I eligible students. Nevertheless, in spite of Federal “bully pulpit speeches” encouraging states and districts to provide more services for the growing ELL student population and to provide additional state and local funding, the prospects for a growing and robust ELL market niche have yet to come into fruition,

as many of the Federal Title III funds are used by districts to provide training and develop materials and particularly local assessments for English language acquisition. Over the last two decades, Federal bilingual education or English language learner programs under various titles have expended significantly less on commercial products and instructional materials than for example Title I programs generally on a per pupil served basis. On the other hand, within Title I for example, there are set-asides which can provide additional funding for purchases of materials for English language learners under supplemental educational services (SES) in schools identified for improvement and the ten percent set-aside for professional development which can be used to train teachers of English language learners.

The potential opportunity for selling instructional materials may indeed be in those districts which are required to provide SES services for special education and ELL students in schools identified for improvement, as many third-party SES providers do not have the capacity or otherwise do not want to provide SES services for these two groups of students. However, the districts still must ensure that SES is provided if parents so choose. In addition, there are approximately 450,000 students enrolled in U.S. public schools that have learning disabilities and have limited English proficiency. If one has a solution which can be effective with these types of students, the instructional material should be in high demand and purchases can be realized because districts could provide Title I funds for SES and a portion of state IDEA set-asides to increase the total amount per individual student to between \$3,000-4,000 per student.

For a copy of the Trust's report go to: <http://www2.edtrust.org/edtrust>

## **Growth Opportunities for Professional Development in Title I Programs**

*The National Assessment of Title I Final Report* (October 2007) reported that, in 2004-05, approximately \$988 million, or eight percent, of district and school Title I expenditures were used to provide professional development. An additional two percent, or \$289 million, was used to provide other instructional support for teachers. In 1997-98, USED estimated that approximately three percent of Title I funds at the district and school level was spent on professional development. USED notes, however, that the definition of professional development used most recently is much broader than the narrow definition used in 1997, including services provided by consultants, teacher specialists, literacy and math coaches, mentoring teachers, and curriculum and instructional improvement staff. Subsequent reports by the Government Accountability Office (GAO) and the Center on Education Policy, among others, provide additional evidence of growing opportunities for professional development in specific Title I areas as a result of recent USED non-regulatory policy guidance and increased numbers of schools and districts being identified for sanctions and set-asides, especially corrective action and restructuring.

In 2006, USED issued non-regulatory guidance (NRG) which would require a district identified for improvement for the first time to allocate ten percent of its total Title I budget for professional development.

Moreover, if some of the ten percent set-aside remains unspent, it must be carried over to the following year and added to the ten percent set-aside for professional development that year. Two years earlier, USED sent a letter to chief state school officers which verified that a school is identified for improvement for the first time must allocate ten percent of its Title I allocation for professional development; however, the funds could be used to provide professional development “to meet the greatest need,” which may include central office-provided professional development for staff in the school as well as other Title I staff. *The National Assessment of Title I Report* found that, between 1997 and 2004, the share of Title I funds that districts allocated to individual schools declined from 83 percent of the district’s total Title I funds to 74 percent. While the amount of Title I funds used for program administration was about eight percent in both time periods, the report notes, “.... districts’ allocation of funds for district-wide or district-operated services, such as supplemental educational services, professional development, and transportation, increased from eight percent in 1997-98 to 19 percent in 2004-05.” Since 2004, the number of districts identified for improvement for the first time has continued to increase, although at a lower rate than earlier; the number of schools identified for improvement continued to increase more dramatically.

The greatest percentage increase in the number of schools identified for improvement has been those in corrective action or restructuring status. According to the recent GAO report, there were 2,970 such schools during the 2005-06 year; in 2006-07, the number increased 60 percent to

4,509. Sixty percent of the schools in corrective action or restructuring were in five states -- Illinois, New York, California, Pennsylvania, and Michigan -- and 25 percent of all such schools were in Chicago, New York City, Los Angeles, Philadelphia and Detroit. GAO found that almost three-quarters of schools in corrective action or restructuring reorganized the school schedule to increase opportunities for professional development. The major types of district-provided assistance to such schools were professional development (92%) and assistance in implementing new instructional strategies (90%). A subsequent report by the Center on Education Policy confirms that professional development and curriculum replacement were two of the most widely-used strategies used by schools entering corrective action or restructuring in 2006-07. USED guidance to states for identifying what schools are to receive portions of the newly-funded School Improvement Grants (see related Washington Update item) says that schools selected must have data-driven decision tools to inform instruction and a system which provides continuous feedback. One of the key growth areas in professional development is using assessment data to inform instruction for individual students.

As noted in the November 30, 2007 TechMIS Washington Update, the most recent report on Reading First by the Center on Education Policy found that professional development in the use of Reading First interventions and assessment instruments continues to be provided in Reading First districts, especially to help staff in non-Reading First schools to adopt Reading First components program interventions. Based on its survey reported to SEAs, more than 3,000 non-Reading First districts have

participated in Reading First professional development -- well in excess of the 1,800 designated Reading First districts. Although the FY 2008 budget calls for a 60 percent reduction in Reading First funding, with the rapid expansion of Reading First interventions and professional development to non-Reading First schools and districts, increased funding from the Title I formula program and the School Improvement Grants will likely make up for some of the shortfall to continue and expand Reading First-related professional development. As noted in the December Washington Update, increased amounts of the 15 percent IDEA set-aside will also likely be used for professional development as part of an early intervening services strategy in districts identified as having over-representations of minority students in special education. Reportedly, USED is currently developing guidance to states and districts regarding the flexibility and conditions under which other Title funding can be used to restore some of the reduction in Reading First funding at the district level. (See related item)

