

Education TURNKEY Electronic Distribution, Inc.

256 North Washington Street
Falls Church, Virginia 22046-4549
(703) 536-2310
Fax (703) 536-3225

MEMORANDUM

DATE: August 28, 2014
TO: TechMIS Subscribers
FROM: Charles Blaschke, Suzanne Thouvenelle, and Blair Curry
SUBJ: E-Rate Update; Unspent Race to the Top Opportunities; Implications of a GOP Senate Takeover in Congress; State Waiver Extensions and Update; New Group Reviews Alignment of Instructional Materials to Common Core

The E-Rate Update Special Report has two parts. One part deals with the lengthy FCC ruling on E-Rate Modernization, particularly related to E-Rate refunds, the use of consortia for small districts' applications, and related matters, which we have addressed in previous TechMIS reports on the proposed ruling last August. With limited exceptions (e.g., effective date for applicant direct reimbursements under the BEAR process), our previous "expectations" remain intact.

The second part includes lists of district and other applicants which received School and Libraries Division (SLD) "funding commitments" during the second quarter (April-June), many of which can be used to purchase instructional materials and professional development, among other non-eligible products/services.

The second Special Report describes likely scenarios which would play out if the GOP takes over the Senate after the November mid-term elections on important issues which could have implications for TechMIS subscribers. For example, Senator Lamar Alexander would likely become Chairman of the Senate Health, Education, and Labor Programs (HELP) Committee, which could result in a series of "fix-it amendments" similar to those he proposed several years ago as an alternative to waivers; Chairman Alexander is much more likely to be pro "for-profit" firms than the Obama/Duncan "ideology," which supports and encourages the use of non-profit entities in most of their flagship programs.

The Washington Update includes items, some of which should be of high-interest to many TechMIS subscribers:

- **Page 1**
USED Estimates the Amount of the Unspent Funding in Race to the Top Funds, and Identifies States Which Have Received One-Year, No-Cost Waiver Extensions; Some Could Provide Opportunities for Subscribers
- **Page 2**
USED Publishes Guidance on Responsibilities of States', LEAs, and Department of HHS Shelters to Educate Children Who Recently Arrived in the United States, Particularly Those "Unaccompanied" Children Crossing the Mexican Border from Central America
- **Page 4**
GOP Congressional Education Committee Leaders Request Government Accountability Office (GAO) to Investigate and Report on Secretary Duncan's NCLB State Waiver Policy and Implementation, Which is Likely to Provide Rationale for ESEA Fix-It Amendments or Comprehensive ESEA Reauthorization
- **Page 5**
On June 24th, USED Released the Results of its New Monitoring/Evaluation Efforts on Progress Being Made by States in Meeting the New IDEA Results-Driven Accountability Emphasis on "Outcomes" Rather than "Compliance"
- **Page 6**
GOP Senate Leaders' August 4th Letter to Secretary Duncan Attempts to Build Case Against USED Misuse of its Authority in the New IDEA Results-Driven Accountability (RDA) Initiative Which Could Support the Recent House Lawsuit Resolution Against the Obama Administration
- **Page 8**
The Fordham Institute's New August Report, "The Hidden Half: School Employees Who Don't Teach" Finds that Almost Half of All the K-12 Employees Are Non-Teachers, Which Has Both Positive and Negative Implications for Some TechMIS Subscribers Who Sell Directly to K-12 Federally-Funded Market Niches
- **Page 9**
New "Consumer Reports-Type" Group Announces Plans to Evaluate Comprehensive, Commonly-Used Materials' Alignment With Common Core State Standards and Provide Reviews to K-12 Decision-Makers, Which Could Create Some Education Market "Paralysis"
- **Page 11**
A number of miscellaneous items are also addressed including:

- a) A bipartisan bill to protect student privacy, introduced by Senators Ed Markey and Orrin Hatch, would require school districts to meet new rules protecting students' privacy or lose Federal funding.
- b) The most recent survey of Washington "insiders/influencers" conducted by White Board Advisors finds that 20 percent believe ESEA will never be reauthorized, while 75 percent said reauthorization will not occur until after December 2015.
- c) Education Week's annual survey on teacher perspectives on Common Core finds that between 2012 and 2013 teachers are receiving more professional development, but do not feel they are more prepared as a result of becoming more familiar with the standards and assessments over one year, or the quality of training was lacking or both.
- d) USED provides one-year "extensions" to NCLB waivers for Florida, Kentucky, Mississippi, North Carolina, and Wisconsin, but "approval" after that appears to be contingent on states making changes/corrections in certain areas for comprehensive waiver approval (updated August 25th).
- e) USED has announced a new \$250 million preschool development grant competition for states which will be administered jointly with the Department of Health and Human Services and could provide "partnering" opportunities for some subscribers.
- f) A New America Foundation survey of 800 registered bipartisan voters reports that "children getting a stronger start in life" ranks second only to "increasing jobs and economic growth" in terms of national priorities.

During the Congressional August recess, some policy changes have occurred, including the Secretary's announcement on August 22nd that any waiver state could request an extension related to the major "stumbling block" in most states, teacher and principal evaluations requirements (Principle 3), which is discussed in the miscellaneous update on waiver extensions. State profile updates will be included in the next TechMIS report.

As always, please call me if you have any questions (703-362-4689).

Special Report:
**E-Rate Update: FCC July 11th Ruling on E-Rate Refunds and Districts
Receiving E-Rate Funding “Commitments” for Second Quarter (April-
June) Which Can Be Used to Purchase Any Non-E-Rate Eligible
Products and Services, Such as Instructional Materials and
Professional Development**

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

Prepared by:
Education TURNKEY Systems, Inc.
256 North Washington Street
Falls Church, Virginia 22046-4549
(703) 536-2310 / (703) 536-3225 FAX

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FCC July 11th Ruling

The July 11, 2014 FCC ruling, which received a 3-2 FCC member approval vote, for the most part follows closely the July 19, 2013 proposed rule on E-Rate refunds, consortia purchases, and other matters of interest that have implications for most TechMIS subscribers. Our predictions and implications were identified in the August 28, 2013 TechMIS Special Report on the new E-Rate Modernization initiative (published on July 22nd in more than 100 pages), which confirms what we had predicted.

The July 11, 2014 ruling states, “First, we revise our rules to allow an applicant that pays the full cost of the E-Rate supported services to a service provider to receive direct reimbursement from USAC.” One major implication of this change is that district and library applicants who paid the full cost of E-Rate supported services are more likely to request a cash E-Rate refund reimbursement rather than a credit from the service provider, which increases the probability that non-eligible E-Rate instructional materials and services will likely be purchased with the refund. For example, instructional technology is more likely to be purchased with “cash” rather than a “credit” from the service provider who only sells infrastructure-type E-Rate eligible technologies and services. As the FCC E-Rate ruling also states, “We agree with commenters who argue that this change would improve the administrative process by eliminating unnecessary invoicing steps which, in turn, would speed disbursements to schools and libraries.” While other current directly-related provisions related to E-Rate refunds remain, the new provision allowing applicants to receive direct reimbursements from USAC using the BEAR process will not begin until funding year 2016. However, the FCC’s intent is clear and the extensive supporters comments on the proposed rules could result in making the effective date sooner, according to a number of observers. Perhaps most importantly, the allowance of E-Rate funding commitments

and receipt of such funds by districts to purchase non-eligible E-Rate products and services remains intact and clear.

As expected, the new ruling encourages the use of consortia and bulk purchasing to drive down prices paid by schools and libraries. Specifically, the new rules:

- prioritize review of consortia applications so that such consortia applications (approximately 13 percent of all applications last year) are “reviewed first rather than last”;
- make it easier for applicants to take advantage of consortia bidding and otherwise reduce barriers to consortia applications.

Even though it is not addressed in the ruling, FCC announcements shortly before the July 11th vote also encouraged schools and libraries to take advantage of purchasing off the GSA schedule. We had hoped to discuss this with FCC/USAC officials at the E-Rate exhibit booth during the June 30-July 1 ISTE conference. However, their E-Rate exhibit booth had no one in attendance when we visited the booth six times. While details relating to consortia applications and group buys including the use of GSA schedule may be addressed in further rules, the creation of new consortia, especially for small and rural districts or expansion of intermediate school district might expand the array of products beyond covering E-Rate items. It is important to note that for other reasons identified in our July TechMIS Special Report and elsewhere, a new focus for many TechMIS subscribers on such consortia of small, rural districts may be warranted. For example, the July Special Report on IDEA funding clearly shows that small and rural districts with declining enrollments (because of the continued use of the 1997 IDEA funding formula) receive more funding per “special ed student served” than larger districts with increased enrollments. Hence, opportunities for increased purchases by ISD or newly-created consortia for E-Rate funding may also prove to be more beneficial for subscribers which have products appropriate for the special education market niche due to increased “purchasing power” for consortia members. As we noted in the August 28, 2013 Special Report, similar consortia purchasing or group buys would also apply to non-eligible products and services by applicants using the BEAR process for purchasing non-eligible products and services. On the other hand, there could be some negative implications for smaller firms with regional rather than national coverage in certain instances as we noted in the August 28, 2013 TechMIS Special Report.

