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MEMORANDUM

DATE: July 7, 2011
TO: TechMIS Subscribers
FROM: Charles Blaschke and Blair Curry
SUBJ: Regulatory Relief Through Waivers; Race to the Top New Funding; SES Set-Asides; and State Profile Updates

Included in this TechMIS issue is a Special Report on Secretary Duncan's call for a Plan B in lieu of full ESEA reauthorization this year. Plan B would provide regulatory relief (see our April 15 Special Report) to states which, in turn, would provide greater flexibility than NCLB, while still ensuring degrees of accountability. To ensure uniformity (a concern of GOP leaders), 40 plus states have formed a consortium, headed by the CCSSO which plans to submit, "en masse" waiver requests which could create opportunities for most subscribers immediately, and later. Another related Special Report addresses one likely candidate for regulatory relief as being the Title I set-asides for SES and parent choice which could increase opportunities immediately for firms to partner with districts providing their own SES and expanded opportunities in many districts for after-school and summer school programs to reduce achievement gaps.

The Washington Update includes:

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Included in the RTTT \$700 million appropriations for FY 2011 is \$500 million to support the Early Learning Challenge (ELC), while \$200 million will support a competition for the nine finalist states from Round 2. Draft applications for ELC which identifies possible opportunities for TechMIS subscribers in winning states, are available for comment by July 12 at ed.gov.
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A study, conducted by the Rand Corporation, of "deregulation" of state categorical programs in California suggests the types of initiatives and opportunities for firms, which could occur as such "deregulation" happens in other states.

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USED has announced new priorities for second round of i³ competitive grants totaling \$150 million and includes “technology” and “increased technology use to increase productivity” as two new competitive priorities. Once again, opportunities for for-profit firms appear to be limited.

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Possible inclusion in “fix-it” amendments of future ESEA reauthorizations are two technology related bills which have been introduced in Congress; one would replace current Education State Technology grant funding (E²T²) with proposed changes; another would increase the probability that 21st Century Skills be integrated across several funding pockets.

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Miscellaneous Washington Update items include:

- a) Possible use of “remaining” State Fiscal Stabilization Funding in certain states which could be “reallocated” based on district Title I allocations before September 30th; firms should monitor this carefully.
- b) Two pieces of ESEA reauthorization bills have been introduced by Republicans in the House which would eliminate more than 40 current education programs and provide support for expanding charter schools, with another piece anticipated shortly on increasing “funding flexibility.”
- c) In mid-June, the Next Generation Learning organization, funded by the Bill & Melinda Gates Foundation, announced 19 winners of its \$7 million K-12 grant competition, several of which are private sector firms.
- d) USED has provided recent Part B IDEA guidance for using EdJobs funds to count toward meeting “maintenance of effort” (MOE) requirements at the state and district level, which is presenting major problems for certain states (e.g., South Carolina).
- e) According to the most recent NCES Condition of Education Report, private K-12 school enrollments have dropped from 6.3 million in 2001 to 5.5 million in 2006.
- f) A new Census Bureau report has found that average per-pupil expenditures increased to more than \$10,500 in 2009, which is 2.3 percent greater than in 2008.
- g) During the “Naval STEM Reform” in mid-June, the Department of Navy announced plans to double Navy’s investment in STEM to more than \$100 million by 2015.
- h) A reanalysis of Kaiser Family Foundation survey released in early 2010 has found that the average minority youth use different media 13 hours a day, compared to about 8.5 hours for white youth.

The state profile updates include, for some states, final state funding budgets for K-12 education for this coming fiscal year, while some state budgets are still have to be negotiated before the June 30th deadline. Also included are items related to teacher evaluations, new charter school laws, virtual schools, and school choice.

As a last note, final LEA Title I allocations for the 2011-12 school year have been published by USED. We have checked the final numbers against the preliminary allocations included in our May 20 TechMIS Special Report and have found no significant differences.

Special Report:
**A Consortium of 40 Plus States Respond to Secretary Duncan's Call
for Regulatory Relief Through Waivers Which Will Provide Greater
Flexibility Than NCLB While Ensuring Degrees of Accountability If
Full ESEA Reauthorization Does Not Occur Before School Opens**

A Technology Monitoring and Information Service (TechMIS)
SPECIAL REPORT

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July 7, 2011

Not unexpectedly, Secretary Duncan in an article entitled "Revamp No Child Left Behind -- now" in *Politico* on June 12th, stated, "If Congress does not complete work on reauthorization soon, we will be prepared with a process that will enable schools to move ahead with reform in the fall. States, districts and schools need the freedom to implement high standards, strengthen the quality of their teachers and school leaders and embrace a more flexible, fair and focused system of accountability."

Through the Secretary's "waiver authority" under Section 9401 of ESEA, Duncan would provide "regulatory relief" waivers in exchange for "a basket of reforms." During a June 13th reporter's conference call, Duncan said, "This is not an a la carte menu," to which his Assistant Secretary Carmel Martin added, "We don't want a blanket waiver. On the other hand, we don't want to have individualized processes from every state." In what appears to be an orchestrated move, on June 20th, the Council of Chief State School Officers (CCSSO) announced a "new accountability road map" which includes "principles" for next generation state accountability systems, some of which are discussed below. As stated in the document submitted for the consortium of 40 states and District of Columbia, "In the absence of ESEA reauthorization this year, we hereby inform Secretary Duncan of the intention of our members to utilize the authority expressly granted to states under NCLB Section 9401 to propose new models of accountability...And we call on Secretary Duncan to affirmatively establish a new, improved process of peer review, with deference to state judgment, to work collaboratively to review and improve these new models." As quoted in *Politics K-12* (June 20th), CCSSO Executive Director Gene Wilhoit stated, "We're going to come to the department with a set of waivers that will come en masse...under a [similar] set of principles." As of June 21st, the CCSSO website did not have the details of the report, but directed readers to the *Politics K-12* article.

The document, which reflected the work of a “task force” of selected chiefs, was discussed at the March CCSSO legislative conference in Washington, D.C., and copies of the document, which is now entitled “Principles and Processes for State Leadership on Next-Generation Accountability Systems,” was evidently included in a letter to Secretary Duncan and to key Congressional members. The document, which we were able to obtain on June 22nd, includes a commitment on the part of the 40+ states who are members of the new Multistate Consortium on College- and Career-Ready Accountability Systems and identifies some principles highlighted below, many points of which appear to be consistent with the Administration’s proposed policies for ESEA reauthorization:

1. Alignment of performance goals to college- and career-ready standards, emphasizing continuous growth for every student in content knowledge and higher order skills; this principle appears to be similar to that of the P-21 group which, in the last year, has moved under the umbrella of the CCSSO; P-21 developed 21st “century skills” which Senators Hagan (D-NC) and Snowe (R-Maine) have included in their recently proposed 21st Century Skills legislation (see related item).
2. Annual determinations for each school and district that would allow states to set accountability standards and make determinations for schools and districts.
3. Priority focus on student outcomes, not only for subgroups, but more importantly for individual student progress which would include improved assessment scores in reading and math and accurate graduation rates, as well as a number of additional measures including: subjects beyond math and reading (e.g., science); college entry, remediation, and persistence rates; career preparedness as measured by industry certifications; and reading proficiency in early grades. The roadmap notes that states would have discretion to weigh measures and apply them conjunctively or on a compensatory basis provided that the “focus is on meaningful student outcomes.”
4. Continued commitment to disaggregation reporting by subgroups, particularly in schools with lowest-performing subgroups or the greatest performance gaps.
5. Reporting of timely and accessible data whereby information will be provided in a timely and actionable manner to improve the efficiency and effectiveness of teaching and learning.
6. Deeper diagnostic reviews in which student outcomes would be the “cornerstone of accountability,” with deeper analyses and diagnostic reviews particularly in low-performing schools. States would classify schools, not on the length of underperformance as under NCLB, but on “both student outcomes and deeper analysis of data, conditions, plans, and capacities” at various levels.
7. Building school and district capacity which will require general systems of supports and interventions.
8. Targeting lowest-performing schools with significant interventions being “focused on at least the lowest performing five percent of schools....and their districts (in addition to targeted interventions to address the lowest performing subgroups and/or schools with the greatest achievement gaps.” Moreover, “States must have flexibility to craft interventions that are rigorous, systemic, and content-specific in order to turn around the lowest performing schools...”

9. Innovation, evaluation, and continuous improvement which would include “promoting innovative accountability approaches with rigorous evaluation to drive continuous improvement over time.”

The CCSSO Multistate Consortium “will support each state in developing its own accountability system, consistent with the principles outlined above, innovate over time, and ensure maximum federal flexibility and support...Some states have already begun this work, and will present early models of state accountability consistent with principles above.”

In his article in Education Daily (June 22nd), Frank Wolfe reported that Kentucky would, as soon as August, be the first state to request a waiver which would allow the state’s draft accountability model, approved in April, to replace the NCLB accountability requirements. Kentucky Governor Steve Beshear has already sent a letter requesting that such replacement be allowed, stating, “Kentucky has been a leader in this area, as the first state to adopt the Common Core Academic Standards and in Kentucky Board of Education’s upcoming approval of a rigorous accountability model. I want this state to continue as a leader on the national level.” In the same article, USED spokesman Justin Hamilton is quoted as saying, “We agree with the chiefs that there is an urgent need to change the status quo. We applaud their proactive effort and look forward to working with the chiefs to ensure that we have an accountability system that protects all students.”

If Secretary Duncan agrees to apply the above principles to states’ requests for waivers in the area of NCLB accountability, then a “case-by-case approval” could occur while still ensuring some degree of uniformity in the area of accountability which CCSSO spokesperson Chris Minnich stated in opposition to recent criticisms by former Secretary Spellings, and AFT President Weingarten which warned that waivers could lead to states gaming the system, “Gaming the system might be what happened in the past. That’s not where we are now.”

In addition to the area of accountability, waivers could be requested in other areas. Congressional leaders and others are questioning whether the Secretary has “waiver authority” to provide flexibility in return for conditions and “strings” attached. As reported in Education Week (June 20th) Chris Cross, highly respected education policy guru who headed the minority Education Committee staff during the 1970s and later was Assistant Secretary for Education under President Bush 41, agrees with the Department’s official line, saying “The issue is, of course, how those conditions [Mr. Duncan sets] relate to the underlying law. I think he’s trying to do the best he can under a situation that needs some remedies.” Jack Jennings, President of the Center on Education Policy, who was Cross’ Democratic counterpart on the House Education Committee for several years, also suggested that the Secretary’s waiver proposal may be legal as reported in Education Daily June 27th, “The law reads as if the applicants would propose ideas for how to improve education through the waivers and then the Secretary decides that if improvement is likely to occur and then grants or denies the waiver.” Jennings also noted that there could be litigation about the Secretary’s authority or that some GOP members may try to “stop or limit the waivers through legislation or appropriations. That would be ironic since the waiver provisions in federal education laws have usually been inserted at Republican insistence

because they thought federal laws were too prescriptive.”