The final Title I Assessment Report also provides some insight into the focus and intensity of professional development, as reported by teachers and principals. For example, while 90 percent of elementary teachers participated in at least one hour of professional development which focused on instructional strategies for teaching reading, only 20 percent participated for more than 24 hours during the 2003-04 school year. The intensity of training in mathematics was even less, with slightly under ten percent reporting spending 24 or more hours in professional development during the same timeframe. Moreover, teachers in high-poverty schools reported they participated more in professional development focused

on reading and math than did teachers in low-poverty schools and middle school teachers were more likely to report that they considered themselves not highly-qualified under NCLB than did elementary or high school teachers. The recent GAO report found that, although middle schools constituted only about 15 percent of Title I schools, 30 percent of schools in corrective action or restructuring were middle schools, which pinpoints an obvious need. Generally, teachers who said they were not highly-qualified were more likely to report that they participated in content-focused professional development than were highly-qualified teachers. A recent NSF study reported that U.S. middle school teachers were less qualified in mathematics than counterparts in five other countries.

The USED National Title I Assessment addressed Title I paraprofessionals. While the number of Title I teachers increased from 66,000 to 98,000 between 1997 and 2004, the number of paraprofessionals declined from 67,000 (47 percent of Title I staff) to 62,000 (32 percent). The report found that paraprofessionals spend nearly two-thirds of their time tutoring students one-on-one or working with students in small groups; principals reported that slightly over 63 percent of Title I paraprofessionals were highly-qualified under NCLB. A higher percentage of aides reported that they had passed a state or district paraprofessional assessment or had two years of college or an associates degree. The most commonly used assessment for measuring paraprofessional qualifications is the Parapro assessment developed and administered by Educational Testing Service. In 2004-05, 77 percent of Title I paraprofessionals reported receiving professional development and training.

## **Non-Public School Participation in Title I Declined Slightly After NCLB Was Enacted, in Spite of Administration's Policies Encouraging Greater Participation**

*The National Assessment of Title I* reports that eligible student participation rates in Title I in non-public schools have increased between 1985 and 2004. Although Title I funding has increased, participation rates have declined slightly from 195,000 to 187,000 students served since the enactment of NCLB, in spite of USED policies encouraging private school participation in supplemental educational services and increased monitoring and USED enforcement of the non-public school participation provisions in NCLB. These provisions include requiring public school districts to provide equitable services for teachers and families of Title I eligible students served in private schools in the areas of professional development, expanding consultation requirements between public and non-public schools, and other provisions. Over the last two decades, Title I funding to public school districts to ensure participation of eligible students in Title I when they are served by non-public schools has provided some opportunities for technology and service-based firms.

Depending on Supreme Court rulings (e.g., *Aguilar v. Felton* in 1985 and its reversal in 1997, *Agostini v. Felton*), the opportunities for the private sector to provide or otherwise facilitate the provision of Title I services to eligible students enrolled in non-public schools have included:

- the sale or licensing of integrated learning systems operated by trained computer lab teacher aides in non-

- public schools for 4-5 hours per week;
- in certain states (because of state constitutions) state contracts with private firms to operate third-party services under so-called "bypass" statutes;
- districts' contracts with private firms to provide tutoring and remedial services to eligible students in non-public schools;
- equipping mobile vans adjacent to non-public schools in which the district public school provided services, on a pull-out basis, to students; and
- professional development and related support services to teachers who provided remedial services in non-public school spaces as allowed by the 1997 Supreme Court decision.

*The National Title I Assessment* reported that, in 2004-05, approximately one percent of Title I funds were used for purchasing products and services for non-public schools; about 87 percent of public school districts most "commonly provided instructional services to private school students." Other frequently provided services including equipment or materials (65 percent), professional development for private school teachers (63 percent), and parent involvement activities (60 percent). In 2005-06, among public school districts with Title I participants in private schools, about half provided Title I services at the private school site with a district teacher. About 28 percent of these districts contracted with a third-party provider to provide remedial instruction, and, in 16 percent of the districts, computer-assisted instruction labs were used. Regarding the

degree to which new provisions in NCLB were being followed, generally, districts reported in a 2005-06 survey by USED that more professional development, greater parental involvement, and greater consultation had occurred than reported by private school principals participating in Title I. In 2005-06, almost 40 percent of Catholic schools that enrolled Title I eligible students participated in Title I, compared to only 16 percent of private schools generally.

In May 2006, under pressure from Congress and others, USED issued non-regulatory guidance to encourage private schools, particularly parochial schools, to seek approval from their SEAs to provide supplemental educational services for eligible students in public schools that have been identified for improvement for two years. At that time, only 31 private schools nationwide had been approved to provide SES. The May guidance encouraged private schools to establish a separate 5013, non-profit corporation or a for-profit corporation for the purpose of providing SES. By doing so, any subsequent audit would focus only on the new entity and not intrude on the school's internal affairs. As an SES provider, the entity would not be a direct recipient of Federal assistance and, therefore, would not be subject to some civil rights law applicable to public schools. In addition, the regulation stated, "The funds that an SES provider receives for providing SES are essentially income for the provider in exchange for providing services for public schools. Any funds that a private school receives for providing SES may be used at the discretion of the school for any purpose, including supporting non-SES students." In a previous SES non-regulatory guidance publication (June 2005), the fee charged by the non-public SES provider could be equal

to the district's Title I allocation per eligible Title I student, which could be much greater than the actual cost of providing the service, and could therefore generate a revenue stream significantly in excess of the actual cost to the non-public SES provider. Moreover, while public school teachers who serve Title I students in non-public schools must be "highly qualified," the teachers used by the non-public school to provide SES would not have to be "highly qualified." While the *Title I Assessment* does not report the number of non-public schools which have provided SES, it does note that more "faith-based organizations have obtained state approval, rising from 18 providers (2 percent) of all providers in May 2003 to 244 (8 percent) in May 2007." However, it also notes that faith-based providers in 2003-04 served fewer than one half of one percent of the student SES participants in that year, although they accounted for six percent of the approved providers.