In our July 2, 2014 TechMIS issue, we reported that the Obama Administration will undertake an initiative to ensure Native American tribal schools and libraries “participate effectively” in the E-Rate program as part of its ConnectED initiative. The July 11th ruling does delegate authority to the Office of Native Affairs and Policy to provide consultation to determine how best to get the data on current connectivity levels in tribal schools and help identify the need for E-Rate support among tribal schools and libraries. The ruling would also create a formal tribal liaison at USAC to assist with tribal-specific outreach, training, and assistance. Beyond the collection of more data to identify needs for increasing tribal participation in the E-Rate program, very few specific directives are included in the July 11th ruling, but could appear in future USED guidance.

For example, as a follow-up to our July 2, 2014 TechMIS Washington Update, according to

Fritzwire (August 20, 2014), USED is expected to issue guidance soon for how tribal schools can use “leftover” Federal funds on things like teacher bonuses, computers, minor remodeling of schools, including wiring, and related measures. This initiative by USED appears to be directly-related to the ConnectED initiative, which could include \$2 billion of donated and other resources and is also highly dependent on E-Rate funding under the Modernization initiative.

Districts Receiving 2nd Quarter Commitments

As we attempt to do on a regular basis, we have included a list of districts that received E-Rate funding commitments from the FCC/SLD, during the last quarter (April-June), for applications submitted going back to 2010. Some of the funding commitment letters likely represent appeals that were filed by districts when they were notified that certain requests in their “prior” applications were denied. In other cases, the applicant’s request was put “on hold” due to “complexities” (e.g., consortia applications) and/or “unresolved questions.” In many cases, these districts went ahead and purchased the product(s) or services in question, paying the full pre-discount price. Because the Schools and Libraries Division (SLD) eventually found many of these appeals to be “meritorious” and/or “questions” were resolved, these districts can request a check/cash instead of a credit through the so-called BEAR process. Those districts doing so can use the E-Rate discount refund to purchase non-eligible E-Rate products and services such as instructional software, professional development, and related services and tools.

For example, in Exhibit 1, the district staff member who is a company sales representative’s primary contact and who is interested in purchasing a non-E-Rate eligible product or service, should be asked to contact the district E-Rate office to determine whether the district purchased the product and/or service at pre-discount full prices and whether a check was requested for the refund amount through the BEAR process; if so, she or he can ask the district E-Rate Director if some of that money could be used to purchase the desired product or service the firm sells.

The accompanying Exhibit 1 shows the 2010-13 SLD funding commitments greater than \$50,000, some of which are likely for old appeals which have recently been found to be “meritorious” and the applicant district or other entity most likely paid the pre-discount full-price, especially those 2010-2012 commitments. These districts should be considered Priority 1 for E-Rate refunds that could be used to purchase non-E-Rate eligible products and services now. As we noted in the February TechMIS Washington Update, during the fourth quarter of 2013, commitments going back to 2005 to Dallas Independent School District totaled more than \$85 million.

The 2013 funding commitments in Exhibit 1 of at least \$50,000 which went to school districts or other entities are displayed. Some, but not all, of these applicants could have taken the lead role by filing applications as a consortia agent for the districts. Some of the applicants receiving commitment notices for 2013 will not have likely purchased products at a pre-discount price while the review process was underway. However, those that did purchase products in question at pre-discount prices will likely submit the BEAR form and should be considered Priority 2 for having refunds that could be used to purchase non-eligible E-Rate products and services.

As emphasized in the attached TechMIS Special Report, under the new FCC E-Rate Modernization initiative, the SLD will speed up the “appeals” and “on hold” review process, which will likely result in more timely “meritorious” decisions over the next year. Keep “tuned in” to TechMIS for timely updates and call us if you have any questions.

E-Rate			
Funding Year 2014, Quarter 2(Apr- Jun) Commitments			
(\$50,000 or more)			
Applicant	City	State	Amount Committed
2010 Commitments			
TERRELL INDEP SCHOOL DISTRICT	TERRELL	TX	\$1,546,776
2011 Commitments			
BURBANK UNIFIED SCHOOL DIST	BURBANK	CA	\$3,571,011
BALDWIN PARK UNIF SCHOOL DIST	BALDWIN PARK	CA	\$242,079
2012 Commitments			
PALM BEACH COUNTY SCHOOL DISTRICT	WEST PALM BCH	FL	\$4,430,427
KNOX COUNTY SCHOOL DISTRICT	KNOXVILLE	TN	\$3,449,504
DIS STATE OF ARKANSAS	LITTLE ROCK	AR	\$1,614,076
WHITTIER CITY SCHOOL DISTRICT	WHITTIER	CA	\$616,003
CALHOUN COUNTY SCHOOL DISTRICT	MORGAN	GA	\$579,972
SPRINGFIELD CITY SCHOOL DIST	SPRINGFIELD	OH	\$549,147
EARLY COUNTY SCHOOL DISTRICT	BLAKELY	GA	\$462,938
MORRISON CHILD AND FAMILY SERVICES	PORTLAND	OR	\$297,172
SHA'AREI ZION OHEL BRACHA	FOREST HILLS	NY	\$279,360
MILLER COUNTY SCHOOL DISTRICT	COLQUITT	GA	\$198,585
MITCHELL COUNTY SCHOOL DIST	CAMILLA	GA	\$141,075
TERRELL COUNTY SCHOOL DISTRICT	DAWSON	GA	\$50,396
NEW HEIGHTS ACADEMY CHARTER SCHOOL	NEW YORK	NY	\$48,953
HILLSBOROUGH CO SCHOOL DIST	TAMPA	FL	\$48,115
2013 Commitments			
TEACH WISCONSIN	MADISON	WI	\$13,928,921
ALBUQUERQUE SCHOOL DISTRICT	ALBUQUERQUE	NM	\$5,752,171
KENTUCKY STATE DEPT OF EDUC	FRANKFORT	KY	\$2,303,400
SANTA ANA UNIF SCHOOL DISTRICT	SANTA ANA	CA	\$2,219,683
UTAH EDUCATION NETWORK	SALT LAKE CITY	UT	\$1,341,717
BRIDGEPORT SCHOOL DISTRICT	BRIDGEPORT	CT	\$1,298,665
TANGIPAHOA PARISH SCHOOL DIST	AMITE	LA	\$1,178,973
ENTERPRISE TECHNOLOGY SERVICES	CHEYENNE	WY	\$1,170,388
YUKON-KOYUKUK SCHOOL DISTRICT	FAIRBANKS	AK	\$1,117,689
ORANGE CO OFFICE OF EDUCATION	COSTA MESA	CA	\$1,076,759
EDUCATION ACHIEVEMENT AUTHORITY OF MICHIGAN	DETROIT	MI	\$1,048,402
IDITAROD AREA SCHOOL DISTRICT	MCGRATH	AK	\$1,005,862
BROCKTON PUBLIC SCHOOL DIST	BROCKTON	MA	\$941,220
SPRINGFIELD PUBLIC SCHOOLS	SPRINGFIELD	MA	\$935,865
KIDANGO INC	FREMONT	CA	\$873,086
WORCESTER PUBLIC SCHOOL DIST	WORCESTER	MA	\$824,476
BUNCOMBE CO SCHOOL DISTRICT	ASHEVILLE	NC	\$729,874
PUC SCHOOLS	BURBANK	CA	\$717,333
GARY COMM SCHOOL CORP ADMIN BUILDING DISTRICT	GARY	IN	\$703,296
DECATUR SCHOOL DISTRICT 61	DECATUR	IL	\$689,767
EAST SIDE UNION HIGH SCHOOL DISTRICT	SAN JOSE	CA	\$675,067
CONROE INDEP SCHOOL DISTRICT	CONROE	TX	\$671,565
KUSPUK SCHOOL DISTRICT	ANIAK	AK	\$670,367
ALHAMBRA ELEM SCH DISTRICT 68	PHOENIX	AZ	\$642,789
NEIGHBORHOOD HOUSE ASSOCIATION	SAN DIEGO	CA	\$631,800
NASSAU COUNTY BOCES	GARDEN CITY	NY	\$626,027
UNITED ISD	LAREDO	TX	\$603,423
NEW BEDFORD SCHOOL DISTRICT	NEW BEDFORD	MA	\$538,247
JEFFERSON DAVIS PARISH DIST	JENNINGS	LA	\$499,612
SANTEE ELEMENTARY SCHOOL DIST	SANTEE	CA	\$488,879
NOGALES UNIFIED SCHOOL DIST 1	NOGALES	AZ	\$487,941
EVERETT SCHOOL DISTRICT	EVERETT	MA	\$426,152
ALASKA GATEWAY SCHOOL DISTRICT	TOK	AK	\$420,739
NORWALK PUBLIC SCHOOLS	NORWALK	CT	\$416,624
WORTH COUNTY SCHOOL DISTRICT	SYLVESTER	GA	\$408,208
TELAMON CORPORATION	RALEIGH	NC	\$386,100
VENTURA CO OFFICE OF EDUC	CAMARILLO	CA	\$380,362
EAST ST LOUIS SCHOOL DIST 189	E SAINT LOUIS	IL	\$372,355
TIFT COUNTY SCHOOL DISTRICT	TIFTON	GA	\$362,105
NEW CORP	OCEANSIDE	CA	\$354,302
SANTA CLARA CO OFFICE OF EDUCATION	SAN JOSE	CA	\$347,000
MASSACHUSETTS DEPT OF YOUTH SERVICES	BOSTON	MA	\$345,557
TORRANCE UNIFIED SCHOOL DIST	TORRANCE	CA	\$341,717
DOUGHERTY COUNTY SCHOOL SYSTEM	ALBANY	GA	\$339,571
DES MOINES INDEP SCHOOL DIST	DES MOINES	IA	\$324,163
HOLDENVILLE SCHOOL DISTRICT 35	HOLDENVILLE	OK	\$322,654
STATE OF FLORIDA DEPARTMENT OF MGMT SERVICES	TALLAHASSEE	FL	\$313,161
LAURENS COUNTY SCHOOL DISTRICT	DUBLIN	GA	\$299,689
HATTIESBURG SCHOOL DISTRICT	HATTIESBURG	MS	\$292,339
SOUTHWEST PREPATORY SCHOOL DIST	SAN ANTONIO	TX	\$289,793