In his monthly column “School of Thought” for Time Magazine, Andrew Rotherman, former high-level policymaker under the Clinton Administration and partner at Bellweather Education, wrote about Congressional objections, “Not surprisingly leaders in Congress were not pleased [with the Secretary’s Politico article]. Even though Duncan has the legal authority to waive a variety of provisions in the law -- essentially those not dealing with money or civil rights -- Congress understandably sees making laws as their turf. The secretary is betting that the threat of being preempted will be enough to prod action on Capitol Hill. Perhaps he’s right. The Republican Chairman of the House education committee and his Democratic counterpart in the Senate both agree that Duncan’s proposal was a bad idea. That was the first glimmer of education by partisanship in a long while.”

So the bottom line question is whether the Duncan threat will force Congress to act quickly on a formal reauthorization or series of fix-it amendments; or, if not, then what does the waiver process envisioned by Secretary Duncan include? Most likely, it would include adoption of many of the CCSSO’s “principles” as conditions for waiver approval.

Special Report:
**One Target for the Likely “Regulatory Relief” Through the Proposed
Waivers Are the NCLB Set-Asides for SES, Parent Choice, and
Professional Development as Several Scenarios Are Surfacing,
Including Opportunities for Expanded After and Summer School
Programs**

A Technology Monitoring and Information Service (TechMIS)
SPECIAL REPORT

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At a general level, the USED regulatory relief proposal through state waivers boils down to a legal question as to whether Secretary Duncan has the authority to place “conditions” before granting state approvals and a political issue because Congress believes only it has the authority to change the “conditions” created by NCLB through reauthorization or “fix-it” amendments. At a more granular level, one surfacing issue which is likely to be a “touchstone” in this debate is the future of Title I set-asides -- specifically the 20 percent set-aside (established by regulations shortly after NCLB was passed) for supplemental education services (SES) and parent choice and the 10 percent set-aside for professional development in schools/districts identified for improvement. Several scenarios highlighted below could occur which have direct implications for TechMIS subscribers who provide SES tutoring or administrative support or partner with districts that provide their own SES and those firms providing professional development.

Secretary Duncan has increasingly called for changes to SES since he was Chicago’s public schools superintendent. He fought for the right of the district, when it was identified for improvement, to provide its own SES resulting in a “national pilot program” which allowed Chicago and a number of other districts to do so. One of the first regulatory changes proposed, by the Secretary in April 2009, and subsequently implemented was to allow districts identified for improvement to provide their own SES tutoring if their approach had proven to be effective and met SEA criteria for SES approval. As part of another series of Secretary waivers (a total of 315 waivers during 2009-10), one allowed districts not to count the ARRA portion of their Title I funding toward calculating the 20 percent SES set-aside which the vast majority of states took advantage of later in 2009. The proposed FY 2011 budget and reauthorization “Blueprint”

would allow states to determine which interventions districts could provide in low-performing schools beyond the lowest five percent (which would have to use Federally prescribed interventions, most likely those related to the School Improvement Grant program). Interestingly, this is very similar to the recent proposal made by the CCSSO (see enclosed TechMIS Special Report) which would delegate to the SEA the determination of what interventions should apply to low-performing schools.

On September 2, 2009, USED published Non-Regulatory Guidance (NRG) granting additional flexibility to districts identified for improvement relating to SES and professional development. As we reported in our September 15, 2009 TechMIS Special Report, districts identified for improvement would not only be allowed to use Title I funds to train Title I teachers in Title I schools on approaches to address the problem which resulted in the district being identified (e.g., low math student achievement levels), but also to allow Title I funds to be used to train any and all teachers in non-Title I schools in the district. In addition, the guidance allows a district to use an approach to tutoring to be purchased for use in Title I programs, even though the district used local funds to provide that same approach for similar students in non-Title I schools; under normal conditions, this would violate the supplement-not-supplant requirement in Title I.

Having given up on persuading Secretary Duncan not to change the SES requirement, the Education Industry Association and civil rights groups launched a lobbying campaign which has resulted in a larger “civil rights” focus of which SES is now emerging as a “touchstone.” Most civil rights groups and their unlikely bedfellow -- the U.S. Chamber of Commerce -- have proposed, at a general level, to focus significant interventions on all (not just the lowest 5%) of the low-performing schools and to provide SES to all students (not just subgroups) who are responsible for having schools/districts identified for improvement. Several groups have been hired as lobbyists to prevent the erosion of SES; specifically, these groups are associated directly or indirectly with the primary advocate for SES during the Bush Administration, former undersecretary Eugene Hickok who, shortly after NCLB passage, was instrumental in interpreting the legislation and developing the initial regulations for SES and choice.

During the reporters press conference on June 13th, in response to a number of reporters’ questions, *Politics K-12* blogger Alyson Klein suggested a number of topics which could be the focus of waivers, including the 20 percent SES/choice set-aside. In a response to a question, Assistant Secretary Carmel Martin noted that Secretary Duncan was a supporter of tutoring because, while in college, Duncan worked in his mother’s after-school tutoring program in Chicago. Martin indicated that they would “prefer to give flexibility to local communities to determine what are the best interventions to use.” Because Secretary Duncan identified “basket of reform” conditions similar to those states winning Race to the Top grants had proposed, Klein also surmised that the 12 RTTT winners would be “shoe-ins” for approved waivers.

Congressional support for continuation of SES was expressed in a letter dated May 25th, to Secretary Duncan signed by ten members, most of whom were Democrats; it stated, “...we are concerned that the Administration may be considering taking away much needed services from low-income families by ‘waiving’ key provisions of the law. Weakening the law’s requirement

for free tutoring for the children who need it most will not only undermine Congress' authority but will also have a disproportionately adverse impact on minority students." In her May 26th *Politics K-12* blog Klein reported that T. Willard Fair, President of the Urban League of Greater Miami and former Chairman of the Florida State Board of Education argued that the existing SES requirement offers free tutoring to all students in a school identified for improvement for two consecutive years, "not just the kids in subgroups that miss AYP."

In his posting on Title I-Derland (Education Week), David Deschryver, Vice President of Education Policy at Whiteboard Advisors, noted that any waiver change to the SES set-aside would cause trouble to USED because it relates to waiving statutory requirements related to "parental participation and involvement," which he argues is "...in the law's DNA. It will not be easy to relieve districts from the responsibility of providing choice and supplemental educational services, for example, as this is closely linked to parental involvement. Doing so may provide a target for those eager to challenge the Secretary's actions."

Various education groups have proposed, or will likely propose, several regulatory relief options which would affect SES. In its March legislative conference, the Council of the Great City Schools estimated that, in many districts, up to 56 percent of Title I funds have to be "set aside" and, with the number of schools identified for improvement increasing annually, such funding continues to reduce the amount of Title I services provided to students. One solution could be to nullify the initial SES regulations which were based on former Undersecretary Hickok's interpretations. The Council has consistently argued that the statute says that up to five percent must be set aside for SES in identified schools and up to 15 percent can be set aside for parent choice. If states were given conditional waiver approval, the effective date could be almost immediate. Both the number of students receiving SES and the dollars so allocated would be reduced by 50 to 75 percent, freeing up \$500 million to \$1 billion of Title I funds, possibly for after-school tutoring as noted below. Moreover, given past participation in the parent choice option, well over half of that set aside would also likely be freed up.

AASA, with support from NSBA, has proposed that any reauthorization eliminate Title I set-asides, or to create a separate funding stream for SES to be used by districts to provide for third-party or district-operated tutoring. In terms of regulatory relief, AASA and NSBA have called for a moratorium on all sanctions which would not allow any more schools to be identified for improvement, and hence would maintain total funding for SES/choice set-asides at approximately the current levels. In addition, AASA has called for a modification to SES regulations which would allow SES set-aside funds that are unspent after all SES and choice needs are met to be reprogrammed and returned to the district's regular Title I budget rather than having such funds returned to the Federal Treasury (see April 15th TechMIS Special Report). AASA also called for greater regulatory flexibility to allow an LEA to use its own teachers as SES providers and eliminate the dual counting of one student who fits into two separate subgroups (e.g., students with disabilities and poverty) in measuring proficiency for AYP. Unrelated to SES, AASA would also increase the 15 percent cap on the amount of IDEA funding, in districts identified as having disproportionality, to be reallocated usually to Title I schoolwide programs for RTI. High-level USED officials have also recommended as much.

If a combination of some of the above regulatory changes affecting SES are made, the amount of potentially freed-up money taken out of the SES/parent choice set-aside could be in the neighborhood of \$1 billion; this could be used for regular Title I programs and services, which could include district-operated tutoring, without having some of the conditions related to SES being imposed.

If regulatory relief provides greater flexibility to districts regarding the use of SES set-aside funds and relaxes some of the “hoops that district or third-party providers must jump through,” then another beneficiary will likely be quick expansion of after-school and summer school programs.

Currently, according to the Afterschool Alliance and other related groups, most surveys indicate that less than five percent of current providers of after-school programs -- especially third-party groups such as community based organizations (CBOs) or district-affiliated entities (e.g., teacher groups) -- provide any SES tutoring. A recent, definitive Rand analysis of the “rigorous studies of voluntary summer programs, mandatory summer programs and programs that encourage students to read at home in the summer concluded that all studies found positive effects on student achievement. The combined evidence from these studies suggests that all of these types of summer learning programs can mitigate against summer learning losses and even lead to achievement gains. Moreover, longitudinal studies conclude that the effects of summer learning programs endure for at least two years after the student has engaged in the summer program. The Rand study also concluded that a key obstacle to providing summer learning programs is the lack of stable funding and more specifically, “District leaders described the difficulty of braiding multiple funding sources together, given the restrictions and requirements associated with each source of funds. State policymakers could support district efforts by providing clear guidance on how federal and state funds can be combined to support summer programs.” If, through waivers or other regulatory relief, states are given greater flexibility in the use of SES set-aside funds for after school/summer school programs, one can anticipate effective after-school programs being expanded thus providing opportunities for firms with certain products. According to Rand’s meta analysis, one important effective practice is provision of individualized instruction: “Other best practices include providing structures that support high-quality instruction, aligning the school year and summer curricula, including content beyond remediation, and tracking effectiveness.” It also cites effective recruitment to increase attendance as critical.

