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## MEMORANDUM

**DATE:** May 31, 2012  
**TO:** TechMIS Subscribers  
**FROM:** Charles Blaschke, Blair Curry, and Suzanne Thouvenelle  
**SUBJ:** Consultative Selling Tactics for End-of-Year Sales; CEP and GAO Waiver Updates; Likely Changes in SIG Program; Florida SES Update; Title III Expenditure Breakdown; and State Profile Updates

On May 2<sup>nd</sup>, TechMIS subscribers received a Special Report on Very Preliminary District Title I Allocations, including a list of more than 1,100 districts receiving at least a \$400,000 increase in preliminary district allocations (before SEA adjustments) and another list of districts receiving a 30% to 800% increase in allocations beginning in July. In response to several questions from subscribers, we have confirmed that the vast majority of the preliminary district allocations are based on significant increases in Census numbers of low-income families in the districts. Only with a few exceptions will SEA adjustments (in July) change final district allocations significantly. We also confirmed, at this time, that many SEAs have not formally notified districts of their preliminary district Title I allocations.

As this TechMIS issue was being finalized, Secretary Duncan announced waiver approvals for Connecticut, Delaware, Louisiana, Maryland, New York, North Carolina, Ohio, and Rhode Island. As noted in a related Washington Update item, most of these approved waivers are from states that are currently participating in Race to the Top; only a few negotiated changes from their initial waiver applications, summarized in the March 29<sup>th</sup> TechMIS Special Report, have likely been made.

In the enclosed Special Report on “creative consultative selling” tactics, we briefly describe several possible ways of increasing sales, particularly using end-of-year unspent funds and opportunities created by state waivers. Most superintendents are unaware of changes in Title I to allow training of all teachers in “identified” districts and to allow use of similar products in both Title I and non-Title I schools without violating SES; “Incidental use provisions in IDEA, if a district is under maintenance of effort pressures; and state waiver flexibilities and use of freed-up SES and related funds could also create opportunities. This report should be shared with sales

managers, particularly if the TechMIS subscriber is relatively new. Most district officials including new Title I coordinators are unaware of all of these new “flexibilities.”

Washington Update items include:

- **Page 1**  
A new Center on Education Policy report summarized state waiver requests to use alternative measures to identify schools for interventions under waiver process corroborating the earlier TechMIS Special Report analysis of freed-up SES or set-aside funding. We agree with CEP’s major finding, corroborated by a GAO report finding, that most states will begin to focus not only on individual school turnaround efforts, but also districtwide reforms.
- **Page 3**  
A recent survey conducted for the National Center on Universal Design for Learning has found that approximately one-third of ARRA IDEA funds were spent on purchases of technology, equipment, and instructional materials used to expand RTI, PBIS, or UDL principles among four-fifths of districts which used IDEA ARRA funds for the above purposes. Firms should consider positioning their products as a way to implement Universal Design Learning Principles that can be incorporated into RTI and PBIS approaches.
- **Page 4**  
Secretary Duncan publicly questioned Florida’s passage of HB 7127 continuing the SES set-aside for 15 percent in all districts even though the Florida waiver request eliminated the 20% SES set-aside mandate. If the precedent of a state law “trumping” Federal waivers holds in Florida, the amount of freed-up SES set-aside funds remains unclear under the waiver process, possibly affecting the type and amount of funding for other interventions in Priority and Focus Schools.
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While some policy analysts have suggested no major changes to the School Improvement Grant program are imminent, others feel some changes are critical especially related to the waiver process. If not, more states will likely drop participation in both waivers and School Improvement Grants, as Vermont has signaled that it will do.
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USED negotiating points with states over initial waiver applications could have direct implications for firms with interventions and related products and services in states receiving final waiver approval. As noted earlier, eight additional states were approved on May 28, totaling 19 states approved thus far; seventeen states and District of Columbia are currently under review. California is likely to apply shortly with Texas and Pennsylvania possible candidates for the third-round in September.

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The first comprehensive national evaluation of Title III (English language acquisition) reports that almost one-quarter of the \$750 million allocated to Title III in 2009-10 was spent on instructional materials, equipment, and technology. However, given that most ELL students are “dually served” under Title I and/or IDEA special education programs, the national average of \$151 per ELL served in Title III districts is much less than the amount spent per pupil on dually-served students which could range between \$2,000 and \$5,000 per student.

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A number of miscellaneous items address:

- a) Applications for non-profit and other entities for \$60 million in Promise Neighborhood grants are now available and are due on July 27. Seven new implementation grants totaling \$27 million and 14 planning grants totaling \$7 million will be awarded with the remaining funds provided for continuation grants.
- b) USED provides examples of allowable family engagement and involvement activities in the Title I pre-K guidance, most of which are examples in which technology would appear to be critical for implementation (e.g., creating social networks).
- c) GOP led House Appropriations Subcommittee appears to have placed a higher funding priority for STEM-related programs by proposing an almost \$300 million funding increase for the National Science Foundation and new emphasis on STEM literacy.
- d) A recent *Curriculum Matters* blog identifies important changes in the new “publisher’s criteria revision” which is designed to guide the development of curriculum and instructional materials, including more emphasis on the role teacher judgment plays in choosing materials.

This TechMIS issue also includes State profile updates addressing state budgets, waiver applications, online education, charter schools, college remediation, assessment, and other topics.

**Special Report:  
Creative Consultative Selling is Critical  
With Federal Program Niches -- A Reminder and Updates**

*A Technology Monitoring and Information Service (TechMIS)  
Special Report*

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*May 31, 2012*

Over the last several years, our TechMIS reports and Washington Update items have included a number of suggested “creative consultative selling” tactics for products and services to Title I, IDEA, and other large Federally-funded niche markets. Because a number of TechMIS subscribers are new, and several new opportunities have been created through the waiver process, other regulatory relief measures, “end of year” spending, below we highlight a number of marketing/sales tactics which should be taken into account by marketing and sales staff. These are particularly important at this time because of the \$2.5+ billion amount of regular Title I funds carried over from last year to this year by districts which have to be obligated by September 30<sup>th</sup> and the ongoing State Waiver process which will likely create several new opportunities about which marketing and sales officials ought to be aware. While some of these sales “hints” could be incorporated in e-mail and other collateral materials sent to Title I, IDEA, afterschool and other Federal program directors, many should be part and parcel of an arsenal of “creative financing” opportunities to discuss with district officials because many of them may not be aware of such changes, such as increased flexibilities and new allowable uses of specific Federal funds. Below we briefly describe these “hints” and the TechMIS reports/updates in which we have discussed them in greater detail over the last several years.

**1. Specific opportunities in districts identified for improvement**

On September 2, 2009, USED published non-regulatory guidance on allowable uses of Title I ARRA funds which, beginning in 2009 through last year, was approximately \$10 billion. This guidance remains in effect now and most likely in the future, especially in states not having approved waivers.

One provision could allow firms to increase the amount of professional development sales in a

district identified for improvement. The September 2, 2009 guidance states that the only exception to rule that Title I funds cannot be used to provide professional development for non-Title I teachers is: “An LEA in improvement status may provide professional development to instructional staff throughout the LEA with Title I, Part A ARRA funds it reserves ‘off the top’ of its Title I, Part A allocation, provided the professional development activities are related to the reasons the LEA is in improvement status.” Hence, any Title I professional development 10% set-aside or other Title I funds can continue to be provided to teachers in non-Title I schools without violating supplement-not-supplant (SNS) provisions.

Another provision provides an exception to the general supplement-not-supplant rule which could increase districtwide opportunities for certain products and services. If a product or service meets the intent and purposes of Title I, the district can exclude those services or products from supplement-not-supplant requirements and cite the following: “For example, if an LEA offers after-school tutoring for any student who scores below proficient on the state’s mathematics assessment, paying for Title I students with Title I funds and non-Title I students with supplemental local funds would not violate supplement-not-supplant requirement because the students in the non-Title I schools, by virtue of being non-proficient in mathematics, or failing to meet the state’s mathematics standards and thus would be eligible for Title I services if they attended a Title I school.” This provision would allow a firm’s product, purchased with Title I funds, to be used in Title I and also to be used in non-Title I schools meeting the above conditions if paid for by funds other than Title I, without violating supplement-not-supplant. High-level district officials such as school superintendents are, for the most part, not aware of these provisions and would likely jump at such opportunities to use carried-over Title I funds from last year or using all of this year’s remaining Title I allocations if the district is getting an increase in Title I funds next year (see May 2, 2011 TechMIS Special Report).