Based on the *National Title I Assessment* report, one might conclude that while Title I funding has generally increased over 30 percent since the enactment of NCLB, the number of Title I eligible students in non-public schools receiving Title I services has remained essentially the same, or even decreased slightly. Moreover, in spite of USED encouragement and newly found flexibilities in non-regulatory guidance encouraging non-public schools to increase participation in Title I, particularly SES, a significant increase has yet to be realized.

## **White House Website Amplifies President Bush's Proposals Which Were Only Briefly Mentioned in the State of the Union Address**

While the President's State of the Union address only briefly mentioned several new initiatives such as "Pell Grants for Kids," faith-based and other non-public school summit, and extra help for struggling schools, the White House website contains some details of these proposals which should be further detailed in the proposed FY 2009 education budget to be available on February 5<sup>th</sup>. Following the proposed "Blueprint for Strengthening the No Child Left Behind Act," released a year ago, the President is calling for greater flexibility for states and districts to turn around struggling schools, allowing districts to tailor interventions to each school, measuring individual students' achievement growth over time, and helping more students take advantage of NCLB's free tutoring under supplemental educational services by ensuring that districts notify parents that their children are eligible and requiring districts to use all of the 20 percent set-aside for tutoring and choice. The website also suggests additional funding for School Improvement Grants, which are redirected to schools in corrective action and restructuring, for the most part, and which has increased from \$125 million this year to almost \$500 million next school year.

Under the umbrella of providing parents with more choices for their children's education, the President will ask Congress to support a new \$300 million "Pell Grant for Kids" scholarship for low-income K-12 students enrolled in public schools in restructuring (i.e., those in AYP for five consecutive years) or with a graduation rate

of less than 60 percent. These scholarships, funded through competitive awards to states, cities, LEAs and non-profit organizations, can be used to pay tuition fees and other education-related expenses at higher performing, out-of-district public schools, or nearby private or faith-based schools. These scholarships would be over and above the amount of Title I or IDEA funds which would "follow the child" who enrolls in out-of-district public schools or private or faith-based schools.

According to the White House website (but not mentioned in the speech), the President would also call on Congress to fund \$800 million of scholarships for 21<sup>st</sup> Century Learning opportunities for low-income students to enroll in high-quality after-school and summer school programs, including those operated by faith-based and community organizations. It is not clear whether this initiative would replace the 21<sup>st</sup> Century Community Learning Centers program which already allows faith- and community-based organizations to operate after-school programs.

And last, the President has called for a White House summit on inner-city children and faith-based schools which is designed to "unite educators and community leaders to develop local strategies to partner with these schools [non-public schools] in serving our nation's urban students." According to the website, 1,400 inner-city faith-based schools have closed, displacing 350,000 students into other institutions. The two proposed scholarship programs are designed to provide increased Federal funding streams for faith-based and non-public schools.

Within several days after the FY 2009 proposed budget is released, we will be

providing a detailed special report along with implications for TechMIS subscribers.

# Alabama Update

## February 2008

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As reported in the Montgomery Advertiser, Alabama's financial situation is likely to result in a State budget next year that is smaller than the \$6.7 billion for 2007-08. Last year's budget was based on nine percent growth in revenues; only 6.5 percent was recorded leaving less carryover money. The first three months of this fiscal year (October to December) grew 4.2 percent compared with a projected five percent. In February, the legislature will begin preparing its 2008-09 budget; it is expected to be lower than the current year.

# Arizona Update

## February 2008

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In her State-of-the-State address, Governor Janet Napolitano emphasized the need for Arizona to: (1) implement new high school math and science standards; (2) implement universal full-day kindergarten; (3) review graduation exams for validity and effectiveness; and (4) raise the minimum dropout age from 16 to 18.

The Arizona School Administrators organization estimates that implementing the 2006 State Law requiring more programs for English language learners (ELL) would cost districts as much as \$300 million more than they have been paying. During the 2006-07 school year, districts spent approximately \$54 million for ELL programs; the amount would increase to \$358 million if the State fully complies with the Law's requirements. The State's current budget provides only about \$56 million for ELL programs with another \$14.3 million appropriated pending court approval.

The Arizona legislature is considering a bill that would give the State the authority to take over failing school districts. Any school district that has at least half its schools designated as "underperforming" and at least one as "failing" could have its superintendent replaced by a new superintendent who would report to the State -- not the local school board -- for at least three years. Currently, five of Arizona's 218 school districts could be taken over under the legislation. The bill would not apply to charter schools over which the State already has the power to close failing schools.