As we noted in previous TechMIS reports over the last five years, under the previous Administration USED attempted to set the stage by allowing Title I 20 percent SES parent choice set-aside funds to be combined, under certain conditions, with 21st Century Community Learning Skills funding streams to encourage more effective use of such funds in providing “tutoring and related remedial activities.” However, this initiative was not considered a high priority at that time. With a combination of fix-it amendments and regulatory relief, along with waivers, funding restrictions could be removed and districts that are serious about reducing summer loss and decreasing the achievement gap between low-income minority students and others could indeed turn toward expanded after-school and summer school programs using

effective practices which, in turn, could create opportunities for many TechMIS subscribers.

For a copy of the Rand study go to:
www.rand.org/content/dam/rand/pubs/monographs/2011/RAND_MG1120.pdf

Washington Update

Vol. 16, No. 6, July 7, 2011

The \$700 Million Appropriation for Race to the Top Initiative Includes \$500 Million to Support the Early Learning Challenge, While \$200 million Will Support a Competition for the Nine Finalist States that Were not Funded During the First Two Race to the Top Competitions

The Early Learning Challenge as part of the RTTT funding would be administered by both USED and HHS. According to USED'S Ed Review (May 27th), "States applying for grants will be encouraged to increase access to quality early learning programs for disadvantaged and low-income children, design integrated and transparent systems that align their early care in education programs, bolster training and support for the early learning workforce, create robust evaluation systems to document and share effective practices and programs, and help parents make informed decisions about child care."

Currently, a task force made up of high-level USED and HHS officials is being spearheaded by Jacqueline Jones who is with HHS and who was previously involved in designing and implementing a New Jersey state initiative which is likely to be similar to components that may be called for in subsequent guidance and applications for this initiative. Some states, such as Connecticut, have already begun passing legislation for what they consider will be "requirements" in new RTTT guidance and applications.

While it is too early to speculate what the

eligibility requirements will be for states to apply for such competitive grants, it would appear that the overall focus is more heavily weighted toward developing coordinated and systematic statewide early learning initiatives involving multiple state agencies and funding sources such as Head Start, the large state Child Care and Development Fund (CCDF) grants, and preschool components of IDEA and Title I. The May 25th USED announcement states, "Guidance, eligibility, and number and range of awards will be announced in coming weeks. The application will be released later this summer, with grants awarded to states no later than December 31, 2011." Interestingly, during the press conference announcing the \$500 million Early Challenge Grant initiative, officials from the Casey and Kaiser foundations participated, as did police officials from Philadelphia, indicating the comprehensive nature of the grant for winning states, especially related to CCDF grant programs (see *Politics K-12* June 29 Secretary letter).

While we plan to continue monitoring developments and the funding process, including opportunities for TechMIS subscribers, when they are released, for more information on the initiative, go to: <http://www.ed.gov/news/press-releases/obama-administration-announces-500-million-race-top-early-learning-challenge>

With little currently available on how the other \$200 million will be allocated to states, we do know that Secretary Duncan

has wide latitude because the appropriations bill once again has provided the Secretary with pretty much a “blank check.” As *Politics K-12* speculated (April 20th), “Now that the stimulus funds have all been awarded, and especially if Congress does not reauthorize ESEA, this \$700 million will be one of the biggest levers Duncan has left to advance his agenda. He’ll want to make the most of it.” It would appear that the \$200 million will be allocated in grants ranging from \$10 million to \$50 million to the nine states which were finalists in the previous competitive rounds: Arizona, California, Colorado, Illinois, Kentucky, Louisiana, New Jersey, Pennsylvania, and South Carolina. However, it is not clear how many states would want to negotiate or reduce their scopes of work in order to receive funding. Education Week (June 1st) notes that California, Colorado, Pennsylvania, and South Carolina have new governors who were not in place when the original state Race to the Top applications were submitted. According to the article, South Carolina is vacillating as to whether to apply; Pennsylvania would apply only if they could submit a “entirely new” application; California and Kentucky were hesitant to commit until more details become available and, according to the article, only Arizona, New Jersey, Louisiana, and Colorado said they were “very interested” in applying. The resulting scaled-down priority components, which will likely be the focus of negotiations between USED and individual finalist states, are not likely to be available or otherwise determined through a transparent process. As the application process rolls out, we will keep TechMIS subscribers informed. In the meantime, interested firms should maintain contacts with the nine finalist states.

New Rand Study of “Deregulation” of State Categorical Programs in California Suggest What is Likely to Happen Elsewhere if Other States Do the Same, Suggesting Implications for Firms

In 2009, the California legislature deregulated 40 categorical aid programs which became “entirely flexible,” allowing local districts to decide how to allocate these funds. A recent Rand report on ten districts’ behavior could have direct implications for many TechMIS subscribers should other states provide similar flexibility for categorical programs. California’s deregulated categorical programs include Targeted Instructional Improvement Block Grant (\$855 million), Adult Education (\$635 million), Regional Occupational Centers (\$385 million), Instructional Materials (\$334 million), Professional Development (\$218 million), among others. All referred to as Tier 3 programs. The Rand study noted that the 40 deregulated categorical programs represented about six percent of the total State education budget and “is the largest effort to date to reduce state government’s regulatory role and enlarge the authority of local boards and superintendents to make their own allocation decisions.”

In terms of what district leaders did with the newly flexible Tier 3 funds, all ten districts used a portion to help “balance the general fund” resulting in small to severe reductions in the Tier 3 program services. Most of the leaders made program choices “that were consistent with policies that would be politically feasible.” Only a minority allocated funds to new initiatives. High-level leaders, including superintendents, made the key decision without a sense of

consultation with principals and school staff or community stakeholders. While most leaders were pleased with the newly found flexibility, most were also concerned that the amount of funding for Tier 3 categorical would decline, which it did by 15 to 20 percent over the prior two-year period. Perhaps more critically was concern that, when the flexibility runs out in 2013, funding may not be restored for most of the categorical programs. In eight of the ten case study districts, spending on core instructional materials, including textbooks, was also reduced as were activities for gifted and talented students. Also, legislative or court-mandated district requirements for supporting remediation programs for students not passing high school exit exams were either eliminated or expenditures were reduced.

Across all districts, there existed different interpretations of what the new flexibility allowed, including the use of several buckets of ARRA stimulus funding. All of this contributed to confusion and uncertainty which “led districts to be cautious.” The new report notes the flexibility provided “was not a well-articulated policy” as most districts viewed guidance from the California Department of Education as inadequate. The report notes that district leaders relied on two sources of information about how the Tier 3 funds could be used, including School Services of California which is a private firm that contracts with districts and which provides guidance on the meaning and implementation of the Tier 3 flexibility. Some district officials also relied on County Offices of Education which had fiscal oversight responsibility.

Should other states follow the California initiative and implement similar

deregulation of categorical programs, firms whose funding sources include state categorical programs should consider a number of tactics. One is to communicate directly with superintendents and high-level decision-makers, who will be the most likely to determine what categorical programs to continue and which to reduce or eliminate. If restoration of funding for such categorical programs in the future is anticipated, then such decision-makers should be reminded of the importance of program continuation even at a slightly reduced level. Moreover, if the state’s deregulation occurs quickly and is not well-articulated, then firms should communicate directly with credible sources of information on which district decision makers will rely, such as the SSCA in California.

For a copy of the report go to: www.rand.org/content/dam/rand/pubs/reprints/2011/RAND_RP1426.pdf

USED Announces New Priorities for Second Round of i³ Competitive Grants Totaling \$150 Million; While “Technology” and its “Use to Increase Productivity” Are Two New Competitive Preference Priorities, Opportunities for for-Profit Firms Remain Limited

On June 3rd, USED announced priorities and applications for eligible parties to apply for Scale-up, Validation, and Development grants under the Investing in Innovation (i³) program, and has included two new absolute priorities -- one focusing on achievement and high school graduation rates in rural schools and the other, promising science, technology, engineering, and mathematics

(STEM) education. Three other absolute priorities that were also included in the first \$650-million i³ competition are supporting effective teachers and principals, implementing high standards and quality assessments, and turning around persistently low-performing schools. Implementing expanded data systems previously included has been dropped.

The priority on rural districts can be attributed to lobbying from groups such as the Rural Trust and Community Schools, AASA, among others who have argued that fewer than five of the 49 grantees in the first round actually involved rural districts, even though Secretary Duncan stated on several occasions that 20-30 percent of the nation's 2,000 high school "dropout factories" were in rural settings. The STEM priority could be traced back to increased support from industry, particularly the U.S. Chamber of Commerce. The competitive preference priorities (CPR) for which applicants can gain additional points continue to include early learning, college access and success, and students with disabilities and limited English proficiency; two new CPPs, as promised by Secretary Duncan on several occasions are technology and use of technology to increase productivity (see attached Education Technology letter). In addition, the amount of funds for the three types of grants have been reduced (e.g., Scale-up grants are reduced from \$50 million to \$25 million), and the amount of matching funds required from the private sector and foundations has been reduced (e.g., for Scale-up grants reduced from 20 percent to five percent).

As noted in our April 15 TechMIS Special Report, the Secretary of Education will have greater discretion in the overall review

process by determining how many of the three types of grants will be funded. USED expects two scale-up, five validation and 15 developmental grants, according to Education Daily (June 30th). This round, USED will determine the number of points awarded for "evidence-based" practices; peer reviewers did so in the past. As noted in an article in Education Week (June 3rd), not only has USED added the rural achievement focus, but according to the article, "education officials said they might use their discretion to skip over high-scoring applications in other categories to make awards in the rural category." According to Jim Shelton, USED Deputy Assistant Secretary, who directs the program, "We have the flexibility to allow highest-scoring rurals to be among the winners." During the SIIA Government Forum in April, Shelton also stated that he expects a number of education service agencies, working in consortia with rural districts, to be serious contenders. The June 3rd application also says that no grantee can receive more than two new grants under any type of i³ program in a single year. However, the new i³ guidance and Frequently Asked Questions (FAQ) states, "A grantee that received two i³ grants in FY 2010 i³ competition could receive a maximum of two i³ grants in FY 2011. However, if one of those grants was a Scale-up or Validation grant, then the grantee could not receive a Scale-up or Validation grant in the FY 2011 i³ competition." This suggests that USED possibly intends to provide additional, but different grants, to some Round 1 i³ winners.