The 2009 set of guidance (see September 15, 2009 TechMIS Special Report) also confirms that Title I funds can be used to support implementation of an RTI approach which helps schools “identify students who are at risk for poor learning outcomes, monitors student progress, provide evidence-based interventions, and adjust the intensity and nature of those interventions depending upon a student’s responsiveness.”

## **2. Incidental Use of Title I and IDEA Funds for “Regular Ed” Students and Teachers**

Over the last two decades, the concept of “incidental use” of Title I and IDEA funds to serve “regular teachers” and “regular students” on an incidental basis has evolved and has been included in policy letters and letters of determination which constitute part of the “legal framework” for these two major programs. Almost 20 years ago, USED policy letters began allowing districts to use up to ten percent of Title I funds for non-Title I teachers and students. During the reauthorization of IDEA in the late 1990s, the “incidental use” provision surfaced in policy guidance and letters to reduce the amount of “down time” for technology and other programs which sat in classrooms when not being used by special education teachers and

students. Moreover, such incidental use provisions allowed principals to tell non-special education parents that their students also benefited from products purchased with IDEA funds to refute criticisms that too much preference and too many dollars were being devoted to special education students and not their child in their school. The general conditions for implementing incidental use under IDEA are:

- the cost/price to the school is the same regardless of the number of students or teachers using the product;
- the wear and tear on the program is minimal;
- no special education student or special education teacher is denied access to the use of equipment, instructional program, or other products.

Some firms took advantage quite successfully of this provision by providing networked software instructional programs to schools through schoolwide licenses which met all of the above conditions.

The incidental use provisions could be particularly important in districts which are under major pressure to replenish immediately local funds used for special education programs in order to meet very recent changes in IDEA local maintenance of effort requirements, or otherwise lose Federal IDEA funds (see April 27, 2012 TechMIS Special Report). If these local funds were previously programmed to be used for purchases of technology products/services and now have to be returned to special education programs, such funds could “free up” some IDEA funds which could be used to purchase products or services under the “incidental use provision” to serve not only special education, but also non-special education students, in a particular school.

### **3. Consolidation/Co-mingling of Federal Funds in Schoolwide Programs**

Since 1997, Title I amendments have allowed certain schools to be designated as schoolwide programs (SWP), allowing increased flexibility in the use of Title I funds, reducing eligibility requirements, reducing reporting requirements, and exempting SWP schools from supplement-not-supplant provisions while serving all students in such schools. A March 2011 letter to governors included a report entitled “Flexibility in Using Federal Funds to Meet Local Needs” in which Secretary Duncan emphasized the opportunities for districts to “consolidate” or “combine” most, if not all, Federal funds with Title I in schoolwide programs to reduce reporting requirements and not to require schools to maintain separate fiscal accounting records and other burdensome paperwork requirements. The letter also stated, “Finally, an LEA with a schoolwide school is allowed to comply with Title I supplement-not-supplant requirements by demonstrating it distributes state and local funds fairly and equitably to the schoolwide school without regard to whether the school is receiving Federal funds.” (See March 16, 2011 TechMIS Special Report)

As mentioned in our August 2011 Special Report on RTI adoption, the National Title I/IDEA working group has recommended that Title I schoolwide programs that wish to allocate Title I funds to implement Tier II and Tier III interventions under RTI (which is currently allowed in

draft regulations) also be allowed to use such funds to purchase “core instructional programs” for Tier I interventions. Under the State Waiver process, states would be given the authority to allow such districts which wish to do so to obtain district waivers to exempt such schoolwides from any perceived supplement-not-supplant provisions. Sales consultants should encourage district officials to explore flexibility opportunities for both co-mingling/coordinating Federal funds, as well as using such funds for “core instructional” programs as Tier I components of an RTI approach, where appropriate. The March 2011 letter from Secretary Duncan to the governors identified other existing flexibilities, including the “transferability provisions” allowing up to 50 percent of some funds being transferred to other title programs and current flexibilities under the so-called REAP Flex allowing small rural districts to combine Federal funds, among others.

In order to encourage districts further to take advantage of the flexibilities afforded in Title I schoolwide programs, the School Improvement Grant guidance and the most recent State Waiver guidance both allow Tier I- and Tier II-eligible schools and Priority and Focus Schools to be designated as schoolwide programs even though they may not be currently serving Title I students or meet the 40 percent minimum poverty enrollment criteria. As an update, in districts that allocate part of their 15 percent set-aside for RTI to serve at-risk students in Title I schoolwide programs, the initial requirements for reporting on the progress of students exiting from RTI approaches for up to two years apparently is not being audited or enforced; in some districts, these requirements were considered a burdensome impediment.

#### **4. State Waiver-Created Flexibilities and Freed-Up Funds**

Under the ongoing State Waiver process, a number of opportunities have been or will be created among the 11 approved and 27 pending states. For those states which received, or will receive, approval for Option 11 to use 21<sup>st</sup> Century Community Learning Center funds in a more flexible manner -- including extended learning time -- increased opportunities for a wider variety of products could exist, including those which facilitate teacher planning and collaboration, programs for gifted-and-talented students, materials which can be in STEM-related programs, college preparation materials and programs, and project-oriented distance learning activities, among others. In their applications, between 15 and 20 states indicated they plan to conduct new competitions for their portion of the most recent \$1+ billion 21<sup>st</sup> CCLC allocation. USED guidance encouraged states to include such waiver-approved flexibilities in their most current competitive grant rounds. Many districts also appear to be using Title I carried-over money for initiation or expansion of afterschool programs.

Another funding opportunity that could be created as a result of the SEA waiver process is using Title I and SIG funds, especially in the new SIG competitive rounds in 8 to 10 states, for district-level reforms (see March 29, 2012 TechMIS Special Report).

As we have pointed out in related TechMIS items and previous Special Reports, through the waiver process between \$1.0 and \$2.0 billion could be freed up in those states which eliminate or

reduce the 20 percent set-aside for SES and parent choice and 10 percent for professional development which the Administration has strongly encouraged be used for other interventions in Priority, Focus, and other Title I low-performing schools. After-school programs will likely be a major beneficiary as freed-up SES funds will be used to expand such programs beginning immediately, using some of the \$2.5 billion in Title I regular funds carried over from last year. As we noted in the March 29<sup>th</sup> TechMIS Special Report on individual states' waivers, if USED allows Washington state to use the \$40 million cumulative amount of carried over set-aside for professional development, then other states will likely submit amendments allowing them to do likewise which could free up about \$1 billion to be used to purchase other products and services.



# ***Washington Update***

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***Vol. 17, No. 5, May 31, 2012***

## **New Center on Education Policy Report Summarizes Alternative Measures Used to Replace AYP and Identify Schools for Interventions Proposed by 27 States Seeking Waiver Approvals and Corroborates Earlier TechMIS Special Report Preliminary Analyses on Freed-Up SES Set-Aside Funding**

A new Center on Education Policy analysis summarizes the types of measures being proposed by the 27 states seeking second-round waiver approvals, which would replace NCLB AYP “all or nothing” subgroup status measures and which could be used to make major accountability determinations identifying schools for different levels of interventions, rewards or additional consequences. The new report also confirms much of the analyses in our March 29<sup>th</sup> TechMIS Special Report which focused on requested waivers for supplemental educational services (20%) and professional development (10%) set-asides, which would free up funds that could be used by Priority, Focus, and other schools in some states to purchase intervention-type products and services, particularly for afterschool/extended learning programs. The report also supports our expectation that an increasing number of states are likely to establish performance reporting and consequences not only for Focus and Priority Schools, but also for districts as a whole, for which funds could be allocated for district-wide reforms through the use of a variety of interventions.

As CEP notes, in at least 24 of 27 states, new state-specific primary accountability indicators will replace AYP and will take the form of “multi-faceted performance indexes” which will be used to select low-performing schools for interventions. Student academic growth, rather than subgroup benchmarks, will be used in at least 21 states; however, 19 of the 27 states will use a combination of a smaller number of subgroups for some or all of their primary accountability determinations. In 12 states, some of the most significant accountability decisions will be based on the achievement of just two or three student subgroups. Some of the alternative primary accountability measures identified in the CEP report include:

- the percentage of students not only scoring at or above “proficient,” but also reaching more “advanced” performance levels above “proficient.”
- high school “completer” rates that may include students who earn GEDs or students with disabilities certificates who meet the maximum age for secondary school services.
- measures of teacher and principal effectiveness, school climate, compliance indicators included in state laws, and various indicators of school context.
- percentage of students receiving industry credentials or receiving a score of three or higher on AP and IB tests.