FALL CREEK ACADEMY	INDIANAPOLIS	IN	\$283,932
HALE COUNTY SCHOOL DISTRICT	GREENSBORO	AL	\$256,978
MIDDLESEX REGIONAL EDUCATIONAL SERVICES COMM	PISCATAWAY	NJ	\$251,568
COALINGA-HURON JT UN SCH DIST	COALINGA	CA	\$248,967
PROLOGUE INC	CHICAGO	IL	\$246,286
NORWALK ECONOMIC OPPORTUNITY NOW, INC.	NORWALK	CT	\$242,233
MEDFORD SCHOOL DISTRICT	MEDFORD	MA	\$236,643
JEFFERSON DAVIS CO SCH DIST	PRENTISS	MS	\$226,526
KENNEDY KRIEGER SCHOOL	BALTIMORE	MD	\$226,512
STANISLAUS CO OFFICE OF EDUC	MODESTO	CA	\$224,734
NORWICH PUBLIC SCHOOL DISTRICT	NORWICH	CT	\$217,071
SALEM PUBLIC SCHOOL DISTRICT	SALEM	MA	\$213,462
NEW YORK STATE OFC OF CHILDREN & FAMILY SVCS	RENSSELAER	NY	\$212,366
PASO ROBLES JOINT UNIF S DIST	PASO ROBLES	CA	\$210,737
A.W. BROWN FELLOWSHIP CHARTER SCHOOL	DALLAS	TX	\$205,393
PIQUA CITY SCHOOL DISTRICT	PIQUA	OH	\$202,074
PITTSYLVANIA COUNTY SCH DIST	CHATHAM	VA	\$198,599
BONNEVILLE JOINT SCH DIST 93	IDAHO FALLS	ID	\$195,298
REVERE PUBLIC SCHOOLS	REVERE	MA	\$188,905
DA VINCI SCHOOL OF SCIENCE AND ENGINEERING	HAWTHORNE	CA	\$185,217
CASTRO VALLEY UNIF SCH DIST	CASTRO VALLEY	CA	\$181,400
DAVINCI DESIGN	HAWTHORNE	CA	\$180,945
SCHAUMBURG COMM CONS DIST 54	SCHAUMBURG	IL	\$162,782
CONTRA COSTA COUNTY OFFICE OF EDUCATION	PLEASANT HILL	CA	\$157,719
MARQUETTE - ALGER RESA	MARQUETTE	MI	\$157,124
NYCSARC, INC. NYC CHAPTER (AHRG)	NEW YORK	NY	\$156,314
CARRIZO SPGS CONS IND SCH DIST	CARRIZO SPRINGS	TX	\$156,271
INTERMEDIATE UNIT 25	MORTON	PA	\$154,329
MILLER COUNTY SCHOOL DISTRICT	COLQUITT	GA	\$154,304
CHABAD.ORG	BROOKLYN	NY	\$152,104
SOUTHERN CAL TRIBAL HEAD START ASSOCIATION	PALA	CA	\$145,800
HOPE ACADEMY CORPORATION	KANSAS CITY	MO	\$145,037
TERRELL COUNTY SCHOOL DISTRICT	DAWSON	GA	\$144,802
TREUTLEN COUNTY SCHOOL DIST	SOPERTON	GA	\$143,566
WESTERN SUFFOLK BOCES #2	HUNTINGTON STATION	NY	\$136,497
THE NEXT STEP PUBLIC CHARTER SCHOOL	WASHINGTON	DC	\$135,759
GATEWAY-LYNDE SCHOOL	BUFFALO	NY	\$135,564
OREGON-DAVIS SCHOOL CORP	HAMLET	IN	\$134,803
LEOMINSTER SCHOOL DISTRICT	LEOMINSTER	MA	\$133,775
YOLO CO OFFICE OF EDUCATION	WOODLAND	CA	\$133,665
THE HOPE INSTITUTE	SPRINGFIELD	IL	\$130,343
BLECKLEY COUNTY SCHOOL DIST	COCHRAN	GA	\$123,049
NORTH BOLIVAR SCHOOL DISTRICT	SHELBY	MS	\$122,665
TAFT INDEP SCHOOL DISTRICT	TAFT	TX	\$114,786
BOYS' LATIN OF PHILADELPHIA CHARTER SCHOOL	PHILADELPHIA	PA	\$110,076
FOUNDATION ACADEMY CHARTER SCHOOL	TRENTON	NJ	\$109,434
FARGO SCHOOL DISTRICT 1	FARGO	ND	\$107,662
RAMAZ SCHOOL ADMINISTRATION	NEW YORK	NY	\$106,800
CHILDRENS HOME OF WYOMING CONFERENCE	BINGHAMTON	NY	\$106,510
LIFE SKILLS CENTER OF COLUMBUS NORTH	COLUMBUS	OH	\$105,661
THE CHILDRENS GUILD CORP HEADQUARTERS	BALTIMORE	MD	\$104,452
DEMOCRACY PREP PUBLIC SCHOOLS	NEW YORK	NY	\$104,190
MORRISON CHILD AND FAMILY SERVICES	PORTLAND	OR	\$100,648
ITAWAMBA COUNTY SCHOOL DISTRICT	FULTON	MS	\$93,391
CRESCENT VIEW SOUTH CHARTER HIGH SCHOOL	FRESNO	CA	\$92,938
DELHI UNIFIED SCHOOL DISTRICT	DELHI	CA	\$92,823
LOS ANGELES LEADERSHIP ACADEMY HIGH SCHOOL	LOS ANGELES	CA	\$92,047
CHILD CARE RESOURCE AND REFERRAL	ROCHESTER	MN	\$90,060
WARWICK SCHOOL DEPARTMENT	WARWICK	RI	\$89,625
LEHIGH VALLEY ACADEMY REG CHARTER SCHOOL	BETHLEHEM	PA	\$87,133
CRENSHAW ARTS/TECH CHARTER HIGH SCHOOL	LOS ANGELES	CA	\$86,931
JAMUL-DULZURA UNION SCH DIST	JAMUL	CA	\$86,369
PATERSON CHARTER SCHL FOR SCI AND TECH ELEM	PATERSON	NJ	\$86,213
ST JOSEPH VILLA SCHOOL	ROCHESTER	NY	\$85,679
I S C #4	CHICAGO HEIGHTS	IL	\$82,372
PIEDMONT CITY SCHOOL DISTRICT	PIEDMONT	AL	\$81,437
EINSTEIN CHARTER	NEW ORLEANS	LA	\$80,849
LOS ANGELES URBAN LEAGUE STATE PRESCHOOL	LOS ANGELES	CA	\$80,460
BNOS BROCHA GIRLS SCHOOL	LAKEWOOD	NJ	\$77,100
RIVERDALE COUNTRY SCHOOL	BRONX	NY	\$76,013
SOUTH TEXAS EDUCATIONAL TECHNOLOGIES, INC.	WESLACO	TX	\$75,428
EARLY COUNTY SCHOOL DISTRICT	BLAKELY	GA	\$75,256
TRINITY INDEP SCHOOL DISTRICT	TRINITY	TX	\$72,991
VAN BUREN I S D	LAWRENCE	MI	\$72,394
DOVER SCHOOL DISTRICT	DOVER	NH	\$70,947
INTERMEDIATE UNIT 10	WEST DECATUR	PA	\$69,575
SCCOE/SPECIAL EDUCATION	SAN JOSE	CA	\$69,508
CHICAGO PUBLIC SCHOOLS	CHICAGO	IL	\$67,246
GREENON LOCAL SCH DIST	ENON	OH	\$65,754
GARY LIGHTHOUSE CHARTER SCHOOL UA	GARY	IN	\$65,483
EDDYVILLE BLAKESBURG FREEMONT CSD	EDDYVILLE	IA	\$63,044
BUCKEYE RANCH-ROSEMONT CENTER	COLUMBUS	OH	\$62,630
WILSON SCHOOL DISTRICT 7	PHOENIX	AZ	\$62,180
ISLAMIC ELEMENTARY SCHOOL C	SOUTH OZONE PARK	NY	\$61,385
HARRISONVILLE SCH DISTRICT R 9	HARRISONVILLE	MO	\$60,717
NEW HEIGHTS ACADEMY CHARTER SCHOOL	NEW YORK	NY	\$59,002
ANDERSON SCHOOL	STAATSBURG	NY	\$54,754
CITY OF HUNTINGTON BEACH DEPT OF INFO SERVICES	HUNTINGTON BEACH	CA	\$52,320
HOPE ACADEMY NORTHWEST	CLEVELAND	OH	\$52,021
PERRY STREET PREPARATORY CHARTER SCHOOL	WASHINGTON	DC	\$50,082

Special Report:
**Likely Scenarios Under a Republican Senate on Important Issues
Which Could Have Implications for Many TechMIS Subscribers**

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

Prepared by:
Education TURNKEY Systems, Inc.
256 North Washington Street
Falls Church, Virginia 22046-4549
(703) 536-2310 / (703) 536-3225 FAX

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If the November mid-term election results in a Republican “takeover” of the Senate, a number of likely scenarios on key issues such as ESEA reauthorization, state waiver flexibility, parent choice, and one issue about which the news media has been silent – namely, the Obama/Duncan ideological bias against education for-profit companies will likely be revised.