Similar to the guidance last year, the new guidance also reflects USED's interpretation of the statute which discourages for-profit entity participation. FAQ Section C-10 states, "For-profit institutions are not

eligible as applicants or as official partners in a partnership...However, for-profit entities may be involved in projects as other partners.” However, i³ program award subgrants are not allowed to be given to for-profit organizations; then, the FAQ states that an official partner that receives a subgrant “may procure goods and services from a third party if that is necessary to carry out its subgrant. In doing so, the subgrantee must act consistent with the terms of its subgrant and follow the applicable procurement procedures “set out in EDGAR.” In Section I-17, the FAQ also states, “A private sector entity that provides funds or in-kind donations to an i³ grantee is not prohibited from also providing goods and services through a procurement relationship with the grantee. However, as discussed in section K, i³ grantees obtaining goods and services that are necessary to carry out their projects must follow the applicable procurement rules in EDGAR.” Similar to last year’s guidance, grantees can copyright intellectual property developed with i³ funds: “However, the Department of Education is authorized to publish and distribute any copyrightable materials produced with Department grant funds even if a grantee or other party copyrights those materials.”

The bottom line for most for-profit firms is that if the firm is designated as an “other partner,” it can make in-kind contributions which count toward the “matching grant” and then for any Scale-up Activity it can receive a contract for additional purchased products and/or services. State or local competitive bidding processes could affect that situation. Development or Validation grants have the problem of Federal distribution of any resulting products, even if it is copyrighted at no cost to users. Any

firm with questions regarding i³ participation should contact Charles Blaschke directly.

Two-Technology Related Bills Introduced in Congress Would Provide Federal Funding as a Replacement of the Current Title IID Enhancing Education Through Technology (E²T²) Act

Two bills calling for Federal support for expanded use of technology and related activities have been introduced in Congress partially as a replacement of the E²T² State Technology Grant program which is being defunded next year. Both bills have only a slight chance of being passed this year, although portions of each could be integrated into ESEA fix-it amendments or subsequent reauthorizations.

Introduced by Senators Jeff Bingaman (D-NM), Patty Murray (D-WA), and Richard Blumenthal (D-CT), the Achievement Through Technology and Innovation Act of 2011 (ATTAIN) would provide competitive awards to states or consortia of states to carry out activities which include “developing and implementing online or blending learning programs; curriculum redesign; and offering innovative digital instructional practices that personalized learning. Activities may also include preparing for and administering next-generation digital state assessments; using technology to improve productivity and reduce costs; and preparing administrators to lead systemic education transformation through technology.” States or consortia of states would also have to meet a number of priority reforms to be eligible, including

basing student advancement and graduation on outcomes instead of “seat time” and providing high-quality digital content in online courses without enrollment caps. State rules for adoption and support would have to include electronic learning materials, according to the bill’s summary. If the annual appropriation is more than \$300 million, funds would be provided to states under formula grants based on student poverty rates; 40 percent would be provided for competitive grants to districts and 60 percent distributed under the poverty formula to districts. As reported in eSchoolNews, “Education technology stakeholders are applauding the U.S. Senate’s introduction of a bill called the Achievement Through Technology and Innovation (ATTAIN) Act and note that, if passed, the legislation will work to bolster technology literacy and will increase access to educational opportunities through online learning.” The ATTAIN bill appears to be closely aligned with Secretary Duncan’s newly emphasized priority on the use of technology to increase school district productivity and to remove barriers, such as seat time requirements, which often preclude the potential benefits of technology -- cost savings or reduced student instructional time -- from being realized (see related Washington Update item and attached Education Technology letter).

On June 10th, Senators Kay Hagan (D-NC), and Olympia Snowe (R-ME) introduced the 21st Century Readiness Act which would reform the ESEA by placing an emphasis on the importance of 21st Century skills -- critical thinking/problem solving, communications, collaboration, and creativity/innovation (four “C” skills). As stated in Senator Hagan’s press release, “The bill would amend definitions and

programs in ESEA to reflect the importance of 21st century skills. It emphasizes the importance of fusing core academic subjects such as math, science and language arts with the ‘Four C Skills.’ States and districts would apply for federal grants that already exist within ESEA to develop, enhance or expand 21st century skills readiness plans.”

The Partnership for 21st Century Skills, which includes 16 states, announced in its press release, “This legislation mirrors principles and recommendations from P21 which demonstrate how fusing the 4 Cs and core subjects makes learning more rigorous, relevant and engaging as is necessary for college, work and life success.” Unlike the ATTAIN Act, which would have an authorized funding level of \$1 billion, no authorized funding levels are proposed. Rather, this bill is designed for incorporation into ESEA fix-it amendments or an eventual reauthorization providing increased funding flexibility among various funding sources to support the development and implementation of 21st century skills among states and districts.

It is interesting to note that Senator Michael Bennet (D-CO) has often been referred to as the Administration’s “go-to” Senate spokesperson for education issues. Senator Hagan appears to be another “go-to” source; she also proposed the STAR Act which would codify many of the ARRA regulations relating to the School Improvement Grant program, as noted in our previous TechMIS issue.

Miscellaneous

- a) USED data present state-by-state disbursements of State Fiscal Stabilization Funds, totaling \$39.5 billion for education programs, allocated in the spring 2009. As of June 3rd, 39 states have drawn down 90 percent or more of these stimulus funds. Although nine states have spent all of their funds, a number of states still have “remaining” funds which must be allocated, most likely based on districts’ preliminary allocations of Title I funding (see May 15th TechMIS Special Report), by September 30th. Among the States that still have (as of June 3) about 10 to 25 percent of their SFSF funds remaining are: Alabama, Maryland, New York, Virginia, Nebraska, and Rhode Island. On the other hand, Alaska, and Wyoming have drawn down only 58 percent and 73 percent, respectively, of their SFSF allocations. According to Jennifer Cohen in NewAmerica.net, the remaining \$10 million for Wyoming will be distributed to K-12 districts via the Federal Title I formula. Districts which received increases in preliminary Title I allocations for next year, beginning on July 1st are likely to receive an infusion of unexpected remaining SFSF funds which can be used for purchasing any products and services allowed under Title I guidance (see TechMIS Special Report September 15, 2009). Please call Charles Blaschke if you have any questions.
- b) Two “pieces” of ESEA reauthorization bills introduced by Republicans in the House would eliminate more than 40 education programs and provide support

for expanding charter schools. Another measure, focusing on increasing “funding flexibility,” is expected shortly. No counterparts have been introduced in the Senate, where one can expect opposition to the GOP Kline (R-MN). The major programs that would be eliminated include Striving Readers (between \$200 and \$300 million), Smaller Learning Communities (\$80-\$100 million), and Education State Technology Grants (\$100 million), as well as several other programs, such as Even Start and Family Literacy, which the proposed Obama FY 2011 and FY 2012 budgets would also eliminate. Most of the eliminated programs were either proposed for consolidation in the Administration’s proposed FY 2011 budget which provided an opportunity for the GOP to identify programs no longer needed or which have not received any appropriations for several years.

The charter school (HR 2218) bill, introduced by Hunter who chairs the Early Childhood, Elementary and Secondary Education Subcommittee, is designed to expand financial support and flexibility to increase the number of quality charter schools. As reported in [Education Daily](http://EducationDaily.com) (June 21st), the bill would address one current major problem, namely that the Federal Charter School competitive grant program to states now applies only to the development of new charter schools, but does not include support for expanding successful charter schools. According to Chairman Hunter, approximately 420,000 students are currently on charter school waitlists. Under the proposed bill, states that repeal student caps on

charter school enrollment or that allow organizations other than SEAs or LEAs to be charter school authorizers would have a competitive advantage. Another priority would be placed on states in which traditional schools and charter schools receive comparable financing, which rely on blended online distance learning models, and which encourage the use of charter schools to take over lowest-performing schools.

In late June, the House Subcommittee approved HR 2218 by 34 to 5 vote. Ranking committee member George Miller (D-CA) said that the bill was “the first real piece of ESEA reauthorization” according to Education Daily June 23rd. He and Representative Dale Kildee (D-MI), ranking subcommittee member, said the bill “made big strides” and hoped that the bill set a “model for further legislation in ESEA.” Several Democrats, however, question whether the bill would result in significant increases in enrollments of students with disabilities and LEP students as 90 percent of current charter schools have none enrolled.

As noted in previous reports, bills of the fix-it amendment nature have been introduced in the Senate on activities related to School Improvement Grants, extended learning time, the development of 21st Century skills, and the Learn Act, which is viewed as a replacement for Striving Readers.

- c) In mid-June, Next Generation Learning, funded by the Bill & Melinda Gates Foundation Challenges, announced 19 winners of its \$7 million grant competition. The grants will support

“proof-of-concept” and “early stage adoption of innovative technology-enabled programs” that will help middle school students to develop math and literacy skills aligned to the Common Core State Standards. Somewhat unexpectedly, several of the grantees are private sector firms. In our November TechMIS Washington Update concerning the announcement of the competitive grant program focusing on K-12 (versus post-secondary which was the focus of an earlier competition), we noted that it was not clear what role the private sector would play in this new initiative and how private sector firms could benefit, especially in light of Gates’ “support” of USED’s i³ grants competition in which only one of the 49 winning grantees significantly involved a private sector firm.

As the NGLC announcement states, “Almost all of the programs give teachers access to interactive, mix-and-match content and tools that can help them provide individualized learning in the face of large class sizes and diverse student needs. Some leverage data analytics to help teachers understand which students need additional support, while others employ adaptive platforms that respond to an individual student’s needs and level of expertise.” Some of the private sector firms which were awarded proof-of-concept grants are:

- Classroom, Inc. to refine its *Sports Network* career simulation;
- DaVinci Minds, Inc. to assess its *Why Careers* program;
- SMALLab Learning, Inc. to help students learn science;

- Scholar Rocket, Inc. to refine its *Learning Match* video lessons and assessments.

As the June 14th Education Week Digital Education blog notes, “Further waves of the program [NCLC] would appear likely, with the possibility of driving the total funding devoted to the project to \$60-80 million.” High-level Gates officials have, on several occasions, unofficially noted that if the projects are successful then the total amount of funding could be between \$200 and \$250 million over the next few years.

While EDUCAUSE manages the overall NCLC project, other collaborating groups include the International Association for K-12 Online Learning, headed by Susan Patrick and the Council of Chief State School Officers whose primary contact is Linda Pittenger, Director of CCSSO’s Innovation Lab Network.

A complete list of the 19 grantees with brief descriptions is available at the Next Generation Learning website (www.nextgenlearning.org).