As noted earlier, while all states intend to

report performance of students in each of the NCLB subgroups as the primary accountability determinant, most states plan to combine some of these subgroups' measures. Hence, as the report notes, "Civil rights and advocacy groups that focus on the special needs of students with disabilities, English language learners, students from low-income families, and specific racial or ethnic groups may be concerned about this approach."

Our March 29<sup>th</sup> Special Report, which included a waiver matrix and individual state briefs, addressed a number of issues which were stated or implied in the individual state applications, including:

- whether or not SES and professional development set-asides would be eliminated and how such freed-up funds would likely be used;
- whether states planned competitions this year for 21<sup>st</sup> Century Learning Community Centers and new SIG grants and whether states requested a waiver for greater flexibility in the use of 21<sup>st</sup> CCLC funds (e.g., teacher collaboration);
- the numbers of Priority and Focus Schools and proposed implementation dates; and
- whether the use of Title I, as well as other freed-up funds, would be used to expand the use of RTI approaches.

On the latter point, a April 25<sup>th</sup> Education Week article entitled "States Adapting Best Practices in Special Ed for Standards," Nirva Shah reported that response-to-intervention and Universal Design for Learning instructional approaches developed initially in special education are "gaining traction more quickly than ever;...In

particular, two strategies -- Universal Design for Learning and response-to-intervention are being cited by states in request for waivers from the No Child Left Behind Act in the section about how they will implement the standards. Those familiar with the techniques say the pairings are logical and the timing is right." As we reported in our March 29<sup>th</sup> Special Report on state waiver briefs, while some states' applications were explicit in proposing to use freed-up Title I set-asides and other funding flexibilities to expand the use of RTI approaches, most states implied as much.

The new CEP report tends to corroborate most of the findings in that TechMIS Special Report, especially the difficulties in "pinning down" what states were specifically planning to do with the SES and professional development set-asides, about which CEP stated: "The applications of nine states do not appear to mention school choice or SES at all, while those of five states (Connecticut, Mississippi, Nevada, Virginia, and Washington) explicitly note that neither SES nor choice will any longer be required in Priority or Focus Schools." Regarding the choice option, Wisconsin, Delaware, and Louisiana would continue parent choice/transportation under state laws. As we noted, in Arkansas, Idaho, and South Carolina, choice and SES would continue to be required, but in a substantially changed form, and in New York, Illinois, and Ohio, SES would likely be optional. As we reported in our April 27<sup>th</sup> TechMIS Washington Update, the most recent GAO report on School Improvement Grants observed that SEA officials felt the need to focus, not only on individual schools, but also on districtwide reforms with findings similar to an earlier CEP

survey. CEP found, “A majority of the applicant states (at least 20) indicate that they will establish AMOs for, and/or apply the primary accountability measure to, districts as well as schools. Further, at least 15 states intend to make accountability determination for districts as well as schools and will apply consequences of some sort to districts with low performance. However, these provisions are often lacking in detail.”

Similar to our earlier findings, in about half of the states, all or most of the Priority Schools under the waiver process would be those currently receiving SIG funding. Our April 27<sup>th</sup> Washington Update, noted that, even though SIG funding for districtwide reforms was discouraged, a survey of member districts of the Council of the Great City Schools found that the average amount of SIG funds spent during the first two years of implementation on such districtwide reforms was \$900,000 per district. Some of the opportunities for districtwide purchases will likely be extended and expand under the waiver process.

### **Recent Survey Finds Almost 80 Percent of Districts Use IDEA ARRA Stimulus Funds to Expand Use of Universal Design for Learning Principles (UDL), Response-to-Intervention (RTI), or Positive Behavioral Interventions and Supports (PBIS); Approximately 30 Percent of Such Funds Were Used for Instructional Materials and Technology/Equipment Which Tends to Corroborate Previous Estimates that Approximately One-Third of Funds Expended on RTI Were Used for Specific Intervention Types of Technology and Materials**

A survey conducted for the National Center on Universal Design for Learning has found that approximately one-third of ARRA IDEA funds went for technology equipment and instructional materials that were used to expand RTI, PBIS, or UDL principles, among the 80 percent of districts that used some of their IDEA ARRA funds for the above purposes. These findings tend to corroborate our extrapolated finding from the 2011 RTI Adoption Survey that approximately one-third of expenditures for RTI -- estimated to be about \$4.5 billion last year -- spent on materials and technology used to implement RTI approaches.

NCUDL’s most recent survey also found that 19 percent of IDEA ARRA funds were spent on professional development, with about three out of four LEA respondents using some ARRA funds for professional development. Although almost 70 percent of the respondents focus professional development on special education staff, 42 percent provided professional development for general educators. Only 21 percent reported not using ARRA funds for

professional development.

Of the 134 directors of special education who responded that ARRA funds were used to promote or expand RTI, 39 percent indicated that funds were used to purchase technology; 40 percent indicated funds were used to purchase curriculum materials. However, of those that used ARRA funds to promote PBIS, only 12 percent reported using funds for purchasing technology and 21 percent used funds for purchasing curriculum materials.

Of those respondents using ARRA funds to promote UDL, 15 percent used funds to purchase technology while nine percent used funds to purchase curriculum materials. The survey also found that of the 79 percent of responding LEAs that used IDEA ARRA funds to purchase technology and equipment, 62 percent purchased laptops, followed by 50 percent for desktop computers, and 49 percent for tablet computers. Only 20 percent used the funds to purchase Smartboards, while about 35 percent used funds to purchase text readers and voice-to-text devices. In its summary of the district-level survey, the report concludes, “Although less than 1 in 5 responding LEAs reported using funds to support UDL, more than half of respondents did report using funds to support Response to Intervention (RTI) programs or Positive Behavior Interventions and Supports (PBIS). RTI and PBIS, while not technically UDL *are* universal approaches to education. We take this to suggest that many LEAs who are not currently implementing UDL (perhaps because of a lack of familiarity with the term) may be open to do so. This finding is especially relevant given the finding that only 52% of respondents to this survey were either moderately or extremely familiar with

UDL.” These findings do suggest that firms with technology-based products should consider positioning their product as a way to implement Universal Design for Learning Principles that can be incorporated into RTI and PBIS approaches.

### **Secretary Duncan Has Questioned the Education Justification for the Florida Legislature Passing a Recent State Law Requiring Districts to Continue Setting Aside Funds for Supplemental Educational Services, Even Though the State Has Received a Waiver to Get Out from Under the NCLB 20% Set-Aside Mandate, Implying its Passage Was Due to Pressure from the SES Cottage Industry**

Referring to a new study conducted by Mathematica Policy Research which found “no evidence of impacts of offering SES to students,” Secretary Duncan asked the question why the Florida legislature passed the new law: “Is it because of pressure from the industry?”, as reported by The Associated Press. As we reported in our March 29 TechMIS [Washington Update](#), Florida’s new State law (H.B. 7127) is similar to legislation passed more than six years ago mirroring NCLB mandates that 20 percent of a district’s Title I allocation had to be set aside for SES tutoring and parent choice in those schools identified for improvement for two or more years and/or districts identified for improvement. Over time, the vast majority of Florida districts have been identified for improvement with about 75,000 students eligible for tutoring, according to [Education Daily](#) (May 24<sup>th</sup>). Even though, on numerous occasions, Secretary Duncan and other USED officials

expressed opposition to the action of the Florida legislature and attempts by other states (e.g., Colorado) to continue some forms and amount of SES tutoring set-asides under the ongoing waiver process, based on recent discussions with Florida district officials, it appears that USED has no legal authority to override the Florida law. As David Deschryver stated in *Title I-derland* (May 14, 2012), “The federal waiver only suspends the requirement to implement the law. No Child Left Behind is still law, and ED does not have the authority to rescind a law or amend it, try as it may.” While the final outcome and/or resolution of the SES 15 percent set-aside requirement has direct implications for virtually all Florida districts, the effect on those which have received unofficial notification that their preliminary district Title I allocations would be reduced significantly are especially critical. The implications could also have direct impact on several states which have already received waiver approval and upon ongoing negotiations with the 27 states during the second waiver approval round process (see related TechMIS [Washington Update](#) item).