As we predicted in 2011, when the serious first round debates on ESEA renewal and dismantling NCLB occurred, Senator Lamar Alexander was increasingly becoming the “playmaker” between Democrats and Republicans on key issues. And, with a Republican takeover, we agree with Education Week’s Politics K-12 blog (July 31st), he is the “likeliest candidate to take over the helm of the Senate Education Committee if the chamber flips to GOP control in the fall.” Senator Alexander is uniquely qualified beyond his recent experience and power as the playmaker, including:

- he served as Secretary of Education under the “first” President Bush and by all accounts gained the respect of many education groups on both sides of the Congressional aisle;
- Alexander was also Governor of Tennessee and later became President of Vanderbilt University, and as *Politics K-12* notes, “championed one of the earliest experiments with merit pay for teachers” and other statewide reform efforts.

Unlike the present Administration, while Alexander was Secretary of Education during the emerging use of technology in education, his “door was open” on new solutions to barriers confronting the education technology industry. For example, in late December 1992 when he was leaving office, he “signed off” on a rule/regulation that allowed Title I funds to be used not only to pay for the principle on a lease-purchase arrangement for purchases of computers and other instructional technologies, but also allowed such funds to pay for the interest on these purchase arrangements, which continues today to be an important part of the Title I “legal framework.” At least one firm, which benefitted from the arrangement, was so successful in generating sales in one year that it created “problems for the firm in its accounting reports.” Also, after leaving, the former Secretary was a key high-level official and otherwise supporter of

private sector ventures in the preschool/early childhood market.

As a Senator over the last few years, he has continued his support for “parent choice,” which would allow Federal funds for programs benefitting low-income disadvantaged students (Title I) to “follow the child” in the form of scholarships, which would allow parents to select which public or private schools, including charter schools, in which to enroll their children. As *Politics K-12* notes, the two key ESEA renewal bills which he championed and were passed by the House, “... would also allow Title I dollars for disadvantaged kids to follow the students to the public schools of their choice, including a charter school.”

Perhaps in anticipation of his increased role as “playmaker” and future Chairman of the Senate Education Committee, Senator Alexander hired staff familiar with ESEA reauthorization issues. An example is hiring David Cleary, a key drafter of the No Child Left Behind (NCLB) legislation and the 2004 reauthorization of IDEA. Cleary is not only imminently experienced, having worked with John Boehner, now House Speaker and formerly the Education Committee Chairman, but Cleary is qualified to draft ESEA reauthorization and the ESEA “fix-it amendments” that Senator Alexander has proposed prior to the Administration’s decisions to use the Secretary’s discretionary authority in implementing the 2011-12 NCLB flexibility state waiver initiative and guidance.

Below are several scenarios of major issues which could play out if Senator Alexander becomes Chairman of the Senate Education Committee and Republicans take over the Senate after the November election. On several issues, we relied on an interview recently conducted with Senator Alexander by Alyson Kline’s *Education Week Politics K-12* blog (July 31st) and an interview with Richard Long, retiring Director of the National Title I Association, whom we’ve cited in numerous TechMIS reports as a leading authority not only in Title I, but ESEA in general.

Regarding ESEA reauthorization, the Senator told Kline “if Republicans take over the Senate and I’m fortunate enough to be Chairman of the Committee [NCLB renewal] will be a top priority,” noting that current Committee Chairman Senator Tom Harkin (D-IA) and he have had a “productive relationship” even though Senator Alexander opposed the Senate NCLB renewal bill last year. He stated that he would “begin with the bill we introduced last year,” but he would “listen” to Democratic members, which he felt would provide bipartisan support, “if only to get rid of the current regime of NCLB waivers.” In previous House and other bills that he introduced, Senator Alexander has proposed major block grants for all competitive grants and most large Federal programs; he would allow Title I funds to “follow the child to increase parent choice to other schools and charter schools in order to foster parent choice; and delegate most major authority for implementation to states in areas ranging from “fixing lowest-performing schools to evaluate teachers and allow states to set their own standards.”

Regarding Common Core state standards, which according to the recent Gallop Poll most Americans oppose, Senator Alexander told *Education Week* that Common Core state standards would become more politically acceptable “if Congress passes reauthorization that makes it clear

states set their own standards – something he thinks has become confusing under waivers.” In our discussion, both Rich Long and I agreed that Senator Alexander is not only one of the most thoughtful education policy thinkers, but also has direct experience as a Secretary of Education during the outcome standards and goals debates more than 20 years ago following the release of the report “A Nation at Risk.” He is certainly politically sensitive and well-versed of the most substantive issues in the context of political realities, including Federal intrusion on state responsibilities in education.

As an alternative, if such a reauthorization proposal has difficulty in the GOP House and lacks the necessary 60 votes in the Senate, he may dust off his proposed “fix-it amendments” to NCLB/ESEA which he proposed in 2011, as an alternative to the Administration’s providing NCLB flexibility state waivers. Based on his support in the past and comments in the interview with Alyson Kline, the proposed amendments would do away with the 15% set-aside for supplemental educational services; and perhaps create a separate funding stream under Title I for a five percent or more parent choice option.

Such an amendment would be welcomed by most states and would probably not receive much opposition from the Obama Administration since Washington State, whose waiver flexibility was recently revoked, was able to gain much more flexibility on supplemental educational services set-aside requirements as a result of their “negotiated settlement” (e.g., district or teacher provided). Another likely fix-it amendment would do away with School Improvement Grants (or at least allow states to determine the nature and extent of interventions for fixing low-performing schools) and most other Obama/Duncan flagship competitive grants such as Race to the Top.

While the above and other fix-it amendments to NCLB would remove some of the unrealistic NCLB provisions (e.g., 100% proficiency for all schools), support from states and districts could be generated, especially if some of the fix-it amendments also address other current state waiver conditions; this could result in a significant drop in the number of states requesting state waiver “approvals” a year from now (most states are currently receiving only one-year extensions). By fixing some of the widely perceived (by both Congressional Republicans and Democrats) NCLB one-size-fits-all conditions/sanctions, and adopting some of the positive elements of current waiver conditions (e.g., targeting more Federal funds on fixing lowest-performing schools and increasing more parent, community, and district engagement), it is likely that there would be enough bipartisan support for passage of fix-it amendments as an interim measure to allow for a smoother transition from waivers back to a reauthorized ESEA. It would not only delete much of the NCLB prescriptions and sanctions, but also provide more responsibility to states with less Federal USED “intrusion” under the waiver process.

Many fix-it amendment may “block grant” many currently competitive programs and some formula grant programs (Title II Teacher Quality), the largest Title I (\$15 billion) and IDEA (\$11 billion) would likely remain largely intact (but with some changes), particularly in any “fix-it amendments” and possibly an ESEA reauthorization. In our discussion with Rich Long, who will be leaving his Title I post on August 31st to become President of Literate Nation (www.LiterateNation.org), felt that Title I “might be” included in a large-scale state block

consolidation if Title I advocates do not provide enough hard data to justify its continuation as a separate formula program, especially if and when a full-scale comprehensive ESEA reauthorization passes Congress. Opposition would come from House members, as virtually all receive some Title I funding for school districts in their Congressional districts. However, with such a threat looming, advocates may be willing to accept a series of fix-it amendments such as those noted above. Some of the additional fix-it amendments would likely include:

- Increased flexibility in the use of funds through removal of state and local rules and regulatory provisions that prevent, for example, the use of Title I and IDEA funds to support expanded use of Response to Intervention approaches without violating Title I “supplement-not-supplant” provisions.
- Removal of statutory set-asides of which there are more than 50 in Title I which affects more than 50 percent of Title I Part A formula grant funds allocated for certain large districts.