- d) USED has provided new Part B IDEA guidance for using Education Jobs (EdJobs) funds to count toward meeting maintenance of effort (MOE) requirements at the state and district levels. Many states had “assumed” that such EdJobs stimulus funding that they received could count as “state funds” for determining state MOE requirements; this guidance confirms that, under most conditions, it would be allowed. Moreover, if states and districts meet the conditions in the guidance, both SEAs

and LEAs would receive approval without having to request it, ensuring that IDEA Part B funds are not reduced for individual SEAs or LEAs because they did not meet fiscal MOE requirements. One condition is that EdJobs funds, including those used to meet the IDEA Part B MOE requirements, must be used in a manner consistent with the requirements of the EdJobs program published on August 13, 2010 (see September 2010 TechMIS Washington Update). In a nutshell, the guidance Frequently Asked Questions (FAQ), as to whether states can use EdJobs funds to meet its IDEA Part B state-level MOE requirement, says “yes, with prior approval.” In the example given, if five percent of state funds distributed to LEAs for elementary and secondary education are made available for special education and related services, this state may treat five percent of the EdJobs funds that it distributes to LEAs as state funds for the purposes of meeting its IDEA Part B state level MOE requirements. If the state meets a number of other conditions -- which most states can -- the Secretary grants prior approval. Some states, such as South Carolina, are having problems (see state profile updates).

The guidance also addresses the circumstances under which an LEA may treat EdJobs funds as local funds or if the state uses state and local funds to meet its IDEA Part B MOE requirement as state funds for that purpose. In general, the FAQ states, “...an LEA may treat as local funds for the purpose of meeting the IDEA, Part B local-level MOE requirement any Ed Jobs funds that are provided to it in that it uses for

the education of children with disabilities. However, if the State has identified to the LEA the amount of Ed Jobs funds that the State is treating as State funds for the purpose of meeting the IDEA, Part B state-level MOE requirement, the LEA may not treat those Ed Jobs funds as local funds for the purpose of meeting the IDEA, Part B local level MOE requirement.

The bottom line is that EdJobs funds can be used as state or local funds in helping SEAs and districts meet Part B MOE requirements to the extent SEAs and LEAs meet criteria and conditions can usually be easily met. Concerns about possible reductions in SEA or LEA allocations of IDEA Part B funds should be reduced. However, it should be noted some LEAs may still have difficulty meeting the local MOE requirements if these districts took advantage of the Section 613 local adjustment option which allows districts to use up to 50 percent of their increases in IDEA funds last year to free up that amount of local funds used to pay for special education programs.

For a copy of the guidance go to: <http://www2.ed.gov/policy/speced/guid/idea/idea-edjobs-guidance.pdf>

- e) According to the most recent NCES “Condition of Education” report, private K-12 school enrollments dropped from 6.3 million in 2001 to 5.5 million in 2009. Private schools currently serve about ten percent of K-12 students, down from 12 percent in 1996. Enrollment in Catholic schools has dropped by 510,000 students since 2002, while “conservative Christian” schools

lost about 146,000 students.

By contrast, the number of students enrolled in charter schools has increased from 571,000 in 2001 to more than 1.4 million in 2008. More than half of charter schools are in urban areas where many parochial schools also exist. According to Sarah Sparks, Education Week reporter, “Experts say a perfect storm of broad demographic changes, economic woes, and increasing competition from public charter schools may underlie the decrease.”

- f) A new report from the U.S. Census Bureau, entitled “Public Education Finances: 2009,” has found that average per-pupil expenditures increased to \$10,499 per student in 2009 -- 2.3 percent greater than in 2008. As expected, the largest state expenditures were in California (\$61 billion), followed by New York and Texas at \$51 billion and \$40 billion, respectively. Of California’s total, \$36 billion and \$22 billion were spent respectively, on “instruction” and “support services.” The highest average per-pupil expenditure in 2009 was in New York at slightly more than \$18,000 per student, while the District of Columbia spent over \$16,000 per student, more than a 12 percent increase over the previous year. Utah spent the lowest amount per pupil at about \$6,000. The total current spending of public elementary secondary school systems nationwide in 2009 was \$518 billion. Instructional expenditures include wages and salaries, employee benefits, and expenditures on instructional materials and technology, etc. the latter of which are lumped

together in “All other functions.”

- g) The U.S. Department of Navy, during its Naval STEM Forum in mid-June, announced plans to double the Navy’s investment in science and technology education to more than \$100 million by 2015, up from \$54 million in FY 2010. According to Education Daily (June 20th), the Department of Defense has devoted an additional \$20 million toward 180 STEM programs nationwide. During the Forum, Secretary of the Navy Ray Mabus stated, “We are going to double it in a targeted and innovative way so that we reach the maximum number of people and have the maximum impact.” According to the Navy’s press release, the strategy is “due to an aging science and technology workforce” because “more than 50 percent of the Navy’s scientists, engineers, and employees in similar fields will reach eligible retirement by 2020.” Slightly over \$100 million has thus far been used to help graduate students and provide research grants for academic institutions. In addition to supporting graduate students, particularly minorities, one of five Navy priorities is to “engage students while building their confidence and skills through hands-on learning that incorporate naval-related content,” according to Education Daily. During the 1950-1970 timeframe, the Office of Naval Research was a major funder of technology-based research and development resulting in learning systems such as PLATO, among others. Within ONR, the office responsible for implementation is the Naval STEM Coordination Office.
- h) A reanalysis of the Kaiser Family Foundation Survey released in early 2010 has found that the average minority youth uses different media 13 hours a day compared to about 8.5 hours for White youth. As reported in Education Daily (June 10th) reporter Emily Brown reports that “some researchers are using such findings to suggest to educators that closing the achievement gap may require a greater use of technology to engage at-risk students.” The reanalysis conducted by Northwestern University researchers in their report entitled *Children, Media and Race: Media Use Among White, Black, Hispanic, and Asian-American Children* also reported that the gaps between White and Black youth and White and Latino youth has doubled and quadrupled respectively. The reanalysis also noted that the students in the survey spent less time using computers for school work than they did for leisure activities and “there are no significant differences among all racial groups and the amount of time young people spend using a computer for school work and in their tendency to multi-task with media during homework.” In addition, as Education Daily reports, one-third of students in the survey used media “most of the time” while they are also doing their homework. Even though the students surveyed by the Kaiser Foundation were between ages eight and 18, it should be noted that the Kaiser Foundation attended the recent press conference where Secretary Duncan and HHS officials announced they would be conducting a grant competition for \$500 million of the Race to the Top \$700 million to initiate the Early Challenge grant initiative.

Alabama Update

June 2011

As noted in the *State EdWatch* blog on EducationWeek.org, Joe Morton, Alabama's State superintendent for the past seven years has announced his retirement. During his tenure, Morton lobbied for more tax revenues for K-12 schools and supported increasing the length of the school year. He also led efforts to increase high school graduation rates and to improve the reading, math, and science skills of Alabama students. He also co-chaired the CCSSO Task Force which has recommended the recent "waiver" proposal for more than 40 states (see TechMIS Special Report).

The [Montgomery Advertiser](#) reports that a new Alabama bill passed by the State legislature requires public schools to determine the citizenship status of enrolling students. The act is awaiting the signature of Governor Robert Bentley. The U.S. Justice Department has said that "student enrollment practices that may chill or discourage" the enrollment of undocumented aliens violate Federal law.

Arizona Update

June 2011

As reported in The Arizona Republic, Arizona State law says that high school students must pass Arizona's Instrument to Measure Standards (AIMS) exams in order to graduate. Until this year, students could use good grades in class to increase their AIMS scores enough to meet State requirements. This year, however, a section of the law became effective limiting the percentage of class grades students can use to compensate for failing AIMS tests. This means that many Arizona seniors will not graduate on time; they can take an AIMS retest this Fall. As an example, the Phoenix Union High School District will leave 223 of its approximately 4,700 seniors without a diploma.

According to The Arizona Republic, Arizona is operating a ten-year-old, overtaxed student tracking system that, in the words of State official is "close to collapse." The system is intended to track K-12 students in the State's 224 school districts and 510 charter schools including their test scores and academic progress. It is reportedly slow, difficult to use, and prone to errors and delays. The State is developing a new, more sophisticated student data structure called the Student Longitudinal Data System. The new system will track individual students throughout their school careers, linking them to their classes, teachers, and scores on State exams. Unfortunately, the new system is not expected to be operational Statewide for another three years.

Arizona State education officials have determined that the Mexican-American Studies program in the Tucson school district violates a State law banning courses that advocate ethnic solidarity. The State argues that the course materials clearly indicate "the program is primarily designed for pupils of a particular ethnic race" and that they "repeatedly emphasize the importance of building Latino nationalism and unity versus identifying students as individuals." The district has been given 60 days to comply with the State's requirement or lose ten percent of its State funding. In response, the district has appealed the ruling on the grounds that a separate State audit

contradicts the State's claim.

California Update

June 2011

The California State legislature is considering SB 204 which would simplify the State's complicated education governance structure. As noted on CaliforniaWatch.org, the bill would create a position of director of education who would oversee education policy and report to the State Superintendent. The members of the State Board would become advisors to the Governor.

As reported in [Education Week](http://EducationWeek), California has been developing and implementing its Statewide education longitudinal-data system for the past nine years. However, in response to the State's economic concerns, the latest budget proposal from Governor Jerry Brown suspends funding for both the California Longitudinal Pupil Achievement Data System (CALPADS) and the California Teacher Information Data Education System (CALTIDES), saving the State \$3.5 million in FY 2012. Many California education groups (including the State PTA and school boards association) have urged the Governor to continue funding both programs. The State legislature has voted to continue funding for CALPADS and CALTIDES but the Governor, through line-item veto, can suspend the funding anyway.

The *Curriculum Matters* blog on EducationWeek.org reports that California has withdrawn from PARCC (Partnership for Assessment of Readiness for College and Careers) consortium that is developing assessments for the Common Core State Standards. Instead, the State has signed on as a "governing member" of SBAC (the SMARTER Balanced Assessment Consortium).

EducationWeek.org's *Learning the Language* blog on reports that California has formed a consortium to create English language proficiency tests for the states' Common Core academic standards. The 18-state consortium has applied for the full \$10.7 million under the Federal grant competition; Wisconsin is leading the other applying consortium. The California consortium proposes to develop computer-based assessments and a diagnostic assessment that can be used to identify and place English language learners. It will work with the Council of Chief State School

Officers to develop the tests. The California consortium includes: Arkansas, Arizona, Connecticut, Florida, Idaho, Indiana, Iowa, Kansas, Louisiana, Michigan, Nebraska, Ohio, Oregon, South Carolina, Tennessee, Washington, and West Virginia.

A study, largely funded by the Bill & Melinda Gates Foundation, suggests that Los Angeles principals should be able to hire any teacher and that displaced tenured teachers should be permanently dismissed. The report surveyed 247 principals and 1,317 teachers in the Los Angeles school district. Currently, principals are under pressure to hire teachers who have lost their positions because of poor teaching, administrative conflicts, declining enrollment, or budget cuts. The report says that principals should be able to hire any qualified applicants and that displaced teachers should lose the right to district employment after one year.