# California Update

## February 2008

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As reported in Education Week, Governor Arnold Schwarzenegger's plan to make 2008 his "Year of Education" has died because of California's huge budget deficits. In fact, the Governor has proposed \$4.8 billion in cuts for the State's public schools. The cuts include a ten-percent reduction in K-12 spending (\$4.4 billion) in FY 2009 (which begins on July 1) and another \$400 million reduction in the current year. Of the FY 2009 cuts, \$2.6 billion will come from general State aid to school districts. Specific categorical programs will take significant hits, including special education (\$358 million), child development (\$199 million), before- and after-school programs (\$60 million), and educational technology (\$159 million). The State legislature has until March 15 to finalize current year cuts and must complete the FY 2009 budget by June 15.

As reported in Education Week, the number of charter schools in the Los Angeles school district will grow considerably in the next four years largely because of a \$23 million grant from the Eli and Edythe Broad Foundation. The grant will go to:

- Knowledge Is Power Program (KIPP) which will open two new elementary and two new middle schools in low-income neighborhoods by 2010 (\$12 million);
- Aspire Public Schools which will open 13 new schools by 2012 (\$5 million); and
- Pacific Charter School which helps charter schools find financing and obtain facilities (\$6 million no-interest loan).

The Broad Foundation had already given \$33 million to Los Angeles charter schools, including \$10.5 million to Green Dot Public Schools to expand its small high schools and \$6.5 million to the Alliance for College Ready Public Schools to open 13 new schools.

# Delaware Update

## February 2008

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In her State-of-the-State address, Governor Ruth Ann Minner proposed to invest \$500,000 in early childhood education and \$250,000 to establish a virtual school. She also proposed implementation of the Delaware Performance Appraisal System for teachers and Student Academic Reward scholarship program.

Delaware is one of only six states that does not provide (or require local districts to provide) funding for programs for gifted students. Only ten of Delaware's 19 school districts and only one of its 17 charter schools offer programs for gifted students. These include Appoquinimink, Brandywine, Capital, Caesar Rodney, Christina, Colonial, Indian River, Lake Forest, Red Clay, Smyrna and The Charter School of Wilmington. A recent report by the Delaware Public Policy Institute estimated that it costs \$3,000 to \$4,000 a year per participant for an elementary-level gifted program.

# District of Columbia Update

## February 2008

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As reported in the Washington Post, the D.C. school district has initiated a weekend test prep program designed to help 7,500 struggling students at 91 schools pass standardized tests in the Spring. Known as Saturday Scholars, the voluntary program is a 14-week course -- costing \$1.5 million -- intended to help students who are close to passing the district's reading and math exams. By August, 27 of the district's lowest-performing schools must be overhauled to meet the requirements of the Federal No Child Left Behind Act.

# Florida Update

## February 2008

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On January 17<sup>th</sup>, Governor Charlie Crist proposed a \$1 billion increase in education spending which includes a \$138 million hold harmless earmark to offset local tax revenues lost to schools because the January 29<sup>th</sup> property tax amendment passed. The proposed budget, which includes \$23 billion for pre-K-12, also makes some other line item budget changes, which could have significant implications for purchases of instructional materials. If the proposed budget is passed, the one billion dollar increase represents almost \$400 more per pupil, for a total of \$7,600 per student.

One significant proposed change is to reduce the \$270 million instructional materials categorical program to zero, while reallocating such funds to the basic school aid per-pupil weighted formula, along with an additional increase of \$30 million. In the past, publishers and other spenders could count on most of that categorical money being used for instructional materials, including instructional software; however, by including such funds in the State funding formula, districts are likely to have much more discretion and flexibility into how such funds are used. An additional \$25 million is proposed for the supplemental academic instruction program which is a large block grant that allows for some purchases of instructional materials and software along with remedial services. A reading instruction line item would also increase from \$116 million to \$122 million, and more than \$450 million would be provided for teacher bonuses, especially for those teachers that gain National Board Certification.

Many education supporters, particularly in the state House, feel that the proposed budget is a “phantom” in light of the fact that State revenues over the last two years have been reduced, while the State’s population has begun to increase which increases demand for State services.

During the FETC recent conference, a Florida SEA official from the office responsible for administering the instructional materials funds said that her office was not aware of the Governor’s proposal to eliminate the instructional materials categorical program before its

release. She noted that the primary group responsible for the proposed change was the State School Administrators Association because the change provides greater flexibility in the use of State funds in light of anticipated reductions in funding due to the passage of the property tax amendment. She also noted that legislative changes were made last year which would have provided greater flexibility in the use of the instructional materials funds beginning in March 2008. Several technology directors of large counties (such as Monroe, Seminole, and Indian River) felt that the decategorization of the instructional materials funds would result in some purchases of technology being postponed or even dropped.

Florida's new Education Commissioner, Eric Smith, has indicated that the State should consider alternate means of judging school performance in addition to the Florida Comprehensive Assessment Test (FCAT), a sharp departure from the State's traditional, FCAT-only evaluation structure. Currently, FCAT is the sole basis for rating school performance, for determining bonuses for teachers, and for promoting some students. It is expected that the future will see more flexibility.

As reported in Education Week, Florida has adopted a free, Internet-based reading intervention program for grades K-3. Known as Free-Reading.net, the open-source product provides a 40-week supplemental program for struggling readers, along with separate lesson plans and teaching tools. Sponsored by Wireless Generation, Free-Reading is updated regularly, allows teachers to use their own lessons, and is aligned with formative assessments that can be used on hand-held computers.

The Orlando Sentinel reports that only 26 of Florida's 67 school districts have applied to participate in the State's \$147 million merit pay plan. To date, none of the districts have met State requirements for participation in the voluntary Merit Award Program (MAP), the follow-on to the ill-fated, mandatory STAR program. It is expected that about ten districts will be approved for the money. The availability of funds for next year is in question because the State legislature has used the merit-pay fund to help offset the State's \$1 billion budget shortfall.