Our analysis of preliminary district allocations, before adjustments, (which according to a key district official, as of mid-May, have not been officially sent by the Florida Department of Education to districts) indicate that 27 of the 66 Florida districts will have their Title I funds reduced by five percent or more beginning in July. Some of these districts could have additional funds withheld for the SEA four percent set-aside for school improvement, unless the district qualifies for a “hold harmless” situation. Moreover, a large number of Florida district Title I officials have indicated they plan to hold in their Title I

“reserve” an additional nine percent in order to “cushion” a possible Federal sequestration of seven to nine percent in January 2013. Some districts which have had to set aside ten percent for professional development have also indicated they would continue to leave the ten percent in reserve, but use it for other purposes such as interventions in Priority and Focus Schools included in the state’s approved waiver plan. With a large amount of Title I funds being kept in the Title I central district-level “reserve” and not allocated to schools, more than 30 districts and their lobbyists have supported the 15 percent SES set-aside under the condition it would apply only to the amount of Title I funds which are allocated to schools, and not to the amount held in the Title I “reserve.” This question has yet to be resolved according to a district official leading the lobbying effort. Their concern is that the Florida Department of Education could decide to apply the 15 percent to the entire district allocation and “leverage” that amount before final district allocations are sent out. The bottom line is that these and other uncertainties are going to tend to paralyze Title I purchasing, especially in districts receiving reduced preliminary Title I allocations for next year, until they are resolved.

As we reported in our March 2012 TechMIS Special Report covering developments during the Council of the Great City Schools conference, Council officials, along with member district and superintendents and board members -- including those from Miami -- pressured Secretary Duncan to take official action against the new SES legislation passed days earlier and warned that, if the Florida law remained intact, SES industry lobbyists in other states would pressure their state legislatures to pass

similar SES mandates. Indeed, in a recent discussion, Florida district officials indicated that Colorado had already submitted an amendment to its approved waiver plan to increase the negotiated approved waiver amount of about 15 percent for most Priority and Focus Schools to the full 20 percent. Regarding the ongoing waiver negotiations with 27 states, the Education Week's Politics K-12 blog, reporting on the Secretary's speech before the Florida Council of 100, criticized the action of the state legislature saying, "Florida isn't the only state that's gotten flack for continuing tutoring. In their waiver feedback letters, at least three states -- Arkansas, Illinois, and South Carolina -- were asked to do a better job of explaining how they would screen tutoring providers." Other states "mulling" over legislation to continue "tutoring" include Ohio, New York, Illinois, according to Education Daily (May 24<sup>th</sup>). But the real question is whether regulatory relief by USED through the waiver process can be trumped by state law. If USED follows a "legal" track, it could raise the larger issue of the legality of the overall waiver process undertaken by the Administration, laying the basis for an injunction. Or it could generate more Republican support for creating a separate funding stream for SES outside of the Title I legal framework. For example, the most recently passed House markup of ESEA reauthorization would allocate three percent of the overall seven percent school improvement set-aside for SES.

## **While Some Policy Analysts Have Suggested that No Major Changes to the School Improvement Grant Program Are Imminent, Others Feel Some Changes Are Critical, Especially Through the State Waiver Process; Otherwise, More States Will Likely Drop Participation in SIG**

A lead article in Education Daily (May 7<sup>th</sup>) states, "Although many schools and districts are voicing frustration over implementation of reform models under the School Improvement Grant program, analysts believe the Education Department will make no major, sweeping changes in the immediate future." Reporter Adam Dolge discussed such possibilities with Jennifer Cohen, senior policy analyst at the New America Foundation and Phillip Lovell, the vice president of federal advocacy for the Alliance for Excellent Education. While both analysts generally agreed that, under an ESEA reauthorization, there would be some changes -- such as allowing states to develop/adopt a fifth model beyond the four currently required prescribed models -- ESEA reauthorization would not be happening soon. Referring to recent anecdotal USED data on preliminary successes in some SIG schools, as noted in our March 2012 Washington Update, Lovell is quoted saying, "So long as there are a decent number of examples of improvements, I think the Department [of Education] will stick to their guns." However, if strong statistical data are released showing that SIG is not working, then there could be "reason to change." In the article, Lovell said, "...it's more likely there will be additional guidance from ED, rather than sweeping changes...he said ED could provide more direction on what is allowable under each reform model."

However, in the recent CEP and GAO reports (see [Washington Update](#) related item), state officials indicated the need to focus, not only on individual schools, but also on districtwide reforms. Twenty of the 27 states in the second round of waiver requests indicated they would apply primary accountability measures to districts as well as schools, and at least 15 states will impose consequences of some sort to districts with low performance, even though, as CEP notes, “These provisions are often lacking in detail.” Based on discussions with high-level state officials from more than ten states, it is apparent that many states would like to allocate more SIG or freed-up funds under the waiver process to develop district capacity to implement and sustain individual school reforms. A number of states, such as Florida, proposed to develop and implement a fifth model for Priority Schools under the SIG program but have been told that such is not allowed under the waivers. We believe that, given the opportunity and increased funding flexibility under 21<sup>st</sup> CCLC and freed-up Title I set-asides, more funding will actually be allocated to interventions which states and districts feel will work best. For example, a draft of the California state waiver request, for which state Board approval is expected on June 7<sup>th</sup>, indicates that the State will focus its monitoring efforts at the district level because of capacity constraints and to ensure district support for school improvement. Set-aside money for Title I, professional development, SES, and choice-related transportation could be freed-up to fund activities that will be “most effective for improving teaching and learning in the local context, which could include, for example, targeted tutoring provided by the districts and schools, teacher coaching to improve instruction, or systems for identifying specific student

achievement problems and developing targeted instructional interventions.”

The California draft also presents statistical data justifying the three state-funded initiatives that incorporated such interventions. For example, the percent of students scoring proficient or advanced in English language arts increased from 35 percent in 2003 to 54 percent in 2011 with similarly impressive gains in mathematics, increasing from 35 percent in 2003 to 50 percent in 2011. If the California waiver is approved, as presented in the draft, then to the extent that Priority Schools under the waiver process include many schools receiving SIG funding, one can speculate that some of the proven state school improvement interventions will likely be added to or replace components of one of the four prescribed models.

While a large number of states with waivers approved or pending have identified Priority Schools that are already receiving Tier I or Tier II SIG funding, officials from several states indicated that many of their Priority Schools are not receiving SIG funds, which opens the possibility that homegrown or interventions other than the four prescribed models could be used. The same officials are concerned that freed-up Title I set-aside funds will not be adequate to fund implementation of these alternative interventions with a high degree of fidelity. During the Council of the Great City Schools conference, several member district superintendents communicated the same message to USED officials, including Secretary Duncan.

Several states, such as Florida and Vermont, have requested in their application a waiver to use a fifth hybrid model as an alternative

to the four prescribed models under their SIG grants. According to reliable sources, when USED told Vermont such a waiver request was beyond the scope of the guidelines, Vermont decided to withdraw its application. Moreover, based on a discussion with some of the state's high-level officials, the state also withdrew its formal participation in the School Improvement Grant program. This is likely to preclude the next round of funding for districts from being conducted in the State and probably means SIG funds will be returned to USED for reallocation to other states. On the other hand, Florida recently passed HB 7127 (Accountability in Public Schools) which includes the requirement that each district must allocate an amount equivalent to 15 percent of its Title I Part A funds to Title I schools to meet SES requirements in Title I schools whose students are performing at Level 1 or Level 2 on the FCAT. Moreover, each district must contract with SES providers that have been approved by the State (see related [Washington Update](#) item). Also, the new state law provides as an option to its differentiated accountability model which was approved in 2007 under the Bush Administration and included in the Florida Race to the Top approved grant application, a turnaround option for schools that are designated that have a grade of "F." In these "F" schools, the district could "Implement a hybrid of the above turnaround models or other turnaround models that have a record of effectiveness," even though it is not clear whether the approved Florida waiver overrides the use of a hybrid model included in HB 7127.

## **USED Criticisms of States' Initial Waiver Applications -- Which Are Current Primary Negotiating Points -- Could Have Direct Implications for Firms With Interventions and Related Products and Services in States Receiving Final Approval**

As with the first round of waiver negotiations with 11 states, [Education Week](#) was able to gain access to some of the USED letters and a few responses from states indicating the major ongoing negotiating points with the 27 states in the second round. Some of these negotiating points have direct, as well as indirect, implications for a number of TechMIS subscribers who provide interventions and related products and services, particularly for Priority and Focus Schools under the waiver process. A May 16<sup>th</sup> [Education Week](#) article by Alyson Klein, as a follow-up to a May 1<sup>st</sup> article, provides a brief analysis of 22 of the 27 states which shared or otherwise facilitated access to USED letters and responses (Delaware, New York, Nevada, Rhode Island, and District of Columbia did not share their letters according to the article). Further analysis and commentary has been provided by other groups who relied on [Education Week's](#) highlights. During a recent Washington meeting, we were able to discuss some of the negotiating points and state actions which will likely be included in states' final waiver plan approved by USED.