As we noted in our February 2011 and April 2011 TechMIS issues, another fix-it amendment would relieve many rural districts from NCLB sanctions and increase flexibility in combining and using Federal funds such as creation of districtwide school improvement programs. Another fix-it amendment would likely ensure more accurate “comparability” accounting by including all the costs, including individual teacher salaries in comparing “comparability” among teachers in both high-poverty and low-poverty schools.

Most fix-it amendments affecting IDEA would be those that allow combining IDEA and Title I to address the needs of dually-served students with disabilities in the areas of providing Response to Intervention, staff development, and services which are needed. Many Federal protections and service requirements in IDEA are also written into state education codes which in a limited number of states during the 1960s resulted in the creation of PL94-142, now IDEA.

While the above scenarios which could be played out under a GOP-controlled Senate and House are dependent upon November mid-term elections, one barrier has already been removed. Senator Lamar Alexander easily won the Tennessee primary by beating his Republican rival by more than 50 percent of the votes and, as reported by Education Week, “with just six months left to the mid-term election, Tennessee’s Senate seat is safely Republican and Alexander should not have a difficult campaign against Gordon Ball, his Democratic opponent.” And if other senatorial Republican candidates won and GOP takes over the Senate, he’s likely to become Chairman of the Senate Education Committee. If he receives the bipartisan support in many instances which is expected, opportunities for many TechMIS subscribers should be created and/or expected.

Washington Update

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USED Estimates the Amount of the Unspent Funding in Race to the Top Funds, and Identifies States Which Have Received One-Year, No-Cost Waiver Extensions; Some Could Provide Opportunities for Subscribers

As with most of the remaining multi-year ARRA funding, USED provided last minute waivers to extend certain deadlines for Race to the Top states to either spend or obligate unspent funds based on state circumstances. The remaining funds, which along with other state changes, could create some opportunities for firms with products/services specifics with low operating costs. The approved deadline for state spending the remaining funds is September 1, 2015, as reported by Education Week (July 24th).

Most of the states plan to allocate some of the remaining funds for Common Core State Standards (CCSS) and assessments development, particularly developing technology capacity for online assessment, related professional development, and finalizing teacher and principal evaluation systems required for state waiver extensions and/or adoptions. The following highlights of state plans for unspent funds may be helpful to TechMIS subscribers in targeting states.

Florida has approximately \$147 million of the initial \$700 million grant to develop instructional tools and lesson models and to increase district technology capacity to

improve instruction and assessment. Some funds will be allocated for STEM related initiatives.

As of July, Georgia had \$140 million of its \$400 million grant remaining. It plans to finish developing a teacher performance evaluation system and increase the number of math and science teachers. It also plans to use a portion of the funds to provide competitive grants for innovation for districts.

With its \$73 million remaining funds, Maryland plans to continue 18 state projects which include eight projects in four districts that focus on increasing technology capacity in schools for testing CCSS purposes. Some of the funds will be used by the state to align assessments to Common Core standards and for professional development.

Of the \$250 million grant, Massachusetts has “obligated” about \$42 million for a number of projects; \$27 million is to be used for state initiatives, including teacher training and professional development systems. About \$8 million will be sent to districts to implement a school discipline data tracking system, while another \$7 million will be used to implement technology-related initiatives at the state level.

New York will use the remaining \$283 million of its \$700 million grant for teacher preparation, refinement of teacher and principal evaluation system, school turnaround initiatives, and early learning

programs.

Like most other states, North Carolina is planning to allocate \$88 million of the \$400 million grant to continue development of the new teacher and principal evaluation system and professional development, and specific initiatives to turn around low-performing schools. It also plans to develop a project involving virtual public schools development.

Ohio has \$78 million remaining of its \$400 million grant of which about \$44 million will be used by the state which, according to the Education Week analysis, \$25 million has not yet been allocated. Some of the remaining funds will continue efforts to develop the teacher and principal evaluation system.

One of the first Race to the Top winners – Tennessee – received \$500 million of which about \$88 million remains; \$31 million will go to districts for STEM-related activities and professional development. \$57 million will continue statewide training efforts related to CCSS implementation and one assumes activities related to developing aligned assessments to its “new” test as the state has dropped participation in the CCSS assessment consortia.

USED Publishes Guidance on Responsibilities of States’, LEAs, and Department of HHS Shelters to Educate Children Who Recently Arrived in the United States, Particularly Those “Unaccompanied” Children Crossing the Mexican Border from Central America

Current laws require districts to provide education services. The new guidance states that children who are at DHHS shelters or are in temporary custody at DHHS shelters must be provided with “basic education services and activities by DHHS grantees.” There are approximately 150 shelters for “unaccompanied” immigrant children with the majority of shelters caring for fewer than 50 children. DHHS pays for all services provided by non-profit organizations, group homes, and other entities running such shelters, including food, clothing, medical screening, medical care, and education. While in shelters, these students are not enrolled in local school districts; however, when they leave DHHS custody and are released to an appropriate sponsor, like any other student they have the right to enroll in local schools “regardless of their parents’ actual or perceived immigration or citizenship status. State laws also require children to attend school up to a certain age.”

The guidance clarifies that districts can use several types of Federal education funds to serve such students enrolled in districts. Title I funds can be used to provide education services if students are in Title I schools and otherwise are eligible to receive Title I services. As with any student, if such students are identified as having a disability, IDEA funds can be used to provide special

education and related services to the child “following the child’s IEP and other eligibility rights under IDEA.” One particular Federal funding source used to provide services in states which are heavily “impacted” by “unaccompanied” immigrant children who have sponsors is the 15% set-aside of Title III English Language Acquisition funds provided as subgrants to districts experiencing a significant increase in immigrant students. As the guidance states, such funds can be used for a broad range of activities such as “improving instruction, providing tutoring, and intensifying instruction, and conducting community participation programs. Such funds may be used to serve newly-arrived immigrant children regardless of whether such children are English learners.” Approximately \$700 million has been appropriated annually for Title III English Language Acquisition.

Other existing Federal funding and other resources which are available to districts which enroll unaccompanied immigrant children include:

- Migrant Education Programs (\$375 million) if such immigrant children move with migrant agriculture workers of the migrant streams.
- McKinney-Vento Act for Homeless Children and Youth (about \$150 million) under which such “unaccompanied migrant children may be eligible.”

The types of districts which are likely to enroll during this calendar year relatively larger portions of unaccompanied migrant children are those which:

- already serve students of the same ethnicity or country of origin of

those incoming immigrant children and are receiving their portion of the 15% set-aside for impacted districts under ESEA Title III English Language Acquisition;

- have a staff and other capacity which may not be fully used; hence, some districts actually encourage enrollment of such immigrant children to generate increased Federal funding for their programs such as Title I and IDEA special education, especially when such children qualify for both types of services (e.g., some Florida districts).

Opportunities may also exist with non-profit and/or community-based organizations including church groups which are service providers in DHHS shelters which also provide districts with other Federally-funded services such as operating after-school and Head Start Migrant Education programs, providing tutoring or supplemental educational services, and related programs.

Secretary of Homeland Security Jeh Johnson predicted that “unaccompanied” immigrant children and youth this year would reach approximately 90,000 by September 30th, most of whom are likely from Central America, and that money would run out for detaining or deporting them. This is the basis for the President’s request for \$3.7 billion in “emergency funds” to carry out Federal agency services in the fiscal year 2014. One implication for regular Federal K-12 funding for FY 2015 that is currently being quietly debated is that if the \$3.7 billion is not appropriated as “emergency funds,” that amount or perhaps a lesser amount will have to be taken out of the “DHHS Education and Labor” item budget (e.g., \$1.8 billion for DHHS for children).

With current budget limits, such funds would have to come out of proposed FY 2015 budgets for education, labor, and DHHS, which could result in lesser funds for certain USED education programs.

GOP Congressional Education Committee Leaders Request Government Accountability Office (GAO) to Investigate and Report on Secretary Duncan’s NCLB State Waiver Policy and Implementation, Which is Likely to Provide Rationale for ESEA Fix-It Amendments or Comprehensive ESEA Reauthorization

On August 12th, Senator Lamar Alexander, ranking member of the HELP Committee, Representative John Kline, and House Chairman of the Education and Workforce Committee requested GAO conduct an investigative study of USED’s waiver policies and processes and their impact, which, as we have reported, appears to be ever changing with differentiated treatment of states. The resulting study findings will likely form the GOP foundation and rationale for major changes/amendments or even revocation of NCLB flexibility waivers.

Their August 12th letter requesting the investigation in particular cites the burdens placed on the members’ two states – Tennessee and Minnesota -- in developing supporting documentation to comply with waiver requirements, which were not authorized by Congress in the areas of standards and assessments, school accountability, and teacher and principal evaluation. Noting that Congress has little information about how USED uses such data

to grant, deny, review, or revoke state waivers, GAO has also been requested to address a number of key questions. What processes and criteria does the Dept of Ed use to approve, deny, renew, and/or revoke states’ ESEA waiver applications? How does the department use the data it requires states to provide when applying for and renewing waivers?” One likely finding will be that USED initially used a very rigorous process and set of criteria in the initial approval process and over time began using “negotiated settlements” on a state-by-state basis due to conflicts with state laws and other factors. This trend continues today through the ongoing renewal process for existing waivers for two or more years, which has been primarily replaced by one-year “extensions” which have been provided conditionally. The focus of the conditional extensions is primarily related to teacher and principal evaluation systems and the use of student achievement data in designing teacher evaluation systems.