A recent study by Florida State University has found no correlation between student achievement and the certification level of teachers. The findings have raised alarm among Florida's several thousand nationally certified teachers and have caused State legislators to look into the State program supporting the certification of teachers. As reported in the Palm Beach Post, the State spends \$70 million to help teachers earn national board certification. Legislators say they have no current plans to cut the program.

# Georgia Update

## February 2008

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In his State-of-the-State address, Governor Sonny Perdue proposed to invest \$65 million to strengthen Georgia's K-12 transportation and technology infrastructure. He also encouraged continuation of the Investing in Educational Excellence (IE2) partnership that gives schools more flexibility in return for more accountability.

As reported last month, Georgia has a new State law that allows public school districts to convert, in their entirety, to charter schools, which could remove districts from under NCLB sanctions. As of the January 15 deadline, six districts have submitted applications for charter school conversion: Decatur County, Warren County, Morgan County, Gainesville City, Marietta City, and Social Circle City. The district's applications will be reviewed by the State's charter school committee in the Spring with the conversions, if approved, to become effective for the 2008-09 school year.

As reported in The Atlanta Journal-Constitution, a State task force on education finance, after three year's of deliberation, has been unable to come up with a plan to update the State's antiquated funding formula. The panel has suggested more flexible spending rules for local school districts. It has also recommended establishing a new system of "performance contracts" between the State and each school system as a precursor to an overhaul of funding formula. Each year since 2003, the amount of money distributed through the funding formula has been reduced, ostensibly to address budget shortfalls.

# Idaho Update

## February 2008

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In his State-of-the-State address, Governor C.L. Otter has asked a group of education and business leaders to assess the status of Wyoming's school funding and compare it with high-performing districts across the country. The Governor has also proposed a \$50 million trust fund to help low-income students go to college and an expansion of the Read to Me program to include an additional 5,000 children and 30 libraries Statewide.

According to Education Week, a former Idaho State official authorized payment to a testing contractor for FY 2007 services when, in fact, the funds had been set aside for FY 2008. As a result, the agency had a \$1.4 million shortfall and the State was forced to cancel the ninth-grade Idaho Standards Achievement Test (ISAT) scheduled for December. The ninth-grade ISAT was intended to help students and teachers assess their performance before the ISAT -- which is a graduation requirement -- is administered in high school.

# Iowa Update

## February 2008

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Governor Chet Culver, in his State-of-the-State address, emphasized the need for Iowa to institute the State's new Model Core Curriculum Statewide, by 2010. He also called for \$5 million in funding to establish a STEM (Science, Technology, Engineering, and Mathematics) Center at the University of Northern Iowa.

Education Daily reports that, as of last November, Iowa requires the use of Response-to-Intervention in determining whether a child has a specific learning disability. Working through its intermediate units, Iowa has been moving toward RTI for the past decade and a half. The State's goal is to establish a coherent approach to RTI and create "processes and standards" that will be applied by everyone in the State.

# Kentucky Update

## February 2008

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In early January, Kentucky's State agencies, including State colleges and universities, were asked to prepare for a "worst case," 12-percent budget cut for 2008-09. These cuts would come on top of a three-percent cut to address the State's \$289 million shortfall for the current year. K-12 education had been exempt from the three-percent cut, but Support Education Excellence in Kentucky (SEEK), which distributes State aid to education, could be reduced by as much as seven percent next year.

According to The Louisville Courier-Journal, the Kentucky legislature is considering two bills that would affect education in the State -- particularly math and science. Under Senate Bill 2, the State would, beginning in the 2008-09 school year, pay the cost of Advanced Placement and International Baccalaureate exams in all subjects for public school students -- estimated at \$2.5 million. The bill would also help school districts develop more online high school classes in high-level math and science. Senate Bill 64 would increase the number of math and science teachers by allowing college graduates in math and science to become certified through an alternative process.

The Louisville Courier-Journal also reports that 40 of Kentucky's poorest-performing schools will be receiving Federal grants totaling \$1.8 million to develop restructuring plans under the No Child Left Behind Act. School districts will receive \$50,000 for each school that fails to make adequate yearly progress. Of the 40 schools getting the grants, 22 are in Jefferson County (Louisville).

# Massachusetts Update

## February 2008

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Despite the State's projected \$1.3 billion budget shortfall, Governor Deval Patrick has proposed a \$368 million increase in education findings for FY 2009 -- a six percent increase over the previous year. Included in the Governor's budget proposal, as reported in the Boston Globe, are:

- \$26 million for extended school day programs;
- \$15 million for 892 more pre-kindergarten classrooms;
- \$8 million to extend 440 half-day kindergarten classrooms to full-day;
- \$2 million for tutoring students with low scores on the State assessment; and
- \$4.5 million to help low-performing schools.

The Governor hopes to reduce the deficit through spending cuts in other areas and closing of tax loopholes.

Education Week reports that the new education commissioner in Massachusetts will be Mitchell Chester, currently the Deputy Superintendent in Ohio. He will succeed David Driscoll who retired in August after eight years in the position.

According to the Boston Globe, Governor Patrick plans to reinstitute the position of State education secretary, a post that has twice been abolished because of conflicts over who oversees education in Massachusetts. The Governor believes the cabinet-level position would provide better coordination of the State's three education components: early childhood education, elementary and secondary education, and higher education. In particular, he is concerned that, despite the State's strong performance on national tests, more than a third of high school graduates need remedial courses and that there are discrepancies between what high schools teach and what is needed to succeed in college.