A recent report by the National Council on Teacher Quality says that the Los Angeles school district spends \$519 million per year to compensate teachers for taking graduate courses that, according to the study, shows no overall benefit in improving student performance. Among the study's other findings include:

- “perverse incentives” that may cause principals from being critical of poor-performing teachers;
- administrators who don't make an effort to justify every teacher rating and decide it is too much trouble to give a negative rating; and
- principals that do not take advantage of their flexibility in hiring and evaluating teachers.

Colorado Update

June 2011

As reported in The Denver Post, the Bill & Melinda Gates Foundation has agreed to award \$9.7 million into the Colorado Legacy Foundation to address implementation of new teacher evaluation systems. The project will involve four local school districts and will work toward accelerating the new evaluation system and implementing new instructional tools. The four demonstration districts will be selected later in the summer.

Also according to The Denver Post, Colorado State University is participating in the U.S. Department of Veterans Affairs Yellow Ribbon program which helps recent veterans and their families (including children) with college tuition costs. CSU has gone a large step further by paying full undergraduate tuition and fees, as well as a \$4,300 housing allowance and \$1,000 toward books. The University has not noted how many of its Yellow Ribbon students will require remediation.

The Denver Post reports the school turnaround efforts of the Denver school district are at or ahead of schedule. The turnaround for schools in the City's far Northeast is being coordinated by the Blueprint Schools Network who will also hire math tutors for the schools. The Northeast schools in the turnaround plan have been given waivers such that they can add one hour to the normal school day and eight days to the normal school year. Americorps has offered to mentor students at the two phased-out schools. District officials say informing parents about the turnaround plans is the biggest challenge.

Connecticut Update

June 2011

The Connecticut legislature is attempting to pass a number of early education measures that, it is hoped, will give the State greater chances to win \$500 million in the third round of the Federal Race to the Top competition. As reported in The Connecticut Mirror, among the possible reforms are:

- creating a system to measure education development of students in the State-subsidized early childhood program by July 2013;
- a strategic plan to merge the numerous different agencies that manage early education programs into one State agency; and
- required testing of children in kindergarten on their reading and education development.

In early June, the Connecticut State Board of Education approved an expansion of the number of students that can be enrolled in the State's 18 charter schools by 622. This was 49 fewer slots than had been requested by the schools. Last year, requests for 50 additional seats were rejected because the State did not provide the money (about \$9,300 per student) to support the expansion. With the increase, next year, the State will have a total of 6,071 charter seats for about 569,000 public school students -- 1.1 percent. This is far below the national average of 2.9 percent enrolled in charters in the 2008-09 school year (the most recent data). State officials estimate that Connecticut's charter school enrollment would double if every student on the wait list were given a seat.

Delaware Update

June 2011

In June, Delaware approved Race to the Top plans for all 19 school districts in the State. One of two first round RTTT winners, Delaware will allocate \$18.4 million to these districts. Each district's plan is posted on the State's website. The RTTT grants range from \$3.4 million for the Christina school district to \$65,000 for Appoquinimink. Among the reforms planned under the districts' RTTT grants are parent resource centers, new math and science programs, incentive efforts to recruit and retain teachers in high-need schools, and professional development in special education. The State highlighted some individual innovations including a "freshman academy" (Caesar Rodney district), a workplace parental outreach program (Milford), and a summer science, technology, engineering and mathematics program for middle school students (Red Clay).

Florida Update

June 2011

As noted in Education Week, Florida's new education commissioner will be Gerard Robinson who, since January 2010, has served as State education secretary in Virginia. Before assuming the latter post, Robinson had focused on such school choice issues as vouchers and charter schools, areas of priority for Florida's new governor, Rick Scott.

The Florida legislature has approved SB 2120 which could have a major impact on K-12 education funding. Among the key features of the measure are:

- It authorizes a regional consortium that can raise revenues to support research and development activities that will increase services to its member school districts.
- It redefines the term "core curricula courses" for purposes of maximum class size requirements.
- It authorizes school districts to establish pilot digital instructional materials schools (see below).
- It requires all adopted instructional materials be in digital format by 2015-16.
- It requires school districts to report on the amounts paid to providers of virtual instruction.
- It gives the State the flexibility to provide materials and services developed by the Florida Knowledge Network online or by other electronic media rather than primarily through television broadcast.

The Miami Herald reports that Governor Scott has signed into law a number of bills that will offer more school choice options for Florida parents and students. Among the features of the five measures are:

- "High-performing" charter schools can increase their enrollments by adding grades or opening branches without local district approval.
- The Florida Virtual School can expand its offerings and other online providers can offer

programs in Florida.

- All Florida high school students must take an online course in order to graduate.
- Charter schools can provide online instruction.
- The McKay Scholarship program for students with disabilities will be expanded to include more students.
- The Opportunity Scholarship program will expand its definition of “failing school” thus allowing more students a chance to transfer to a better school.
- The Florida Tax-Credit Scholarship program can seek more contributions from corporations in order to provide more private school tuition vouchers to low-income students.

The Florida Comprehensive Assessment Test (FCAT) is a series of standardized exams -- taken by 1.8 million students Statewide -- in reading, writing, math, and science. FCAT scores are used to determine student promotions to grade schools on an A-F scale, and to evaluate teacher performance. As reported in the [Orlando Sentinel](#), Florida students scored higher on the FCAT science exams (given in grades 5, 8, and 11) this year. Despite the improvement only 51 percent of fifth-graders scored at grade level, as did only 46 percent of eighth-graders, and 40 percent of eleventh-graders.

As reported in the *State EdWatch* blog on [EducationWeek.org](#), Florida’s Republican Governor Scott has supported large cuts in K-12 education spending and this Spring signed into law a bill that phases out teacher tenure, links teacher pay to performance, and requires teachers to contribute more to their retirement benefits. A poll by Quinnipiac University has found that only 29 percent of Florida voters approve of the Governor’s performance, with 57 disapproving. And 54 percent say the State’s new budget is unfair.

As reported by the [St. Petersburg Times](#), Florida education officials have set forth a plan by which all textbooks would be in digital format by 2015. The proposal calls for districts to use at least half of their annual textbook allocations for “digital, electronic or Web-based material” by

2013. By 2014, all instructional materials for grades 5-12 must be in electronic format. And, by 2015, instructional materials for all grades K-12 must be completely electronic. The State expects to allocate \$700,000 a year to help school districts implement the change and to evaluate the new materials. There has, however, been no indication of how the districts would pay for the digital devices and ensure that all students have access to online materials. Some Florida districts have already begun a digital conversion; Pinellas County spent \$1 million to provide schools with iPads.

The Daytona Beach News-Journal observes that the Florida Virtual School is the largest online school in the nation. It served nearly 100,000 Florida students during the 2009-10 school year (the most recent available data), a 38 percent increase over the previous year. It is likely that another enrollment increase took place in 2010-11.

According to THE Journal, the Bay County (Panama City) school district is taking a more aggressive approach to teacher technology training than most Florida districts. The district plans to hire 15 technology trainers who will work one-on-one with teachers during the 2011-12 school year. The initiative is being funded by a half-cent sales tax approved by voters that will provide \$30 million to enhance technology in the district's 39 schools. About \$500,000 will go to pay the salaries of the technology trainers for the upcoming school year.

Georgia Update

June 2011

The Atlanta Journal-Constitution reports that the Georgia Supreme Court has declined to reconsider its recent decision that made the State's charter school law unconstitutional. As we noted last month, the Court voided the 2007 law that created Charter Schools Commission because it unlawfully granted the State authority to approve and fund charter schools. In early June, the State school board approved an extension for Odyssey School/Georgia Cyber Academy, two charters whose operations were overturned by the Court's decision. Fourteen other schools await decisions.

A new study by the Southern Education Foundation has called Georgia's law that gives tax breaks to those who donate to organizations that give scholarships to poor children a "failed experiment." As reported in Education Week, Georgia residents can get tax credits of up to \$2,500 for their donations. The study notes that, despite a cap of \$50 million on the tax refunds, \$72.1 million has been handed out of the three years of the program. The Foundation says that the program has not provided "accountability for how tax-divested funds are spent." Effective July 1, a new Georgia law requires all student scholarship organizations to report the number and amounts of tax credits issued as well as the number and value of scholarships awarded.

According to Education Week, the new superintendent in Cobb County is Michael Hinojosa who, for the past six years has been superintendent in Dallas. Cobb County, with 100,000 students, is the second largest district in Georgia.

Idaho Update

June 2011

As reported in Education Week, three education referenda will go on the November 2012 ballot. Pushed by Governor “Butch” Otter and school superintendent Tom Luna, the proposed laws would restrict bargaining rights for teachers, phase out tenure, introduce a teacher merit pay system, make student achievement part of teacher evaluations, and shift some funding from salaries to classroom technology. The technology component would provide ninth-graders with laptop computers and increase the use of online classes. A number of critics, including teachers, have instituted repeal efforts. The Governor has urged the business community to back the reforms.

According to the *Politics K-12* blog on Education Week.org, Idaho has told the U.S. Department of Education that it will not adhere to parts of the No Child Left Behind Act and will instead use its own accountability system. The State will keep its proficiency targets at current levels rather than continue to increase them to NCLB’s 100 percent proficiency goal by 2014. Idaho plans to implement a new accountability system based on student growth. Saying the State does not have the resources to meet the requirements of an unrealistic accountability system, State officials have declared, “If Congress and the Administration will not act, states like Idaho will.”

Illinois Update

June 2011

In 2007, the Chicago school district began an initiative to bring more consistency to the district's reading instruction by getting schools to adopt one of a number of selected reading curricula. As reported in Education Week, by the 2009-10 school year, more than 300 Chicago schools were participating in the Supported Core Reading Materials Adoption program. Critics of the program have noted that, in districts like Chicago with high student mobility, allowing schools to choose their own reading curricula could cause problems, particularly with young children struggling to read at grade level by the third grade.

Indiana Update

June 2011

As reported in Education Week, 18 Indiana schools are in danger of State takeover pending results of Statewide testing to be released this summer. If the schools fail to improve, they will have been on academic probation for six consecutive years, giving the State authority to undertake one of a number of options to: assign them to private companies charged with improvement; merge them with another school; or implement other substantive changes. All 18 schools are in urban areas with seven of them in the Indianapolis school district and three in South Bend.

In 2009, Indiana changed its definition of a textbook to include digital content and devices needed to deliver the digital content. As reported in THE Journal, Indiana school districts (called corporations) use parental rental as a means of acquiring textbooks (and now computers and digital content). Many districts are aggregating money from a variety of sources, including rental fees, to implement one-to-one programs that provide all students with access to high-quality digital content.