As CEP's report speculated (see related item) and [Education Week](#) confirmed, virtually all states in the first round and most states, during the second round, were asked to improve their rigor in setting accountability goals for subgroups, particularly special education and English



language learners. These goals will continue to evolve during the initial implementation process, particularly as they relate to Common Core Standards. As we have stated on several occasions, the demand for products and services which are designed to provide access to quality instruction and related interventions for these populations will continue to be in high demand under the waiver process, particularly, after assessment initiatives of Common Core Standards occur, in those states beginning implementation in 2014-15.

As Education Week also pointed out, “Some [states] were cited for not doing enough to make sure that graduation rates are a significant factor in accountability. And some states were also told they weren’t being ambitious enough in setting graduation rates.” Education Week noted such criticisms for Idaho, Iowa, Mississippi, and Oregon. A May 17<sup>th</sup> blog posting by Chuck Edwards on *Title I-derland*, referring to the CEP report (see related item), pointed out that Mississippi, South Dakota, Utah, and Virginia proposed to use some alternative to a diploma in calculating high school completion. As the blog notes, “Based on initial feedback letters addressed to states that have applied in this round, it appears that the Obama administration has stuck to that stance” [i.e., the Bush Administration October 28<sup>th</sup> final regulation not allowing GED or other alternatives to be used in lieu of a regular diploma as calculating completion]. The blog notes that South Dakota was criticized for proposing to use a completed IEP program or a Language Acquisition Plan; Utah was not allowed to include students with disabilities who “age out” of eligibility for public schools. While the blog notes that states were probably aware that this would not be approved, they

took a chance because of the “present flux in present federal education policy.” This raises a serious question about the new initiative to develop and administer through ACE a new GED test -- one to form the basis of an equivalent for a high school diploma. Another version would assess whether a student is ready for college. If the Bush Administration policy continues under the Obama waiver initiative, then firms which are considering customizing/designing GED prep programs for the two planned alternative uses might want to reconsider or, at least, follow closely developments in this area.

A related question is whether or not an individual diploma awarded under state law for a student completing all requirements through fully online distance learning could be included in calculations of graduation rates. It should be noted that, in the negotiated FY 2012 budget, language was included to allow the armed services to drop the 10 percent cap on the number of enlistees receiving “fully online” graduation diplomas to be eligible to enlist in the armed services.

The Education Week article also singled out the three states -- Arkansas, Illinois, South Carolina -- which had requested to continue using free tutoring services as an intervention in lowest-performing schools, noting that the USED has asked these states to “explain their rationale for the move and spell out a process for screening providers.” In the related Washington Update item, CEP also pointed out that it was somewhat unclear as to what specifically the states were proposing to do with the SES 20 percent set-aside and how much funds were they going to allocate to serve what subsets of schools under Priority and/or Focus

Schools. As Education Week noted, “In the Education Department’s view, some states didn’t do a good job of explicitly setting out how they would intervene in those schools. In other cases, the department deemed that they didn’t set a high bar for deciding when a school should get out of priority or focus status” (e.g., North Carolina, Washington, Wisconsin, and Illinois).

Based on discussions which we have had with several high-level officials from states applying for waivers and discussions with other observers, the following items are worth sharing with TechMIS subscribers:

- Most states which were approved in 2007-08 for state differentiated accountability models and which also received initial funding under Race to the Top are likely to have their waiver request approved without many changes. These states are also relying more heavily than others on interventions which include response-to-intervention methodologies and/or components.
- Some states, which would eliminate the 20 percent SES/choice set-aside to “free up” such funds for other interventions in Priority and Focus Schools, feel that the precedent set in Florida over SES (see related Washington Update item) could generate lobbying by SES providers to protect some funding for SES. Some states, which are requesting waivers for school choice, are not likely to oppose lobbying to protect a small percentage of Title I funding for such purposes.
- If Washington State receives approval to waive the ten percent professional development carryover

of funds from previous years, totaling almost \$40 million, most other states will make a similar request on behalf of those districts which have carried over a large amount of the unspent funds under the ten percent set-aside to free up those funds to be used for other interventions.

- Some states whose waiver approvals are denied or who are otherwise unwilling to negotiate with USED on certain “deal-breaking” points, may turn down other USED competitive grant funding because of “strings.” Vermont, for example, has withdrawn its waiver request which initially was denied and also recently announced it will no longer formally accept School Improvement Grant funding.

### **Comprehensive National Evaluation of Title III (English Language Acquisition) Reports Almost One Quarter of the Title III \$750 Million (2009-2010) Was Spent on Instructional Materials, Equipment, and Technology**

The most comprehensive national evaluation of the Title III English Language Acquisition Act, funded at about \$750 million annually, has found that 45 percent of such funds were used for instructional staff, while 24 percent were spent on instructional materials, equipment, and technology, followed by 18 percent on professional development. The per-pupil funding levels ranged from \$457 in Pennsylvania to \$86 in Alaska in 2009 (with a national mean of \$151). The per-pupil funding level was less than \$120 in seven

states, but more than \$300 in four states. Of the approximate 5.5 million English Language Learners, the number of ELLs served by Title III-funded programs in K-12 districts between 2003 and 2008 increased from 3.7 million to 4.4 million. Thirty-five percent of these Title III districts reported that ELL enrollments had increased more than 25 percent since 2004; and 24 percent of all students enrolled in Title III districts were ELLs.

Although the percent of Title III funds spent on instructional materials, technology, and professional development was more than the estimated 20 percent of per-pupil allocations of Title I funds, the actual per-pupil allocations for Title III are lower than those for Title I and other Federal programs. The report cited a 2009 study which found the total Title I per-pupil allocation to be \$1,499 (in 2005); the case studies included in the evaluation study reported significant amounts of these other Federal funds were also used to serve ELLs. Several case study Title III directors noted that Title III funds were a “drop in the bucket,” and one reported that of his \$25 million budget for ELLs only \$1.7 million were Title III funds.

As we have reported in the past, one of the major Title III problems is that how much and on what products and services can Title III funds be spent as related to the Title III supplement-not-supplant (SNS) provision. For example, because assessment of ELLs in Title I is required under Title I, Title III funds cannot be used to pay for most types of assessments. Moreover, in those states which are required to provide some civil rights mandated services and which have a “broad definition” of “core language program,” Title III funds cannot be used to purchase such materials which fall under the

state’s definition of “core language programs.” Marketing strategies must take into account whether a firm’s products can be purchased by districts using Title III funds without violating Federal supplement-not-supplant requirements, while at the same time are allowable under state definitions of “core language programs” required under the 1964 Civil Rights legislation.

Another factor to be considered is the number of ELL’s in a district which are “dually-served” under IDEA special education, which constitutes about 500,000 of the estimated six million students served in special education. And still another consideration is whether a large number of ELL’s are served in Title I schoolwide programs, which in the past have constituted almost two-thirds of the total ELLs enrolled in public schools. For dually-enrolled ELLs in Title I and/or IDEA, the total Federal per-pupil funding allocation can range from \$2,000 to \$5,000 annually.

The full report, including state-by-state per-pupil Title III allocations, the types of English language services that are most widely used, and demographic information, is available at:

<http://www2.ed.gov/rschstat/eval/title-iii/state-local-implementation-report.pdf>

### **Miscellaneous (a)**

The third round of grants under the \$60 million Promise Neighborhood initiative, up from \$30 million last year, will fund up to seven new Promise Neighborhood grants for a total of \$27 million. An additional \$7 million will fund up to 14 planning grants of about \$500,000 each with the remaining funds providing continuation funding for

five programs funded last year. The USED April 20<sup>th</sup> press release announcing the applications states that implementation grants will support community efforts to coordinate better education, health, and safety services as well as provide young people the opportunity to be successful in school and everyday life. It also notes, “Specifically, funds can be used to improve learning inside and outside of school, build support staff, secure additional and sustainable funding sources and establish data systems to record and share the community’s development and progress.” If the eligible applicant focuses on lowest-performing schools, the proposed strategy may include use of one of the four SIG school intervention models or may include another model that has sufficient ambition, rigor, and comprehensiveness to significantly improve academic and other outcomes for students. Its strategy for intervention may include increased learning time. Moreover, an applicant does not have to propose a new strategy but may propose an existing reform strategy that includes some of the existing components of a Promise Neighborhood Implementation grant, but not all of them. The applicant could continue to work with the LEA which has existing components expanding on them to meet the requirements of the Promise Neighborhood grant. One of the competitive priorities last year was “Internet connectivity” whereas this year’s criteria includes “quality Internet connectivity.” As Jim Shelton, Assistant Deputy Secretary for Innovation and Improvement is quoted in the press release, “Organizations across the country are developing and implementing innovative solutions from cradle to career -- using data not only to identify and address needs, but also build upon resources and ongoing efforts in their communities.” His

statement reflects the new emphasis on “family engagement,” which is an umbrella on which “family involvement” activities are conducted using technology modes of delivery for adult education (see related item on pre-k guidance on family engagement).