# Mississippi Update

## February 2008

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The Jackson Clarion Ledger reports that the State is considering a suspension of its school rating system to help districts adjust to new, more rigorous State exams. The current system rates schools on a five-point scale from “low-performing” (1) to “superior performing” (5). Moreover, districts are two months late receiving the practice test intended to prepare students for the harder tests. It appears likely that the school ranking system will be suspended for one year.

As reported in Education Daily, about one-third of Mississippi’s high school students drop out each year at a cost to the State of \$485 million per year. The State’s is undertaking a number of initiatives to reduce the State’s dropout rate in half by 2011-12, including:

- a teen summit to discuss teen-led strategies to reduce dropouts;
- a summit of parents, business leaders, community leaders, and faith-based organizations to develop local dropout prevention strategies;
- a Youth Advisory Board consisting of 20 high school students to advise the Governor on a number of educational issues including dropout rates; and
- the new Center for School Change (scheduled to be operating by April) funded by a \$16.4 million grant from the W.K. Kellogg Foundation, which will focus on education improvement and dropout prevention.

# Missouri Update

## February 2008

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In his State-of-the-State address, Governor Matt Blunt recommended an increase in K-12 education funding of \$121 million. He also proposed a \$125 million allocation for the States A+ (school improvement) and Access Missouri programs and \$1.1 million for after school programs. He also encouraged Missouri schools to offer a STEM (Science, Technology, Engineering, and Mathematics) program that includes upgraded classroom technology, more current science curricula, and training for more Advanced Placement teachers.

Governor Blunt has also proposed to nearly triple the State funding for autism services for Missouri children. The proposed allocation of \$19.7 million would be an increase of \$12.4 million over last year's \$7.3 million budget which was more than twice the allocation for the previous year. Included in the new allocation would be \$5 million for capital improvement at the Thompson Center for Autism and Neurodevelopmental Disorders.

# Nevada Update

## February 2008

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As reported in Education Week, Nevada, facing a \$500 million budget deficit, has implemented a 4.5 percent across-the-board cut in every State agency's budget. This is expected to mean a total reduction in education funding of \$96 million over FY 2008 and FY 2009.

# New Hampshire Update

## February 2008

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The Manchester Union Leader reports that the New Hampshire legislature has developed a plan that sends extra aid to schools with special needs students: poor, special education English language learners. The legislative report calls for \$670 million in basic State aid. Special education is estimated to add \$70 million Statewide and English language learners (at \$657 per student) \$2.5 million. Districts with low-income students would receive funding on a sliding scale. It is estimated that the new plan would approximately match the \$900 million the State currently spends in State aid.

# New Jersey Update

## February 2008

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The overhaul of New Jersey's public education financing system, pushed by Governor Jon Corzine, has been approved by the legislature. Under New Jersey's redesigned school funding structure, the same formula would apply to all 616 school districts in the State. A base amount would be established for each student and adjustments would be added to account for poverty or a district's tax base. Under the new plan, State funding for education would increase by seven percent this year, bringing the total to nearly \$8 billion. All districts would receive at least a two percent increase in State funds with some getting as much as a 20 percent bump. For the first time, the allocation for special education will be based on community wealth, meaning affluent schools will receive lower per-pupil allocations for students with disabilities. The new formula ends the court-imposed "Abbott" ruling under which 31 poor districts have received extra State funds. Although these districts will now have to compete with other districts for State funds, they will, according to State officials, receive more money because the new formula includes allocations for poverty and number of English language learners. The proposed system must still be approved by the State Supreme Court which has been overseeing State spending for the Abbott districts as part of a long-running legal case.

# New York Update

## February 2008

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According to The New York Times, the New York City school district is experimenting with a plan by which 2,500 teachers would be measured on the basis of how much their students improve on standardized tests. District officials say the data could be used to make decisions on teacher tenure and bonuses. As might be expected, the experiment has met with vocal opposition from the city's teachers union. The approach is so controversial that the principals in some of the 140 participating schools have not told their teachers they are being evaluated based on student performance.

# North Carolina Update

## February 2008

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As reported in The News & Observer, a State commission has recommended an increase in the number of charter schools allowed in North Carolina and the closing of low-performing charters. The Blue Ribbon Charter School Commission suggests raising the cap on the number of charter schools, from the current 100, by six per year. Under the Commission's recommendations, high-performing charter schools (that's 20 schools with pass rates on State tests of 80 percent) wouldn't be counted against the cap. Moreover, charter applicants in the 52 counties currently without charter schools would also not be counted against the cap. As many as 80 new charters could be added next year although much slower growth is expected.

# Ohio Update

## February 2008

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According to the Cincinnati Enquirer, two recent reports on foreign language teaching in Ohio have raised questions about the quality of such instruction. One report, issued by the State's Foreign Language Advisory Council, says foreign language instruction should: (1) provide long, uninterrupted stretches of instruction (unlike the 9- or 16-week programs common today); (2) begin as early as kindergarten; (3) stop repeating material from year to year; (4) include less traditional languages like Chinese and Arabic; and (5) take advantage of online opportunities for teaching foreign languages including distance learning and videoconferencing. A second, Federally-funded report, entitled "Ohio Language Roadmap for the 21<sup>st</sup> Century," also called for extended language instruction beginning in kindergarten, with priority in Arabic, Chinese, French, German, Japanese, Russian, and Spanish.