Iowa Update

June 2011

According to the Des Moines Register, Iowa Governor Terry Branstad has said that phasing in universal State-paid preschool for four-year-olds is likely to remain in the budget next year despite his declaration that the State cannot afford it. The Governor had proposed a system of fees based on family income. Under the governor's original plan, State spending for preschool would have dropped to \$43.6 million -- a 39 percent reduction -- next year, including vouchers for public or private schools.

Kentucky Update

June 2011

As reported in The Louisville Courier-Journal, Kentucky has asked the U.S. Department of Education for a waiver that would allow the State to use a still-under-development Statewide accountability system to measure whether students are making adequate progress under the Federal No Child Left Behind Act. In 2010, only about half of Kentucky's 1,158 schools met all NCLB academic goals -- down from 60 percent the year before. Under the current system, Kentucky schools are rated against two standards, Federal NCLB benchmarks and State accountability measures. If approved, the waiver request would provide a single measure of performance based on test scores, student progress, and closing of achievement gaps. More than 20 other states are planning to submit similar waiver requests shortly (see TechMIS Special Report).

Louisiana Update

June 2011

A recent study by the Southern Regional Education Board ranked Louisiana next to last in the country for high school seniors earning college credit. The SREB report found that only about four percent of Louisiana students passed at least one Advanced Placement exam compared with 16 percent nationally. In response, the State has mandated that all Louisiana school districts must offer students at least one college credit course. Currently, only 33 of the State's 70 districts offer AP classes. Districts will have to use one of two options: (1) offering AP classes through the Louisiana Virtual School at a cost of \$150 per class; or (2) training more teachers to teach AP classes. The State has applied for a \$1.4 million Federal grant to help districts for this purpose.

Maine Update

June 2011

The Bangor Daily News reports that a bill allowing charter schools in Maine has finally been approved. The measure -- LD 1553 -- authorizes the establishment of up to ten charter schools over the next decade although enrollment limitations have been imposed to prevent enrollment losses at traditional schools. A State Charter School Commission will have responsibility for authorizing the new charters. It is believed that the Republican takeover of the Governorship and legislature helped ease the passage of the charter school legislation.

Maryland Update

June 2011

The Washington Post reports that, as part of its \$250 million Federal Race to the Top activities, Maryland will begin testing a new teacher/principal evaluation model this Fall. The new system will link 50 percent of evaluations to such student growth measures as test scores and teachers will only be rated as “effective” if their students show academic progress. The State expects to refine the model based on the seven-district pilot test next year and implement the system Statewide in the 2012-13 school year. Districts will be given until the following (2013-14) school year before important personnel decisions (job status, tenure) will be based on the new evaluation model.

The Baltimore Sun reports that Maryland is the first state in the nation to make environmental literacy a high school graduation requirement. Public schools will be required to integrate environmental issues into core subjects like science and social studies and must report to the State every five years on how they are meeting the State’s mandates. According to State officials, the new environmental instructional will not require additional staff or funding.

Massachusetts Update

June 2011

According to the Patriot Ledger, a coalition of teachers and education advocates have asked the Massachusetts legislature to fund a \$600,000 study of the State's funding formula for its 328 school districts. The State's current funding formula was established in 1993 based on a study of district spending. Annual school funding levels are determined by a baseline, known as the foundation budget, which represents the minimum each district needs to meet student learning targets. It has been estimated that the average Massachusetts school district spends more than 140 percent of its baseline, reflecting cost increases in such areas as health insurance prices, greater numbers of special education students, and markedly different technology demands.

Michigan Update

June 2011

As reported in Education Daily, Michigan Governor Rick Snyder has proposed a series of reform strategies that include:

- linking teacher pay to student performance;
- restructuring teacher tenure to move away from seniority and toward effective teaching;
- inter-district school choice; and
- increased student opportunities for online learning, blended learning, and dual learning.

The Governor's reform plans have been strongly endorsed by former Florida governor Jeb Bush who is chairman of the conservative Foundation for Excellence in Education and a possible Republican candidate for president in 2012.

As reported in Education Week, Michigan has established a new "Education Achievement System" that will assume control of the lowest-performing schools in Detroit and elsewhere in the State. A partnership between the Detroit school district and Eastern Michigan University, the System will have the authority to change principals and teachers and to lengthen the school day and school year. To begin operation in the 2012-13 school year, the System will start with 39 schools in Detroit and then expand to the lowest-performing five percent of schools in the State by 2013-14.

The *Curriculum Matters* blog on EducationWeek.org highlights a new study on the Kalamazoo Promise, a program that offers free tuition to State colleges for Kalamazoo high school graduates. Conducted by researchers at Western Michigan University, the study found that the free-tuition incentive has encouraged students to work harder in high school. The study also found improved student perceptions about how their teachers relate to them and improved student behaviors -- fewer cut classes, seeking more academic help when needed, and encouraging friends to stay on the college track.

Minnesota Update

June 2011

According to Minnesota State data, more than 4,800 -- eight percent of the Class of 2011 -- of the State's high school seniors are at risk of not graduating this summer because they have not passed required reading and writing tests. Moreover, 25 percent have not passed the math test, although it is not required for graduation. Last year, 4,794 seniors failed to graduate because of the tests. Seniors are allowed to take retests through the Summer and into the Fall but, because of district budget constraints and State government "shutdown," it is unclear whether summer retests will be given.

New Jersey Update

June 2011

As we noted last month, the New Jersey Supreme Court ruled that the State must provide an additional \$500 million in the 2011-12 school year to 31 poor urban school districts (known as Abbott districts). The Court declined to order another \$500,000 for 174 other districts that had been underfunded by the State's funding formula.

According to The Philadelphia Inquirer, New Jersey Governor Chris Christie has proposed creation of "transformation schools" in struggling districts run by private firms. Like charter schools, "transformation schools" would receive 90 percent of the per-pupil funding that goes to traditional public schools. Under the Governor's plan, five "transformation schools" will open over the next five years. It is noteworthy that both Governor Christie and Acting Education Commissioner, Christopher Cerf, have long connections to the private sector, both having worked for Edison Schools.

New York Update

June 2011

Despite large budget cuts, the New York City school district is planning to spend \$900 million on educational technology next fiscal year. The City has used a number of budgetary mechanisms to make the funds available including:

- allowing textbook funding (\$264 million last year) to be used to purchase computer hardware and software;
- redefining computers as part of school buildings, allowing the use of \$350 million in capital funds, over the next three years, for technology; and
- including \$52 million in the operating budget for technology contractors, up by 86 percent from last year.

As reported in the *Learning the Language* blog on EducationWeek.org, New York State will revamp its current English language proficiency test to align with the State's common core academic standards for the 2012-13 school year. Unlike other states with large numbers of English language learners, New York did not join one of the two consortia that applied for Federal funds to develop new English language proficiency tests for the national Common Core Standards.

According to [The New York Times](http://TheNewYorkTimes), budgets for individual New York City schools will decline by an average of 2.4 percent under the City's new \$66 billion budget. This represents a total cut in school budgets of \$178 million from last year. City school officials have said that there would be no teacher layoffs but that high school parent coordinators could be let go, after-school programs could be eliminated, and the positions of retiring teachers will not be filled. An estimated 2,600 teachers who will retire or resign this summer meaning larger class sizes.

According to [The New York Times](http://TheNewYorkTimes), only 37 percent of the New York State students entering high school in 2006 left four years later adequately prepared for college. Data released by the

State show even lower readiness rates for minorities; only 13 percent of black students and 15 percent of Hispanic students were rated as college-ready, compared with 51 percent of white students. In the State's larger cities, the rates were also very low -- e.g., New York City (21 percent), Rochester (6 percent).

The New York Times also reports that the New York City school district will incorporate into its grading system for high schools, the remediation rate for students going onto the City University of New York. City data show that, of the 70 schools that earned an "A" on the City's A-F scoring system, 46 had remediation rates above 50 percent. Remediation rates -- the percentage of students who fail a CUNY entrance exam and require remedial classes -- has risen from 45 percent in 2007 to 49 percent last year. Over the same time period, the City's average high school graduation rate has gone from 52.8 percent to 61 percent.

Nevada Update

June 2011

Nevada Governor Brian Sandoval has signed into law four education bills that could lead to major reforms of the State's public education system. As reported in the Las Vegas Review-Journal, the measures are:

- AB225 which returns tenured teachers to probationary status after two unsatisfactory evaluations;
- AB 229 which requires school districts to establish pay-for-performance standards and says that seniority cannot be the only factor in determining teacher and administrator layoffs;
- SB 197 which gives the Governor -- not the State Board -- the authority to appoint the State superintendent; and
- SB 212 which creates the State Public Charter School Authority to oversee the formation of charter schools.

North Carolina Update

June 2011

According to The News & Observer, North Carolina's newly adopted budget for 2011-12 allocates \$7.4 billion for public schools -- a 5.8 percent reduction over the previous year. This represents a continuation of cuts that began two years ago with a \$225 million reduction in discretionary funding to school districts, followed by a \$305 million cut last year. The reduction is expected to grow to \$500 million in 2012-13 at the same time Federal EdJobs money runs out.

Also as reported in the News & Observer, the North Carolina legislature has approved a measure that would eliminate the State's current 100-school limit on charter schools. It is expected to become law after signature by Governor Bev Perdue. To open a new school, charter school operators will still need approval from the State Board.

The Charlotte Observer reports that, as part of the North Carolina legislature's budget bill, five additional days were added to the State's school year. Urged by the legislature's new Republican majority, the school year will be extended to 185 days by revoking the requirement for five mandatory teacher workdays. However, districts can get a waiver from the 185-day requirement if they demonstrate they have a better plan to "enhance student performance." Some school districts, having already established their schedules for next year, are in the process of revising them.

As noted in the *District Dossier* blog on EducationWeek.org, the superintendent of the Charlotte-Mecklenburg school district, Peter Gorman, has resigned to take a position with News Corp. Gorman received national recognition for such reform efforts as placing strong principals in low-performing schools. The district is a finalist for the \$1 million Broad Prize for Urban Education. He will be senior vice president of News Corps' education division and will work with local school districts to implement the division's programs.

North Dakota Update

June 2011

The *Curriculum Matters* blog on EducationWeek.org notes that North Dakota has become the 46th state to adopt the Common Core State Standards. In North Dakota, approval by the State Board or legislature is not required so agreement by the State Superintendent is enough. The State's existing standards will be in place through June 2013 with new standards taking effect in the Fall of 2013. Over the next two years, a consortium of school districts will develop a curriculum template and other instruction materials to help teachers implement the new standards.