More than 500 organizations from 48 states have applied during the first two rounds. The Promise Neighborhood initiative is also part of the larger White House Neighborhood Revitalization Initiative.

### **Miscellaneous (b)**

Trisha Offutt, Education Daily reporter in the May 4<sup>th</sup> issue, identified and described some of the family engagement activities which are allowable under new Title I pre-k guidance citing a number of examples in which technology could have a critical role to play. Under regular Title I policy, any district that receives more than \$5,000 in Title I funds must set aside one percent of their Title I funds to implement parent involvement activities. Moreover, under current law, more than 90 percent of such funds must be allocated to individual Title I schools. The latter has been a major barrier to critical mass funding for district wide activities which has been recognized by the Administration in its last two fiscal year budget proposals. The Obama Administration has called for increasing the one percent parent involvement set-aside to two percent and also setting aside a certain portion of Title I funds at the state level for statewide parent engagement and involvement activities. These proposals, however, have not been reflected in recent guidance to states who submitted waiver requests; however, the Title I pre-k guidance

(highlighted in our last TechMIS report) would allow any district which creates a “district wide” pre-k program funded out Title I could allocate the one percent set-aside at the district level for critical mass parent engagement activities in all Title I schools. If the district, however, establishes a schoolwide pre-k Title I-funded program, then funds would still be allocated to individual schools to decide what types of parent engagement activities for pre-k students and parents they wish to implement in addition to general parent engagement activities.

In the article, Offutt suggests a number of authorized Title I funded parent involvement activities which are encouraged in Title I preschool districtwide or schoolwide programs including:

- development of parent skills, particularly related to language, social, emotional, and cognitive development;
- creating two-way communication systems ranging from teacher-parent conferences to progress reporting;
- involving parents in decision making;
- creating social networks;
- linking families to community supports including adult and family literacy as well as parent leadership programs;
- providing support to parents to help their children develop cognitive, social, and emotional skills during afterschool programs;
- involving parents in decision making.

The Administration distinguishes “parent engagement” from “parent involvement,” as

the latter is only one component of a larger umbrella type of parent engagement which attempts to use funds to establish an “infrastructure” upon which activities (e.g., involvement) are conducted. For example, parent “involvement” under Head Start refers to the instruction activity, while parent “engagement” relates specifically to individual parent’s active participation in their child’s overall development. The “engagement” distinction has also been carried over in programs such as Promise Neighborhoods in which “community engagement” also appears to be related to an infrastructure upon which specific activities are conducted. For example, previous Promise Neighborhood grants have called for “Internet communications,” but the most recent set of criteria emphasized “quality Internet connectivity” rather than just “Internet connectivity” as a competitive priority and “family engagement” through adult education is now an invitational priority.

### **Miscellaneous (c)**

On May 10<sup>th</sup>, the House Appropriations Subcommittee on Commerce, Justice and Science approved the appropriations bill for FY 2013 which contained \$7.3 billion for the National Science Foundation. In addition to a \$299 million funding increase for NSF, the House agreed to a proposal by the National Science Foundation to change its Advancing Informal STEM Learning Program to increase emphasis on “innovative learning and engagement strategies” that promote STEM literacy, according to Education Daily (May 21<sup>st</sup>). The Senate has approved a similar amount for the unit within the National Science

Foundation, according to Education Daily. A particular NSF emphasis is on developing occupational interest by underrepresented groups of students in STEM fields. The House subcommittee calls for greater collaboration between postsecondary institutions or nonprofit research organizations and STEM-focused K-12 schools, with the goal of increasing STEM literacy. It appears that funding for STEM-related agencies and programs has risen as a new priority among the Republican House leadership.

### **Miscellaneous (d)**

In her *Curriculum Matters* blog, Catherine Gewertz identifies some of the most important changes in the new “publishers’ criteria” revision which was “designed to guide the development of curricular and instructional materials. The criteria caused a bit of a stir when they first came out last summer.” In her recent discussion with David Coleman and Susan Pimentel co-lead writers of the English and math standards, these key people indicated what they felt were the most important changes in the

revision, including:

- “more explicitly emphasized the important role teacher judgment plays in choosing materials”;
- “more clearly articulated the central importance of the foundational skills in K-2 and the need for systematic attention to the foundations of reading”;
- Removed sections of the criteria where they felt the document went “beyond the standards and intruded too much into instructional details”;
- “Worked closely with the [English-language-learner] community to ensure that the work on scaffolding responded to the needs of all students to gain access to high-quality complex text.”

Other perceived important changes were included in previous blogs by Gewertz, including those on May 1<sup>st</sup>.

# Alabama Update

## May 2012

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The Montgomery Advertiser reports that the Alabama legislature has approved a \$5.4 billion FY 2015 budget for the Education Trust Fund that includes a 3.69 percent -- \$208 million -- reduction from this year. The budget, which is effective on October 1, allocates \$31 per textbook, a rate many believe to be less than the price of a typical textbook. The budget would call for a loss of about 200 teacher and support positions which would reflect smaller K-12 enrollments Statewide.

Education Week's Curriculum Matters blog notes that the Alabama State Senate has approved a resolution encouraging the State to undo its adoption of the Common Core State Standards “to retain complete control over Alabama’s academic standards, curriculum, instruction, and testing system.” The Common Core is opposed by Alabama’s Governor who is president of the State Board.

# Arizona Update

## May 2012

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The Republic reports that Arizona Governor Jan Brewer has vetoed a measure -- Senate Bill 1259 -- that would have:

- made it easier for Arizona junior-high and high school students to take online courses;
- required students taking online classes to take their final exams in the presence of another person; and
- increased accountability by creating a master list of approved courses and a State ranking and evaluation of each course.

The Governor expressed concern about the State “approving online courses or curriculum.” She also objected to a provision that would have paid online schools more per student if the student mastered the course. Six months ago, The Republic published an investigative series that detailed lax State oversight of the State’s online schools, including limited information disclosure and few requirements for training teachers or monitoring tests.

As we reported last month, Governor Brewer vetoed an expansion of the State’s voucher program for students with disabilities. This month, however, after some revisions, the measure was signed by the Governor. The Empowerment Scholarship Accounts will be available to students for the 2013-14 school year, increasing the number of voucher-eligible students to about 200,000. Most of this increase will come from schools rated D in Arizona’s accountability system.



# California Update

May 2012

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Education Week notes that California is planning to apply for a waiver from some requirements of the No Child Left Behind Act. California is requesting the same flexibility as other states but is seeking to avoid at least some of the conditions stated by the Obama Administration. Specifically, the State does not want to implement a new teacher and principal evaluation system which State officials say they cannot afford (see related Washington Update item).

Education Week's *Early Years* blog notes that the battle over California's transitional kindergarten program continues. As we noted in our January 2012 TechMIS issue, a 2010 law mandates implementation of transitional kindergarten for students who no longer meet a revised cut-off date. Governor Jerry Brown has reaffirmed his plan to eliminate the program and to redirect \$91.5 million in savings from the program's elimination to restore proposed cuts in State preschool programs and to expand access to preschool programs for 15,500 low-income children. While this is going on at the State level, more than 200 California school districts are planning to implement transitional kindergarten.

# Colorado Update

## May 2012

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Colorado Governor John Hickenlooper has signed into law a major overhaul of the State's literacy guidelines for students in the early grades. According to the Denver Post, the new measure will require Statewide reading assessments as early as kindergarten and require schools to identify students who are significantly behind in reading. Students who are considerably below grade level by the end of the third grade will not be promoted without the specific approval of the school superintendent.

# Connecticut Update

## May 2012

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According to The Connecticut Mirror, Governor Dannel Malloy and State lawmakers have reached a compromise on the Governor's push for education reforms. The Governor indicated that the reforms would, among other things:

- allocate almost \$100 million more for public schools;
- require that teachers be rated "effective" to earn tenure and be rated "ineffective" to lose tenure;
- require Connecticut's lowest-performing schools to offer preschool, summer school, extended school days or years, tutoring, and professional development for teachers (although how this will be paid for is unclear);
- phase in increased charter school funding, including a bonus for racial integration and a "mini follow-the-child" approach.