Like many states, Ohio does not require school districts to provide services for gifted students. Districts are required to identify such students; approximately 16 percent of the State's public school enrollment is classified as gifted, but only about a quarter of these students receive any services for the gifted. According to The Cleveland Plain Dealer, last year, Ohio allocated \$47 million for gifted education, \$5 million of which was used to identify students with the rest used for teacher salaries. The State's allocation for gifted education has not changed appreciably since 2003. The State is considering changes that would give districts more flexibility to serve their gifted students.

According to the Cleveland Plain Dealer, Ohio has begun a new Statewide program targeting at-risk ninth-graders. The program is part of the State's \$20 million initiative to raise graduation rates and reduce achievement gaps for students with the highest probability of failure. Aimed at boys in 35 high schools with low graduation rates, the program will provide, for each participating school, a State-funded coordinator and a "graduation action team" consisting of parents, teachers, and community leaders. Every student will have a "personal motivator" who will meet with the student at least every two weeks. The program will spend approximately

\$1,500 per student over the next two years.

The Cincinnati Enquirer reports that the Cincinnati school district is planning to replace the entire staff of Taft Elementary School. The school has failed to meet Federal and district standards for the past nine years and drastic action is called for under the No Child Left Behind Act. The schools principal and 11 teachers are slated to be reassigned.

# Oklahoma Update

## February 2008

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State officials have requested an FY 2009 budget for public education of \$3 billion -- up \$503 million from the previous year. The increase would be used to pay for:

- teacher salary increases (\$110 million)
- higher school operating costs (\$244 million)
- adding five days to the school year (\$90 million)
- fully funding State mandates under the Achieving Classroom Excellence Act (\$93.5 million) including funds for remediation, reading and math coaches, and online testing.

The proposal also seeks \$4.6 million for the current year to offset a shortfall in State lottery revenues.

Teachers and other staff in 63 Oklahoma schools will receive bonuses of between \$500 and \$3,000 this year based on student performance on State exams. The Oklahoma Academic Achievement Award program will give bonuses of \$3,000 to teachers, principals, counselors, and librarians in 33 schools that scored the highest or showed the most improvement. Staff in another 30 schools will get bonuses of \$500 and \$2,000 for strong student Academic Performance Index scores.

# Pennsylvania Update

## February 2008

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As reported in Education Week, Pennsylvania's FY 2008 budget of \$27.2 billion includes \$9.4 billion for K-12 education, a 6.1 percent increase over the previous year. Included in the State's spending plan is \$75 million to expand preschool education to 11,000 more students and \$20 million to expand full-day kindergarten. A program to provide laptops to high school students was continued and initiatives to increase the rigor of high school courses were expanded.

According to the Pittsburgh Post-Gazette, Pennsylvania is planning to implement a series of school exit exams that would standardize graduation requirements and allow districts to target resources to struggling students. The State would give end-of-course exams in English, math, social studies, and science courses; students would be required to pass two math "graduation competency assessments" and one in each of the other subjects. The plan is opposed by the Pennsylvania State Education Association and the Pennsylvania School Boards Association. It is unlikely that the plan, which is expected to go through a year-long review process, would become final until 2009 and would become effective beginning with the Class of 2014 (this year's sixth-graders).

# Puerto Rico Update

## February 2008

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Education Week reports that, after a number of adjustments, Puerto Rico's mathematics scores can be accurately reported on the same scale as other states and territories. The National Center for Education Statistics, which oversees the National Assessment of Educational Progress (NAEP) made a number of changes to the 2005 trial test to account for the "unique linguistic and cultural characteristics" of Puerto Rico and allowed an extra ten minutes for each of the test's two timed sections. It is expected that Puerto Rico will be fully integrated into the math NAEP for the 2009 test.

# Rhode Island Update

## February 2008

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Because the Federal No Child Left Behind Act requires annual reporting of graduation rates, Rhode Island has begun to track students who drop out of high school or are at risk of dropping out. The State has, beginning with the Class of 2007, assigned unique identification numbers for each student to carry throughout their high school years. Rhode Island's Statewide graduation rate was 89 percent in 2006-07, with urban districts graduating 81 percent and rural/suburban districts graduating 93 percent.

# South Carolina Update

## February 2008

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The Charleston Post and Courier reports that South Carolina's budget problems are threatening a State pilot program that offers full-day prekindergarten to low-income four-year-olds. The Child Development Education Pilot Program was created in response to a lawsuit filed by 37 school districts. Statewide, the program served 3,756 children in public schools (up 993 students from the year before) and 402 children in private centers (up 93 students). It is estimated that 2,256 eligible four-year-olds in the 37 plaintiff school districts are still unserved. During the 2007-08 fiscal year, the State spent \$17.1 million to run the public school program and \$2.5 million for the private centers. The Governor has recommended that the legislature include \$14.9 million in the upcoming budget to continue the pilot program. According to The Augusta Chronicle, a Statewide expansion for the kindergarten would cost about \$95 million, although it is unlikely the full amount could be appropriated.

Governor Mark Sanford, in his State-of-the-State address, called for South Carolina to move toward a school funding system based on per-pupil expenditures rather than the current system of lump sum payments to districts. He also pushed for school choice for low-income students in schools in improvement status and proposed allowing charter schools to use existing public school facilities.