A second and key question GAO is asked to address is, “What changes have states made in order to meet Department conditions for the approval and renewal of a waiver?” While the changes states had to meet vary, there is one area has been given little attention thus far. That is the “unintended consequences” of state legislation passed to meet waiver approval conditions or negotiated settlements. Our August 2012 TechMIS identified this issue in light of existing supplement-not-supplant provisions under Title I.

Initial 2012 NCLD flexibility waiver guidance would allow Title I funds to be used for activities, which are “required by new state laws.” Under ESEA this would be a violation of the “supplement-not-supplant”

provisions of NCLB/ESEA. If the waiver initiatives and related guidance are revoked and new state laws remain in place under a reauthorized ESEA states and districts would not be allowed to use Title I to fund activities that are required by current state law unless there are major, dramatic changes in the Title I supplement-not-supplant provisions, which have been a cornerstone of Title I for five decades. It might be difficult in many states because of political opposition in the state legislatures to revoke such new state laws, which reduce state allocations of Title I funding; and this could be a rationale for Congress to reduce Title I and/or IDEA appropriations.

A final question is “To what extent are states able to implement accountability and evaluation systems consistent with existing state laws and policies? What barriers exist for states and districts in adapting accountability and evaluation systems to meet their unique needs?” This fundamental question reflects Senator Lamar Alexander’s criticism of waivers as “Federal intrusion into state responsibilities.” His proposals under ESEA reauthorization or “fix-it amendments” to “block grant” Federal funding such as Title I and allow states to design and implement their own accountability systems to meet their unique needs is his solution.

The ensuing GAO report and Education Week’s Politics K-12 blog (August 12th) is “sure to trigger a blockbuster,” and will be available next year with preliminary findings most likely “leaked” earlier. This could be part of a GOP strategy for changing ESEA and doing away with most of the waiver provisions, especially if the GOP takes control of the Senate (see related Special Report).

Even though Congress is “off” during the August recess until September 8th, key committee legislative staff who have been involved in the development of ESEA/NCLB and IDEA reauthorizations are not busy. Because most waiver states have received waiver “extensions” for a year and not official “approvals” for two or more year, the findings from the GAO report will likely be used by GOP leadership to corroborate and strengthen their rationale for important changes.

On June 24th, USED Released the Results of its New Monitoring/Evaluation Efforts on Progress Being Made by States in Meeting the New IDEA Results-Driven Accountability Emphasis on “Outcomes” Rather than “Compliance”

California, Delaware and Texas and the District of Columbia were classified as “needs intervention” under the new Results-Driven Accountability (RDA) approach. Officials stated that education outcomes in reading and math along with graduation rates for students with disabilities were inadequate. Outcome measures included proficiency gaps between students with disabilities and all students on the NAEP as well as reading and math performance (see related item).

Under the new approach, the following states were found to “meet requirements” -- Florida, Georgia, Indiana, Kansas, Massachusetts, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, Pennsylvania, Vermont, Virginia, Wisconsin, and Wyoming. California, Delaware, District of Columbia, and Texas

were found to “need intervention,” and the remaining states were categorized as “needs assistance.” As *Education Week’s On Special Education* blog notes, states which have been categorized as “needs intervention” for three years in a row must take specific actions, develop a corrective action plan, enter into a compliance agreement, or ultimately have a portion of the state funding withheld. The USED report also states that a new \$50 million technical assistance center – the Center on Systemic Improvement – will be created to help states leverage IDEA \$11.5 billion funding.

While half of the evaluation is based on students in the state making academic progress in areas noted above, the remaining half is still based on meeting compliance requirements. Many of the districts and states “needs interventions” or “needs assistance” have also been identified as having significant disproportionality (i.e., over-representation of minority groups in special education programs) and are therefore required to set aside 15 percent of IDEA funds for Coordinated Early Intervening Services or Response to Intervention (RTI) approaches. These districts should obviously also be targeted, as in many cases in Title I schoolwide programs, the 15 percent IDEA set-aside is combined with Title I funding to pay for Response to Intervention tools, programs, and professional development. In addition, the \$50 million Center on Systemic Improvement announced by USED represents an opportunity for some TechMIS subscribers to develop collegial relations which could assist in identifying and providing services to states and districts which “need intervention.”

GOP Senate Leaders’ August 4th Letter to Secretary Duncan Attempts to Build Case Against USED Misuse of its Authority in the New IDEA Results-Driven Accountability (RDA) Initiative Which Could Support the Recent House Lawsuit Resolution Against the Obama Administration

In its August 4th letter to Secretary Duncan, GOP Senate education leaders, including ranking member of the HELP committee Senator Lamar Alexander along with seven other senators, questioned USED authority to create and implement its “Results-Driven Accountability” (RDA) framework, especially the use of the National Assessment of Education Progress (NAEP) as a primary measure of students with disabilities’ progress in evaluating overall state performance. While the August 12th letter from Senator Alexander and Committee Chairman Kline requesting GAO to conduct an investigative study of the USED state waiver flexibility process (see related item), the August 4th letter questions the legality of USED’s new model for evaluating students’ progress with disabilities based on the use primarily of NAEP scores. While ESEA was amended in 1994 to allow the Secretary’s waiver authority in the ESEA program such as Title I, the 2004 reauthorization of IDEA did not allow the Secretary such waiver authority, such as the creation of the Results-Driven Accountability framework for assessing states which is a significant change from the “compliance-oriented” legal framework used for several decades.

Regarding the reliance on NAEP scores, the letter cites NAEP statutes which prohibit the use of NAEP assessment items and data on any assessment to compare and evaluate

individual students or teachers. The letter also argues that a Special Rule in the statute prohibits use of NAEP “to influence standards, assessments, curriculum, including lesson plans, textbooks, or classroom materials or instructional practices of states or local agencies.” The letter states that the RDA framework would influence standards and assessments and that “...this is clear influence and coercion, if not direct control. It is troubling that the Department made unilateral changes to the IDEA compliance framework without seeking legislative approval, disregarded congressional intent, and appears to have violated the clear letter of the law.” The letter requests USED to respond with a detailed response to a number of questions/requests including to “provide the specific statutory authority for each indicator used under the result-driven accountability framework” of which 12 of 42 possible indicators are related to NAEP, according to [Education Week's On Special Education](#) blog (August 12th) and reasons why no opportunity was provided for stakeholders and the public to comment and provide feedback on the final indicators and scoring matrix. The letter also requested USED to describe how it will ensure NAEP results are representative of all IDEA eligible students, how NAEP accommodations yielded valid reliable results, and other technical psychometric related questions, such as “confidence levels.”

The bottom line is that the GOP senators is building a case along with “a long list of Republican charges that the Administration has overstepped in its legal authority on a variety of education initiatives including NCLB waivers and the signature competitive grant program Race to the Top”

as reported by the [On Special Education](#) blog. Unnamed USED officials indicated that the use of NAEP scores is temporary and will be replaced as the Common Core state standards' assessments when and if the Common Core state assessments are implemented.

It is important to note that in the August 4th letter, the Senators stated that “they shared a USED belief that every child regardless of disability can succeed if opportunities to learn are provided and that they “also understand the Department’s desire to move toward an accountability framework for student with disabilities that emphasizes outcomes rather than process and paperwork compliance. However, one-size-fits-all Federal mandate standards and assessments are not the solution. Any changes to the existing framework must comport to the letter of the law and cannot be made by administrative fiat.” It would appear that the key committee staff who prepared the letter signed by the GOP senators are not that far apart from USED’s intent to place the higher priority on student outcomes as an important evaluation measure than mere compliance; on the other hand; it is also clear that the GOP senators are building a case against the use of Executive authority to make changes to the legal framework of IDEA without Congressional approval. For other alleged President Obama’s misuse of Executive Authority in education and other areas, see article by Lauren Camera in [Education Week](#) (August 20th) “Obama Education Policies Add Fuel to Lawsuit Bid.”

The Fordham Institute’s New August Report, “The Hidden Half: School Employees Who Don’t Teach” Finds that Almost Half of All the K-12 Employees Are Non-Teachers, Which Has Both Positive and Negative Implications for Some TechMIS Subscribers Who Sell Directly to K-12 Federally-Funded Market Niches

Between 1970 and 2010, major growth was in teacher aides, increasing from 1.7% to 12% of all district personnel which total about \$6.2 million. As the report notes, the major reason for this increase in teacher aides over the four decades has been the passage of PL 94-142 (now IDEA) in 1975, the Bilingual Education Act in 1968, and other Federal programs and services related to drug prevention, mental health, and special services, among others. Another major contributing factor was passage of ESEA Title I in the mid-1960s and the allowance of schoolwide programs in Title I in the 1990s which encouraged the use of aides. Another reason for the growth of teacher aides was passage of Head Start in the mid-1960s. Other data sources suggest, beginning with the passage of NCLB in programs such as Reading First, significant employment growth of aides occurred in the area of “reading coaches,” especially in Title I, and in IDEA special education programs. It should be noted that many of the so-called “coaches” were hired as teacher aide specialists, but in reality had dual roles as “coaches” of other teachers as well as “part-time instructors.”