Ohio Update

June 2011

According to The Columbus Dispatch, the Ohio Senate has put forth a proposal that would give monetary rewards to the highest-performing school districts. The plan would base district ratings on student performance on State exams beginning in the 2011-12 school year. Districts rated as A (excellent) or A+ (excellent with distinction) would receive a \$17-per-student performance bonus. It is estimated that the plan would cost \$28 million over two years.

Ohio's Republican Governor John Kasich, who strongly supported Senate Bill 5 that reduced the collective bargaining rights of teacher and other public employees, now faces a sharply lower approval rating. According to Public Policy Polling, only 33 percent of Ohio voters approve of the Governor's performance, with 56 percent disapproving. Moreover, 55 percent of the voters polled favored eliminating SB 5.

Oklahoma Update

June 2011

Oklahoma education officials have proposed an information technology restructuring plan that is projected to save the State \$4 million over the next six years, including \$650,000 next fiscal year. The plan calls for updating the State Education Department's computers, improved WiFi, a more efficient telephone system, and moving some staff technology positions into the Office of State Finance.

Oregon Update

June 2011

An Oregon State legislative subcommittee has approved a biennial education budget that includes the suspension of fourth and seventh grade writing exams for the next two years. The proposed budget is seven percent lower than the 2011-13 budget recommended by Governor John Kitzhaber and 15 percent below the budget for 2009-11. Legislators considered elimination of the entire writing assessment because it is not required by Federal standards. Among the other cuts proposed in the legislative budget are reductions in staffing for Statewide content standards, monitoring of special education compliance, and technical assistance for school and district staff, as well as a 6.5 percent reduction in money for services and supplies. The lawmakers also allocated an additional \$25 million for K-12 education. The State's total budget for education in the 2011-13 biennium is \$5.7 billion.

As reported in The Oregonian, the Oregon legislature has passed an extensive package of education bills that will have a significant impact on the State's educational system. The measures include bills that:

- allow students to cross district lines to attend a school of their choice;
- establish an education investment board;
- encourage school districts to offer all-day kindergarten;
- allow increases in enrollment at online charter schools;
- replace the elected superintendent position with a superintendent appointed by the Governor; and
- declare, as State policy, that 80 percent of Oregonians will have at least a post secondary certification by 2025.

As noted in The Oregonian, the Oregon legislature passed a measure that loosens enrollment restrictions for virtual charter schools. Under House Bill 2301, Oregon school districts would be required to allow up to three percent of their students to enroll in online charter schools.

Currently, 3,700 Oregon students attend online charters; with restrictions lifted, the number could go up to nearly 20,000 students. This would mean that per-pupil State funds -- about \$6,000 per student -- would flow from local districts to charters. The State's largest online public school is Oregon Connections Academy serving nearly 2,500 students.

Pennsylvania Update

June 2011

A new study by the Center for Research on Education Outcomes at Stanford University has found that “students in Pennsylvania charter schools on average make smaller learning gains” than do students in traditional schools. Researchers noted that students in 25 percent of the State’s charter schools made significantly larger gains in reading and math, but that students in nearly half of the charters made significantly lower gains. The study did find that English language learners realized the greatest benefits from charter schools, showing better results than students in traditional schools in both subjects. The Center’s report also indicated that online students in Pennsylvania performed substantially lower than traditional students in both reading and math. The study is out at the same time the State legislature is considering Senate Bill 904 that would establish a State commission to authorize charter schools and would allow institutions of high education to regulate charters as well.

In an effort to close a \$629 million budget shortfall, the Philadelphia school district has laid off more than 3,000 employees, including 1,523 teachers. As reported in Stateline.org, the deficit is result of the end of Federal stimulus funding and expected State funding cuts.

The Pittsburgh Post-Gazette reports that the Pittsburgh school district has decided to eliminate the planned \$26 million Pittsburgh Teacher Academy that was to train new teachers for the district. The Academy was to be funded as part of a \$40 million Gates Foundation grant. The district dropped the program out of concerns that budget cuts would lead to teacher furloughs making it difficult for the district to hire the new trainees. Instead, the district will undertake an initiative that will use 42 “clinical resident instructors” -- who were to staff the Academy -- to improve the skills of current principals and teachers.

South Carolina Update

June 2011

According to the New America Foundation, a South Carolina legislative committee has reached a final agreement on the FY 2012 budget that Governor Nikki Haley has said she will not veto. The budget assumes that tax revenues will be higher than expected by \$210 million and provides \$56 million of that increase to the public schools. This raises per-student spending by more than \$200 to \$1,880.

South Carolina State officials have declared that the State will not apply for the third round of the Federal Race to the Top competition. Associations representing school administrators and school boards have said they want to apply for the money directly. Under Federal law, however, the funds are only allowed to go to the states.

According to the *On Special Education* blog on EducationWeek.org, over the last two years, South Carolina has cut State spending for students with disabilities by \$111 million without Federal approval. Citing IDEA's "maintenance of effort" provision, the U.S. Department of Education has warned the State that it will penalize the State by the same amount of Federal funds if the State does not replace the money. South Carolina is the only state to request reductions in spending for special education for three years in a row.

Tennessee Update

June 2011

As reported in The Tennessean, a new law allows any Tennessee school district to establish its own virtual school. Previously, online classes were limited to credit recovery, supplemental summer or after-school courses, or specialty courses if schools had no instructor. Last school year, about 1,700 Tennessee students took online classes through e4TN, a private company that was paid with Federal stimulus money. Under the new law, students participating in a virtual school must have a 2.5 grade point average, a counselor's recommendation, and a signed contract of ethics.

The Memphis Commercial Appeal reports that the Memphis City school district has adopted a new teacher evaluation rubric that was developed by a panel of Memphis teachers. Up to now, district teachers have been evaluated entirely by principal observation. The new evaluation system includes principal observation (40 percent), a mix of student test scores (35 percent), other achievement measures (15 percent), content knowledge (5 percent), and student perceptions (5 percent). Any Tennessee school district can use the Memphis model or one of two other State-approved models that do not assess content knowledge or stakeholder perception.

Texas Update

June 2011

According to EducationWeek.org's *State EdWatch* blog, Texas has withdrawn from the Council of Chief State School Officers. State officials cite philosophical differences and membership costs (\$60,000 per year) as reasons for the action. Texas will be the only state in the nation that is not a member of CCSSO. Texas Governor Rick Perry has been a strong critic of the common standards movement that is spearheaded by CCSSO.

Utah Update

June 2011

According to The Salt Lake Tribune, a new Utah State law allows students to take up to two online classes instead of regular classes with much of the State funding following the student to the online provider -- perhaps another district or a charter school. Many educators are concerned that implementation of the law could present problems for schools. On June 27, the State school board held a special meeting to address procedural aspects of the program. Even before passage of the law, online courses were available through the Utah Electronic High School. Some in the legislature, however, are calling for the end of funding for the Electronic High School, saying it should compete with other online providers.

Virginia Update

June 2011

In early June, the Virginia Department of Education approved 13 virtual school providers who will be allowed to offer full-time virtual schools, supplemental instruction, and “blended” instruction across school district lines. These providers are: Apex Learning, Brigham Young University Independent Study, Chesterfield County Public Schools, CompuHigh, Connections Academy, Edison Learning, EdOptions Online Academy, Education2020, Florida Virtual School, Giant Campus of Virginia, K-12 Virtual Schools, Virtual High School Global Consortium, and York County Public Schools. All of these providers were reviewed by the State to ensure that their teachers are State-licensed and that their instruction aligns with Virginia’s Standards of Learning.

The Washington Post reports that only six percent of eligible schools have chosen to participate in Virginia’s proposed teacher merit-pay program. The program allocates \$3 million for teacher bonuses in hard-to-staff schools. Most school districts have declined to participate over concerns about evaluation criteria and project sustainability. A total of ten schools in seven districts -- Dinwiddie, Goochland, Accomack, Caroline, Patrick, and Granville Counties and Roanoke City -- have applied for the funds. None are from populous Northern Virginia. However, one Northern Virginia district, Prince William County, is implementing an \$11.1 million merit-pay program next year in its 30 poorest schools, but awards will be based overall school performance, not that of individual teachers.

Washington Update

June 2011

The News Tribune reports that Washington Governor Christine Gregoire has reluctantly approved a new State spending plan that makes major cuts to public education. Spending reductions will total \$4.5 billion over the next two years with education seeing the largest impact. Under the spending plan, salaries for teachers and other classroom staff will be reduced by 1.9 percent and administrators pay will be cut by three percent. It also suspends programs intended to maintain smaller class sizes. Expecting a decline in revenues, the Governor and the legislature have set aside a \$738 million reserve to cover the gap anticipated between now and the next legislative session.

West Virginia Update

June 2011

The *District Dossier* blog on EducationWeek.org notes that the West Virginia Department of Education has declared a state of emergency and has taken over the Gilmore County school district. A State inspection visit to the district found that the local school board was micro-managing school operations and was incapable of following State policies. Currently, the State has control of six other districts: Lincoln, Preston, Grant, Fayette, McDowell, and Mingo.

Wisconsin Update

June 2011

The *Learning the Language* blog on EducationWeek.org reports that Wisconsin has formed a consortium to create English language proficiency tests for the states' Common Core academic standards. The 27-state consortium has applied for the full \$10.7 million under the Federal grant competition; California is leading the other applying consortium. The Wisconsin consortium proposes to develop computer-based assessments and a diagnostic assessment that can be used to identify and place English language learners. It will collaborate with the World-class Instructional Design and Assessment Consortium (WIDA) which has developed the most widely used English language proficiency test. The Wisconsin consortium includes: Alabama, Delaware, D.C., Idaho, Illinois, Maine, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, and Wyoming.

The *State EdWatch* blog on EducationWeek.org reports that Wisconsin's Republican Governor Scott Walker, who strongly supported a law that greatly reduced the collective bargaining powers of teachers and other public employees, has seen his approval ratings drop sharply. According to Public Policy Polling, only 43 percent of Wisconsin voters approve of the Governor's performance; 54 percent disapprove.

The *State EdWatch* blog also notes that the Wisconsin legislature has approved a major expansion of the State's voucher system as part of a State budget that makes significant cuts to K-12 education funding. The bill, supported by Governor Walker and Republicans in the legislature, would expand the State's voucher system beyond Milwaukee by allowing other districts, if they meet certain criteria, to participate. Currently Racine is the only district, other than Milwaukee, that meets the criteria. The measure would also expand eligibility for vouchers to families with higher household incomes.

According to The Wisconsin State Journal, the American Civil Liberties Union has filed a lawsuit claiming the Milwaukee school voucher program has discriminated against students with disabilities. The ACLU complaint says that only 1.6 percent of voucher students have disabilities, compared with 19.5 percent of all Milwaukee students, and that the State has failed to hold private voucher schools accountable for serving students with disabilities.