# Tennessee Update

## February 2008

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As reported in The Tennessean, Tennessee has adopted a major overhaul of its high school curriculum that adheres to language arts, math, and science standards developed by the American Diploma Project, a coalition of 31 states working to align high school curricula and exams with the requirements of college and work. Effective with the Class of 2013 (this year's seventh-graders), the changes are intended to create high school graduates who match their peers nationally and who will not require remediation in college. High school students, whether headed for work or college, will be required to study personal finance and take more math in order to graduate. Instead of the standardized Gateway exams, they will take more rigorous end-of-course tests in many subjects.

# Texas Update

## February 2008

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As reported in The Dallas Morning News, the Texas Early Education Model (TEEM), a State-funded pre-school program operated by the University of Texas Health Science Center, shows no evidence that its students are better prepared for kindergarten than conventional preschool programs. TEEM receives State support for structured lesson plans and coaching for teachers; it operates at private daycare centers, Federal Head Start centers, and public school district preschools. An evaluation conducted by Edvance Research, Inc. indicates that TEEM, which has received more than \$45 in State funds since 2003, has little accountability or budget transparency and a great deal of administration overhead. Dr. Susan Landry, who oversees the program, disputes the evaluation's conclusions.

The Houston Chronicle reports that teachers in the Houston school district will receive a total of \$22 million in bonuses from the State based on student performance. It is expected that 10,300 instructional staff will get bonuses (averaging \$2,100) this year, compared with 8,000 last year (averaging \$1,850). Teachers of core academic subjects qualify for the largest bonuses (up to \$5,000); other instructional staff can earn up to \$1,000.

# Utah Update

## February 2008

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Faced with a shortage of teachers, Utah is paying \$100,000 to [Teachers-Teachers.com](http://Teachers-Teachers.com), an online service to recruit teachers. As reported in [The Deseret Morning News](#), Utah's K-12 enrollment is predicted to grow from the current 540,000 to 680,000 students by 2014, requiring 44,000 new teachers. School districts can, at a cost of \$2,500, access the service and specify the kind of teacher and level of qualifications they are looking for. Many districts are offering incentives for new teachers. Next door, in Nevada, Clark County (Las Vegas), for example, offers a signing bonus of \$2,000, free benefits, a mentoring program, and credit for up to 13 years on the salary scale.

# Washington Update

## February 2008

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The Seattle Times reports that Washington legislators are discussing major adjustments to the Washington Assessment of Student Learning (WASL), the State assessment. Among the changes under consideration are:

- shortening the exam for grades 3-8 to save class time for instruction;
- developing short in-class tests to determine whether students are on track to pass the WASL;
- translating parts of the WASL into six languages;
- adaptive measures for special education students (e.g., an improved Braille version, a read-aloud CD for students with dyslexia).

The State is planning to budget \$38 million for the WASL in the 2008-09 school year, including \$4.3 million in enhancements, taking into account \$12.5 million in savings from the shortened exam.

# West Virginia Update

## February 2008

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According to the Charleston Daily Mail, West Virginia is planning to make the State's public school curriculum more rigorous and to implement a more challenging exam to measure student performance. Starting in the Spring of 2009, students in grades 3-8 and grade 10 will take the new WESTEST which will go beyond core subjects to include critical thinking, problem-solving, and real-world situations. Under the plan, teachers will receive training on how to assess student skills in the classroom, including more oral presentations (speaking skills) and team participation (communication skills).

# Wisconsin Update

## February 2008

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A bill being considered in the Wisconsin State legislature is intended to clarify the status of virtual charter schools in the State. The pending bill would define virtual charter schools, remove the in-district-only provision, establish a minimum student-teacher contact time, and reduce the amount of money the schools can collect through the State's open enrollment program. The new plan would require that virtual charter schools enroll at least 15 percent of their students from the school district that charters them.

The Wisconsin legislature has reached a compromise that would allow the State's 12 virtual schools -- serving 3,500 students -- to remain open. As reported in the Milwaukee Journal Sentinel, a recent court ruling affirmed that, according to State law, virtual schools can only operate within the boundaries of individual school districts and were not entitled to full State aid (approximately \$5,845 per student). Under the compromise, virtual schools would receive the same basic State aid as other schools, but would have to:

- provide the same hours of instruction per year as traditional schools;
- ensure that only licensed, certified teachers develop lesson plans and grade assignments;
- require that teachers respond to parent or student inquiries within 24 hours;
- allow the State to operate an online academy to help districts that want to start their own virtual schools.

A report by the pro-voucher group, SchoolChoice Wisconsin, has found that students who participate in Milwaukee's voucher program have higher graduation rates than the City's regular secondary students. In effect for nearly two decades, the Milwaukee voucher program serves 18,500 students in 122 private schools. As reported in Education Week, the study determined that, after adjustments, the four-year graduation rate for voucher students was 64 percent compared with 53 percent for students in regular Milwaukee public schools. Milwaukee's superintendent disputed the study's findings, saying that the district's graduation rate is 70

percent and that the study does not appropriately account for student mobility.

# Wyoming Update

## February 2008

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The Wyoming Supreme Court has ruled that the State's system for funding public schools is constitutional, bringing to a close 35 years of legal battles. As reported in Education Week, the State had contended that districts were receiving adequate support and that court oversight was no longer necessary.

According to the Star-Tribune, two Wyoming high schools will be testing an online learning program intended to increase standardized test scores. Designed in England, the Internet-based SAM Learning program uses a series of modules covering a number of subjects; it requires students to answer questions by dragging the answer into the question. Company research suggests that students who use SAM Learning for ten hours can expect to see a four-to-five percent improvement in standardized test scores. State officials say it is too soon to determine if the program is increasing scores on the State's Proficiency Assessment for Wyoming Students exam, which is administered each April.