Even though the Fordham Institute report does not detail the characteristics of teacher aides, especially in Title I and Head Start, the education credentials and experience of “teacher aides” vary significantly, ranging

from experienced, recently-retired teachers to serve as “master coaches” to part-time teacher aides, to staff with minimal education credentials and experience. The Head Start Act of 2007 required that by 2013, teaching assistants (i.e., aides) in Head Start center-based programs:

- have at least a child development associate credential (CDA);
- are enrolled in a program leading to an associate or baccalaureate degree; or
- are enrolled in a CDA credential program to be completed within 2 years.

For every Head Start preschool classroom (20 children), there is a teacher and a teaching assistant. Often, teacher assistants in Head Start hold teaching degrees from foreign countries; they meet the Head Start requirement of support for Dual Language Learners.

Even though definitions of teacher aides and actual roles have changed, there are differences among certain types of districts (e.g., rural versus inner-city schools). A number of implications exist for firms selling directly to districts and to schools, particularly those schools with relatively large amounts of Title I/at-risk, students with disabilities, and English language learners.

One implication for vendors providing professional development services affects the type of professional development a district is likely to want to purchase. On one hand, with the availability of relatively lower paid teacher aides, some districts will continue to use aides to “cover classrooms” as teachers receive onsite face-to-face workshops and training. Previous surveys

by EMC and others have found a significant portion of district “PD dollars” are spent on teacher aides to free-up teacher time for their “PD.” For firms providing online PD services, maximizing teacher convenience and providing “on demand” types of support may not outweigh other factors, if teacher aides are available. Blended professional development services may be most appropriate.

Previous studies have found that teacher “word-of-mouth” on appropriate curriculum, lesson plans, and instructional materials remains a very significant influence on district selection and purchase decisions (see related item). In some cases, lead teachers as well as “coaches,” and in some cases even teacher aides, could be “important influencers,” which means that promotional material and messages should be differentiated among types of influencers. A related implication is that sales approaches should take into account the relatively large number of influencers and/or decision-makers required in making sales which could increase the “cost of sales” in some instances.

The Fordham study also provides some striking takeaways, as Education Week’s Marketplace K-12 blog notes, “...that rural school systems in particular were much more likely to have higher portions of teacher aides than their urban counterparts.” Richmond, the Fordham Institute author, attributes that to the “difficulty rural districts have in recruiting and keeping highly-skilled staff in specialized areas, which in turn makes them more likely to rely on aides to fill those roles.”

To view a copy of the report, go to: <http://edex.s3-us-west->

2.amazonaws.com/publication/pdfs/Hidden-Half-School-Employees-Who-Dont-Teach-FINAL_0.pdf

New “Consumer Reports-Type” Group Announces Plans to Evaluate Comprehensive, Commonly-Used Materials’ Alignment With Common Core State Standards and Provide Reviews to K-12 Decision-Makers, Which Could Create Some Education Market “Paralysis”

The EdReports.org non-profit with funding from the Gates, Hewlett, and Helmsley philanthropic groups (\$1 million thus far and \$2 million pledged) will conduct reviews of 21 year-long K-8 math instructional series and post the reviews “online soon,” as reported by Education Week (August 15th). Textbooks and curriculum from all three major publishers (HMS, McGraw-Hill, and Pearson), and a few other K-8 mathematics publishers (e.g., Carnegie Learning) initially are included. Secondary math and K-12 English/language arts curriculum are scheduled to be reviewed later. It would appear that a number of non-profit groups in the “curriculum alignment industry” segment, “created” by Common Core and associated foundations, and even encouraged by USED, will in one way or another be part of the review and promotional efforts. Individuals with or from other organizations now working with this EdReports.org effort include, for example, Achieve’s Education Evaluating the Quality of Instructional Products (EQuIP), Math for America, and Illustrative Math Project among others, which could result in a “consolidation” of this market segment.

Two scenarios could play out. If the process is objective, transparent, and adequately-funded and comes up with acceptable solutions to complexities in the process, then it could meet its mission as Education Week's Research Center (August 5th) states, "Fewer than one-third of educators say they have access to high-quality textbooks aligned with the new standards." However, as Jay Diskey, Executive Director of the Association of American Publishers PreK-12 Learning Group, representing print and digital publishers of core and supplemental materials, argues, "Potentially this sort of review service could frankly set up big winners and big losers in the process... We'd hope that all parties involved would make sure nothing like that happened."

The EdReports.org initiative appears to be plagued with board and review members' disagreements and lack of commonly-accepted definitions and review criteria for the overall process, which could be much more time-consuming and costly than initially envisioned (e.g., whether materials differentiate instruction and use of technology effectively by students and teachers). This effort has been in the planning stages for about two years and was presented before the SIIA Government Summit meeting two years ago by officials from Achieve; at that time many questions were raised by education software publishers. In either case, the bottom line could be a type of "market paralysis" and prolonged purchasing cycle, until and if, the review results become available and are communicated accurately to K-12 decision-makers and are widely accepted.

Discussions with publisher officials or groups representing publishers indicate different perspectives and concerns

including:

- As reported in Education Week, the President of Common Core, a non-profit that publishes Eureka Math curriculum, said she was "extremely excited to have their materials among the first reviewed and are awaiting opportunities like this and are going to do what we can to provide whatever they need " for reviews...we're confident in the quality of our work."
- One official from a large education publisher said that the market paralysis created by the time-consuming EdReports.org process would provide a "disincentive" for his teams to spend the time and resources to make sure all of the changes necessary to meet all of the alignment criteria are met or incorporated.

An important question is also whether the scope of the alignment review takes into account the differences across states with respect to their adoption of the Common Core. There are states, which have adopted all Common Core standards and assessments; states, which have not adopted Common Core, but have developed a plan, or have come up with "bastardized versions"; and other states with only limited selections of Common Core items, or which are still developing items. Given this variation across states' adoption of CCSS, another official expressed concern that if a state or district in a state, selected their materials as being aligned with Common Core perhaps those materials would be "blackballed" in states, which politically or in reality have not "adopted" Common Core standards.

One of the desired outcomes of the EdReports.org initiative was expressed by Eric Hirsch, the recently-appointed Executive Director, who argues in Education Week, “Our hope is these reviews will influence purchasing decisions...and one of our greatest aspirations is that publishers will look at these and that their materials will continue to improve.”

The EdReports.org also wants to add “a crowd-sourcing component that would allow all educators to post their own reviews.” An Education Week survey of teacher attitudes and perceptions of Common Core standards found that the most widely-used source of information for selection and purchasing is “word of mouth” from teachers with experiences with certain curriculum and materials.

The selection and review process along with the names of the instructional materials/publishers included in the K-8 initial review are available at Education Week (August 5th).

Miscellaneous (a)

A bipartisan bill to protect student privacy, introduced by Senators Ed Markey and Orrin Hatch, would require school districts to meet new rules protecting students’ privacy or lose Federal funding. According to *Politico Morning Education* (July 30th), parents can review third-party collected information which should be destroyed after completing specific tasks and demand corrections. Senator Ed Markey said in an interview with *Politico Morning Education*, “This bipartisan legislation ensures that parents not schools and companies control personal information about their children

and that sensitive student data won’t be sold as a product on the open market.”

As the *Politico Morning Education* article notes, protections relate only to the “student education records” and reflect numerous loopholes, such as not including:

- the progress of individual students through the online tutorials, textbooks, and games and apps;
- data related to intimate information about student learning styles and work habits, which some companies would use to personalize learning; and/or
- information about browsers or web pages students visit.

Miscellaneous (b)

The most recent survey of Washington “insiders/influencers” conducted by White Board Advisors finds that 20 percent believe ESEA will never be reauthorized, while 75 percent said reauthorization will not occur until after December 2015. One implication is the possibility of fix-it amendments proposed by Senator Lamar Alexander might have a better chance of passage than a comprehensive ESEA reauthorization, as noted in the enclosed TechMIS Special Report. One insider felt that under a Republican Senate takeover, “Chairman Alexander and Chairman Kline will get the bill done by [next] summer and sent to Obama by fall. He’ll sign it then promptly ignore it like he does all laws.” Another insider noted, “White House has not made this the priority.”

Other findings included:

- Secretary Duncan’s overall rating of only 36 percent approving his efforts related to K-12 policy, with one noting that “K-12 education policy around the country is in disarray.”
- 80 percent feel that the new 50-state teacher equity strategy to ensure more effective teachers are in high-poverty schools will have no more impact than previous Federal efforts. One insider felt there is inadequate funding to have an impact, while another felt that it lacked any accountability or enforcement “teeth.”

As noted in our Special Report, Senator Lamar Alexander as possible new Chairman of the Senate HELP Committee has supported more realistic and practical “comparability” approaches to ensure equitable distribution of teachers at the district level between high-poverty and low-poverty schools.