The State's teacher unions were not part of the compromise negotiations which could present problems as the details of the reforms are hammered out.

As we noted last month, the Connecticut legislature has approved a plan to minimize remedial classes in college in favor of having remedial support embedded into beginning college-level math and composition courses. The plan includes a boot-camp like readiness program by 2014. And, by 2016, colleges will be required to work with high schools to ensure graduating students are ready for college-level work.

# District of Columbia Update

## May 2012

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The *D.C. Schools Insider* blog from [The Washington Post](#) notes that the District's application for a waiver from the requirements of the No Child Left Behind Act is being met with skepticism from the U.S. Department of Education. USED considers the District a "high-risk grantee" because of the City's poor record of handling and accounting for Federal grants and because of its historical trouble staying in compliance with special education laws. Specifically, USED has asked the district for more details about how it will hold the City's 58 charter schools accountable.

# Florida Update

## May 2012

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The Orlando Sentinel reports that the scoring on this year's writing component of the Florida Comprehensive Assessment Test (FCAT) was much more rigorous than in the past. As a consequence, scores were much lower. For example, the percentage of fourth-graders scoring 4 or better (considered the passing grade) on the 6-point scale plummeted from 81 percent last year to 27 percent this year. To cushion the blow, the State has changed the "acceptable" score from 4 to 3, meaning the lower student scores will have little impact on the 2012 grades of individual schools.

As we reported last month, Florida will now include students with disabilities and English language learners in the calculations for the State's school-grading system. One controversial part of the change is the inclusion of students in special education centers in the grades for their neighborhood schools which they may never have attended. With the changes, the number of schools rated "A" will drop from 1,636 to 1,086 according to State projections. And the number of "F" schools will rise from 38 to more than 130. The State will cushion the impact of the changes by allowing a school no more than a one letter grade drop for the 2011-12 school year.

According to Education Week's *Charters & Choice* blog, a new Florida law intended to make it easier for Florida students to receive "accelerated instruction" has been signed into law by Governor Rick Scott. Known as "Academically Challenging Curriculum to Enhance Learning," the measure requires principals to:

- set clear eligibility requirements for accelerated learning;
- establish clear processes for informing parents and students about accelerated course options;
- provide detailed information on the requirements for participation; and
- develop "performance contracts" -- among parents, students, and principals -- for setting standards for student performance.

The law also allows students who graduate early from high school -- in mid-year -- to receive money immediately through Florida's Bright Future's Scholarship program, rather than waiting until the Fall.

A new Florida law will expand online school offerings and allow children as young as kindergarteners to take online classes while still attending a traditional school. State officials believe the new online option will allow parents to customize their child's educational program and will permit students to move at a faster rate than traditional classrooms. The new law also requires the Florida Virtual School to provide services for exceptional students, including students with disabilities and English language learners.

# Hawaii Update

## May 2012

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The U.S. Department of Education has decided to keep Hawaii on “high risk” status for failing to implement the reforms it had promised under the State’s \$75 million Race to the Top award.

The State’s status will be reviewed in about six months to determine whether it has done a better job of carrying out its planned reforms, including establishing new teacher evaluations that incorporate student achievement and that link teacher compensation to performance.

# Illinois Update

## May 2012

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The Chicago Tribune reports that the Chicago school district (CPS) is under pressure to spend \$16 million on free tutoring -- under Supplemental Educational Services provisions -- by the end of the Summer or risk losing the money. More than 100,000 students qualify for SES, but attendance has dropped from 57,000 students in 2009 to only 22,800 so far this year. The district has spent about half of the \$67 million budgeted for SES causing it to open a second round of after-school tutoring for an additional 23,000 students in the final months of the school year. Providers of SES are having difficulty finding locations and staff to implement the short-term tutoring program. The \$16 million at risk is money carried over from last year that must be spent by August 31. The State has asked the U.S. Department of Education to cut SES funding by half next year, to phase it out after that, and to allow school districts more flexibility as to how the funds should be used.

The Chicago school district has submitted a proposal to the Bill & Melinda Gates Foundation for \$20 million to establish 60 more charter schools in the district over the next five years. Currently, CPS has 110 charter schools -- out of the district's total of 675 schools -- and has a waiting list for other charters of 10,000 students. The district's five-year proposal to the Gate's Foundation includes 40 additional schools, including turnaround, magnet, STEM, and International Baccalaureate schools, all run by the district.



# Indiana Update

May 2012

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Education Week's *Charters & Choice* blog observes that Indiana's new voucher law includes a provision that returns money to school districts some of which have lost students -- and State per-pupil funding -- to private schools. The vouchers, which are available not just to poor families, are valued at either 50 percent or 90 percent of the State's public per-student funding, depending on income level. The voucher distribution/payment system calls for the differential between traditional per-pupil amounts and the total voucher value to be pooled and redistributed to all school districts according to formula -- even to schools that lost no students to vouchers.

# Iowa Update

## April 2012

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According to the Sioux City Journal, Iowa's application for a waiver from the requirements of the No Child Left Behind Act was sent back to the State for revisions because of shortcomings identified by the U.S. Department of Education. The State's application was praised as being "particularly strong" in its focus on student achievement and its plan for teacher/principal evaluation. However, it was cited by USED as having:

- a lack of clarity about how components of its accountability model are related and how results will be used to identify schools and guide appropriate interventions; and
- the low expectations of proposed long-range performance targets and limited subgroup accountability.

The Iowa legislature has approved a compromise education reform bill which allows for teacher peer reviews and allows parents to decide whether struggling third-graders should be held back or attend an intensive summer school reading program. The measure includes a system of annual assessments of reading ability every year from kindergarten to third grade, starting in 2017. The bill does not include funding for proposed early-grade reading support programs but supporters hope to find the money next year. It also omits a requirement that eleventh-graders take the ACT. Instead, they may take an Iowa skills assessment test, which costs far less than the ACT.

Iowa has established six "hubs" for science, technology, engineering, and mathematics (STEM) education, according to the Des Moines Register. Each of the STEM hubs, spread across the State, will be staffed with a manager to coordinate efforts, build partnerships, apply for grants, and direct programs intended to encourage students to pursue STEM careers. The hubs will be located at:

- Iowa Lakes Community College (Estherville);
- The University of Northern Iowa (Cedar Falls);
- Southwestern Community College (Creston);

- The University of Iowa (Iowa City);
- Kirkwood Community College (Cedar Rapids); and
- Drake University (Des Moines).

# Kansas Update

May 2012

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The Kansas legislature has approved a measure that would terminate funding for remedial courses at State universities. Supporters of the bill say that students who need remedial work should go to a community college rather than enroll in “regents” universities. The bill includes a number of exceptions even after the August 15, 2015 effective date. State funding of programs would still be allowed for students in the military (or who have been under new 2010 GI Bill), those 21 years old or older, and international students who need remedial English. Universities could provide the courses using other funding sources.

# Kentucky Update

## May 2012

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As reported in the Louisville Courier-Journal, Kentucky is embarking on a new State testing system that includes higher standards and longer, more rigorous tests. Kentucky was the first state to adopt the Common Core State Standards and will replace the Commonwealth Accountability Testing System (CATS) with Unbridled Learning, a testing system that focuses on college and career readiness. Under the new testing regimen, students in grades 3-8 will take the Kentucky Performance Rating for Educational Progress (K-PREP), which features both norm-referenced and criterion-referenced test items. High school students will take end-of-course assessments in English II, algebra II, biology, and U.S. history, as well as a writing test.

# Maine Update

## May 2012

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In mid-May, the Maine legislature approved a number of education bills, as reported in the Kennebec Journal. The most extensive is L.D. 1422 which changes high school diploma requirements as the first step toward a proficiency-based education model. Under the new requirements, schools will have to break the Maine Learning Results standards into specific skills for which students must demonstrate proficiency (similar to New Hampshire mastery testing). To earn a proficiency-based diploma, students must show mastery of every skill or topic. The new diploma standards are effective beginning with the Class of 2017 (this year's seventh-graders); waivers will be allowed through 2020. Another bill -- L.D. 1779 -- requires career and technical education programs to prepare students to meet national industry standards. And still another measure -- L.D. 1965 -- calls upon career and technical education centers to coordinate with local school districts to ensure their calendars differ by no more than five days.

# Michigan Update

## May 2012

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Michigan is considering the use of online, adaptive student assessments in order to get a better measure of each student's achievement level. The data will also help teachers tailor their lesson plans for the strengths and weaknesses of their students. Such computer-based tests will allow the State to grade all exams within two days and allow students promptly to retake tests that they fail. Michigan is one of 26 states working to develop the testing system which, it is hoped, will be operational after the 2014-15 school year. The new exams are expected to replace the Michigan Education Assessment Program.

Michigan Governor Rick Snyder has signed into law a controversial measure that would expand the number of online charter schools. Current law includes caps on the number of cyber charter schools (2) and student enrollment (400 in the first year and 1,000 in subsequent years). The new bill allows up to five cyber charter schools by the end of 2013 and increases to ten by 2014 and 15 after that. Enrollment in each school will be limited to 2,500 students in the first year, 5,000 in the second year, and 10,000 thereafter. The measure has been strongly opposed by advocates of traditional public schools. The Governor also signed a bill that expands dual enrollment options for high school students, according to [Education Week](#). Now college credit courses are available to all high school students, not just those in at least 11<sup>th</sup> grade as required by current law.

# Missouri Update

## May 2012

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The Missouri legislature has approved a \$24 billion budget plan for the next fiscal year that includes a \$3 million increase for higher education divided among seven public universities. The spending plan also diverts State revenue from casino fees -- money that had previously gone to early childhood education -- to veterans programs. Funds for early childhood education will now come from the State's share of the settlement of a national tobacco lawsuit. Governor Jay Nixon is currently assessing the proposed budget plan.

Education Week notes that the Missouri legislature has approved an expansion of charter schools in the State while also increasing accountability requirements for the charters. The new legislation allows charters to be established in any school district that has lost State accreditation and in districts that have been provisionally accredited for three consecutive years. Charter schools have been operating for more than a decade in St. Louis and Kansas City, both of which are unaccredited. Ten other Missouri school districts have also lost State accreditation. It is noteworthy that six charter schools in St. Louis, operated by Imagine Schools, Inc., were closed because of academic and management problems.



# Nevada Update

April 2012

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The Las Vegas Review Journal notes that Clark County's Virtual high school has seen a 33 percent increase in the number of students enrolled exclusively in online courses this Spring. Opened in 2004 as an online alternative, the Virtual High School experienced a flat enrollment of 150 in the Fall. The number of students taking one or two online also increased significantly this Spring -- by 37 percent to 12,000 students. Online students still have teachers who they can contact -- by telephone, e-mail, text, or in person -- for guidance. And teachers create their own tests and track student progress.

# New Jersey Update

## May 2012

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The Wall Street Journal notes that New Jersey Governor Chris Christie has proposed expanding high school testing by requiring students to pass a number of subject exams in order to graduate. Under the existing system, high school students need only pass a single test covering English and math. It is possible that a total of 12 tests would be required -- three years of English, math, science, and social studies. The State's current middle-schoolers would take the new tests but the results would not count toward graduation. This year's fourth-graders would be the first to face the requirement. The State also wants high schools to offer college-admissions tests, like the SAT, and to provide remedial courses in high school for students who fail.

# New Mexico Update

May 2012

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The Albuquerque Journal reports that Albuquerque's local teachers union, the Albuquerque Teachers Federation -- has expressed a "no confidence" vote in New Mexico's Secretary of Education, Hanna Skandera. Appointed in 2011 by Governor Susana Martinez, Skandera is criticized by the union for her planned teacher evaluation system and her decision to lay off State education department employees. Skandera has introduced an A-F school grading system like the one in Florida where she was deputy education secretary. She has also put forth a plan to end social promotion of third-graders.

# New York Update

April 2012

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Data from the New York State School Boards Association indicate that 96.4 percent of proposed local budgets were approved by voters. This is slightly higher than the 93 percent approved last year and significantly higher than the historical average of 84 percent. The State, for the first time, imposed caps on the amount districts could increase taxes -- an average of 2.3 percent. The success rate for districts that did not exceed their cap was 99.2 percent. Forty-eight districts chose to seek approval of budgets that exceeded their caps, but only 29 of these were approved.

According to SchoolBook, New York City schools are gradually phasing in the Common Core State Standards. This school year, City schools are experimenting with the new standards in English and math. Next year, schools will implement the new standards in science and social studies classes and will expand implementation in English and math. Next year's State English and math exams, taken by third- through eighth-graders, will for the first time include elements of the Common Core. None of the high school Regents Exams will be affected next year, but the 2014 Regents will incorporate the Common Core in English, Algebra I, and Geometry exams.

The U.S. Department of Education's Inspector General has filed a civil fraud lawsuit against The Princeton Review, charging that the company cheated in reporting attendance for struggling New York City students it was tutoring. According to Education Week, the company submitted false attendance reports for its tutoring program from 2002 to 2010 when the program was terminated. The action seeks unspecified damages for the many millions of dollars Princeton Review received between 2006 and 2010.

# Pennsylvania Update

## May 2012

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According to Business Week, the Pennsylvania Senate has passed a \$27.7 billion FY 2013 budget plan that restores many of the cuts put forth by Governor Tom Corbett. The budget assumes State tax revenues will exceed earlier estimates by \$900 million in FY 2012 and FY 2013 and that the money will be used to increase FY 2013 spending by about \$500 million more than was proposed by the Governor. Specifically, the increased spending is expected to be used to:

- offset proposed cuts to public colleges and universities;
- increase aid for low-income school districts; and
- add \$50 million for accountability block grants which are frequently used to fund full-day kindergarten programs.

# South Carolina Update

May 2012

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Education Week notes that South Carolina Governor Nikki Haley has signed into law a measure that would expand the availability of charter schools in the State. The new law will allow boys-only and girls-only charter schools, require traditional schools to allow charter school students to participate in extracurricular activities, and allow universities to sponsor charter schools.

Currently, South Carolina has 47 charter schools serving 17,000 students. Eight more charters are slated to open this Fall with 13 new applications submitted for 2013.

# Texas Update

## April 2012

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The Fort Worth Star-Telegram notes that cuts to Texas' education budget have caused some school districts to eliminate or curtail summer school programs. In the past, Texas school districts were required to provide additional help for fifth- through eighth-grade students if they failed State tests. In the 2010-11 school year, the State offered \$44 million to help pay for after-school and summer programs, but the State legislature subsequently cut the funds. In Fort Worth, for example, the summer school schedule will eliminate its traditional 16-day summer school 37 schools for elementary students, replacing it with a one-week remedial session in 25 schools.

According to Inside Higher Ed, the Texas community college system is undertaking a multi-year project intended to change remedial math fundamentally. Called Mathways, the new system would require remedial students who intend to major in STEM fields to take, as before, a traditional, algebra-based developmental course. Other students could be directed toward statistics or quantitative reasoning classes. Beginning this Fall, as many as seven Texas community colleges will offer the statistics alternative. The State community college association will provide professional development for teachers and help develop course materials. It is hoped that the program will spread to all 50 colleges by the Fall of 2013. It is estimated that the first-year cost of the project will be about \$2 million plus the cost of instructors' salaries, with the Texas Community College Association contributing \$300,000 to the effort. The project is based on work developed by the Carnegie Foundation and the Charles A. Dana Center at the University of Texas at Austin.

Education Week notes that Texas' Education Commissioner, Robert Scott, will step down in July after five years in office. Scott recently apologized for \$5.4 billion in cuts to school funding approved by the State legislature. His criticism of the education cuts did not please Governor Rick Perry, who proposed that all State officials enter into a compact that would ensure no new

or increased taxes.



# Vermont Update

May 2012

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The Brattleboro Reformer reports that Vermont has dropped its request for a waiver from key provisions of the Federal No Child Left Behind Act. Vermont was one of 26 states that submitted waiver requests to the U.S. Department of Education in April. However, when USED said it wanted more information on the State's plan, the State Board decided the waiver was not worth the effort and withdrew its request. Vermont officials had assumed that they would be able to develop the State's own measures for teacher qualifications and student progress within its accountability system. But, in the State's view, the waiver would not allow such flexibility.

# Wisconsin Update

May 2012

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As reported in Education Week, Wisconsin has been informed by the U.S. Department of Education that the State's application for a waiver from the requirements of the No Child Left Behind Act is at risk of being denied because of its deficiencies in school accountability. Wisconsin's application calls for rating schools based on student performance, closing achievement gaps, preparation of students for college and careers, dropout rates, and third-grade literacy levels. USED notes, however, that the State's proposal did not adequately explain how it would implement the reforms. State officials have been working with USED to modify the application and plan to resubmit it by about June 1.