Miscellaneous (c)

Education Week’s annual survey on teacher perspectives on Common Core finds that between 2012 and 2013 teachers are receiving more professional development, but do not feel they are more prepared as a result of becoming more familiar with the standards and assessments over one year, or the quality of training was lacking or both. The bottom line is that the demand for high-quality professional development is not waning, but is likely to increase even more in certain areas.

Over the two-year period, the 457 pool of teacher respondents which is not nationally

representative, but is a snapshot of different groups of teachers, reported:

- The percent of teachers attending professional development increased from 71 percent in 2012 to 87 percent; while the percent spending more than five days in Common Core training increased from 28 percent to about 40 percent.
- Two-thirds of teachers felt the PD was high-quality in 2012, but the percentage dropped to about 50 percent in 2013. According to Education Week’s Curriculum Matters blog (August 14th), only 23 percent reported that assessments were addressed and “very few teachers reported PD designed to help teach subgroups of students with specific challenges (students with disabilities, ELL, etc.), as only 25 percent felt they were prepared to teach the subgroups.
- Less than ten percent of the teachers reported they were “very prepared” to teach Common Core standards and assessments for English language learners, students with disabilities and academically at-risk students generally.

Other findings which have been reported on several occasions over the last several months by Education Week include:

- Only 41 percent of teachers “agree” or “strongly agree” that their instructional curriculum materials are aligned with Common Core standards (e.g., one-third said textbooks were aligned; slightly over 50 percent felt supplemental resources and digital media were better aligned).

- Nearly nine of ten teacher respondents said they would rely on judgments of fellow teachers on materials alignment issues; fewer than 40 percent said they trust curriculum providers and publishers' claims; and two-thirds said "they'd trust the judgment of independent panels of experts," according to Education Week (see related Washington Update).

Miscellaneous (d)

USED provides one-year "extensions" to NCLB waivers for Florida, Kentucky, Mississippi, North Carolina, and Wisconsin, but "approval" after that appears to be contingent on states making changes/corrections in certain areas for comprehensive waiver approval (see update below). The one-year extensions correct many of the deficiencies or incomplete tasks identified by USED's monitoring/auditing visits over the last year. However, final approval next year depends upon certain corrective measures being made over the next year and may have implications for TechMIS subscribers.

Florida

Florida is adequately addressing problems previously identified in intervening in lowest-performing Priority schools and Focus schools and is addressing the needs of students with disabilities and other subgroups missing performance targets. However, the Secretary did not approve the state's proposed amendment to exempt English language learners (ELLs) who have attended schools in the U.S. for less than two years from meeting required

performance measures under ESEA flexibility. The August 14th letter to Commissioner Stewart states that with limited exceptions, "current law requires addressing all students in tested grades and including their results in accountability determinations in order to ensure that teachers and parents have information on student progress and that schools are held accountable for the academic achievement of ELLs." Final approval of the waiver will be dependent on meeting existing requirements for ELLs and if the state remains "on track to fully implement teacher and principal evaluation and support systems under Principle 3 of the flexibility guidance." One clear implication is that the language and education needs of more ELLs will have to be met, a new priority and the state law has to be changed for USED approval, which Tampa Bay News (August 20th) says is doubtful.

Kentucky

In the letter to Commissioner Terry Holliday approving the one-year extension, Assistant Secretary Delisle stated that the extension is "based on my determination that ESEA flexibility has been effective in enabling Kentucky to carry out important reforms to improve student achievement and that this extension is in the public interest. The related amendments proposed by Kentucky were found to align with all three principles of ESEA flexibility; however, as Education Week's Politics K-12 blog noted, Kentucky "appears to be on track with teacher evaluation provided that it reworks its evaluation matrix so that teachers who don't score well on student growth portion of its evaluation system, can't be considered 'accomplished.'" This area appears to be one in which the state might consider needing external assistance.

Mississippi

The August 14th letter to State Superintendent Wright acknowledges that the state has improved the use of immediate feedback on the training it conducts related to college- and career-readiness standards, and has improved district measures to ensure that districts target Title I funds on improving school performance and other corrections identified by USED monitoring teams. However, in order to receive approval a year from now, the state must include students with significant cognitive disabilities (i.e., the so-called 1% category) performance on alternative assessments in identifying the lowest 25 percent subgroup. As it states, “ED will work with Mississippi prior to renewal of ESEA flexibility to ensure that students with the most significant cognitive disabilities are fully included as appropriate in Mississippi’s accountability system.” In addition, Mississippi must discontinue practice of double counting students’ performance level on mathematics coursework prior to high school and at the tenth-grade year because it is in conflict with existing statutes that “require annual assessment in mathematics in grades three, eight, and once in high school that are to be used as a primary means of determining school and district accountability.” One implication is that districts will likely need more resources and training related to ensuring students with severe cognitive disabilities demonstrate more academic and related progress in the future.

North Carolina

The USED press release on North Carolina’s approved extension commends the state on launching an effective communications initiative to increase college and career-

readiness performance, acknowledges the state’s initiative to create individualized plans for English Language Learners (ELLs), and the use of an integrated approach in monitoring Priority and Focus schools. Yet, the state only received a one-year extension with final approval based on the state “remaining on track” to fully implement teacher and principal evaluation and support systems that meet the Principle 3 requirements.

Wisconsin

The August 14th letter recognizes the state’s reform efforts regarding implementation of college and career standards, the continued use of data for school improvement, the provision of funding for highest-performing rewards schools, and efforts to share promising practice with other schools across the state. While most monitoring visit criticisms have been corrected related to amendments to Principles 1 and 2 are approved, the letter states, “This extension is subject to Wisconsin’s commitment to continue working with ED on Wisconsin’s requested amendments to its teacher and principal evaluation and support systems which may require additional flexibility.” As with most other states receiving extensions, more work has to be done in this area for waiver approval next year. The USED August 14th press release is available at www.ed.gov along with links to the extension approval letters to each of the states.

UPDATE August 25th:

On Friday, August 22, Secretary Duncan announced that any of the 31 waiver states that have filed extension requests (above the 20 that have already received extensions) will be allowed to delay using student test scores to evaluate teachers and principals to

the 2015-16 school year. The above five states, along with Michigan, Ohio, South Carolina, and Delaware, which just received extension approvals will not have to meet the Principle 3 teacher and principle evaluation systems requirement for NCLB flexibility waiver approval. While the states which have received extensions will have to continue making appropriate changes to meet the teacher and principal evaluation requirement for full waiver approval next year, it is not clear how it affects Washington state, whose existing state waiver has been “revoked” because of a state law preventing implementation of a strict interpretation of Principle 3 and hence having to refer back to NCLB requirements. As Education Week’s Politics K-12 blog (August 25th) noted, “The question raised last week upon Duncan’s announcement, however, is whether the Department acted too quickly in revoking Washington’s waiver if it’s allowing states to push back the deadlines for using student test scores and teacher evaluations to 2015-16 school year or even beyond. Was revoking Washington’s waiver justified?” As Washington state superintendent Randy Dorn was quoted in an interview, “I think they’ve given almost every state breathing room, but not the state of Washington.” At stake here is approximately \$40 million in Title I set-asides for SES and parent/school choice if the state has to meet the “settlement” to return back to NCLB sanctions.

Miscellaneous (e)

USED has announced a new \$250 million preschool development grant competition for states which will be administered jointly with the Department of Health and Human

Services and could provide “partnering” opportunities for some subscribers. States which do not have a high-quality early childhood program or have not received some Race to the Top Early Learning Grants will compete for \$80 million under “development grants.” The 15 states which would be eligible to compete for “development” grants include: Alabama, Alaska, Arizona, Hawaii, Idaho, Indiana, Mississippi, Missouri, Montana, Nevada, New Hampshire, North Dakota, South Dakota, Utah, and Wyoming. According to Education Week’s Politics K-12 blog (August 13th), between five and eight “development” grants ranging in size from \$5 to \$20 million would be awarded.

“Expansion” grants would be available for other states totaling about \$160 million. As reported by *Politics K-12*, grants would range from \$10 million up to \$35 million. Both development and expansion grants would last four years and additional points would be provided to states allocating up to 50 percent matching funds. Applications are due October 14, 2014 and grants would be made in December 2014.

TechMIS subscribers that could assist states in further developing “infrastructure” and “quality improvements” may wish to team up with the states going after “developmental” grants. For more information, go to: www.ed.gov

Miscellaneous (f)

A New America Foundation survey of 800 registered bipartisan voters reports that “children getting a stronger start in life” ranks second only to “increasing jobs and economic growth” in terms of national

priorities. One rather surprising survey finding was, “a majority of Americans surveyed said that the sufficient funding for education was more important than holding the line on taxes and spending and a whopping 71 percent of respondents said they would support early education policies even if it increased the deficit in the short-term, but paid for themselves in the long-term, as much of the research suggests is the

case with early education.” With 55 percent of Republicans and 73 percent of Democrats willing to do more to ensure children start kindergarten with their best knowledge and skills, the brief notes, “Even though public support for early education is arguably stronger than ever before, the Federal government hasn’t made much headway.”

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Education TURNKEY Electronic Distribution

256 North Washington Street, Falls Church, VA 22046

703/536-2310, fax 703/536-3225, cblaschke@edturnkey.com

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