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## MEMORANDUM

**DATE:** April 29, 2015  
**TO:** TechMIS Subscribers  
**FROM:** Charles Blaschke, Suzanne Thouvenelle, and Cheryl Sattler  
**SUBJ:** New Reauthorization Bill; RTI Spending in Districts; CCSSO and NAFEP  
Conference Reports; Technology and Innovation; 21<sup>st</sup> Century Community  
Learning Centers; and “College-Readiness” Remediation

The Special Report on the Every Child Achieves Act of 2015, which was passed by the Senate HELP committee, includes a number of provisions and amendments which have implications for many TechMIS subscribers. These include:

- a more level playing field for for-profit firms vs non-profits;
- a more rigorous definition of “evidence-based” for products purchased using Title I funds;
- allowable uses of Federal funds for professional development;
- greater flexibility creating opportunities for Response-to-Intervention (RTI) solutions/services; and
- increased prohibitions against Federal “intrusion” and the Secretary’s waiver authority conditions, among others.

The road to ESEA reauthorization passage will be “bumpy,” with potential significant amendments which could result in subsequent changes...stay tuned.

Washington Update headlines include the following:

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Firms With RTI Solutions or Components/Services Should Target Districts Which Spend All or Most of 15% IDEA Set-Aside for Students Over-Represented in Special Education, Which Are Identified in New Report
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During the Annual National Association of Federal Education Program Administrators (NAFEPA) Conference, USED Officials Discussed New Reorganization for Monitoring/Providing Technical Assistance for Title I and Other Federal Education Programs, and Encouraged SEAs and LEAs to Take Advantage of Existing Flexibilities Allowed in USED Regulations/Guidance
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During a Press Conference to Kick Off Next Round of Waiver Renewals, Secretary Duncan Announces Waiver Approvals for Five States, Which Took Advantage of the Early "Expedited" Waiver Approval Process
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New Education Commission of the States (ECS) Database Identifies States With Policies/Systems in Place to Facilitate College Remediation, Which Should Help TechMIS Clients Develop Strategies for Targeting States in this Growing Niche Market
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A number of miscellaneous items are also addressed including:
  - a) The Education Policy Center new report, "Title II Part A: Don't Scrap It, Don't Dilute It, Fix It," recommends that Congress redefine professional development requiring Title IIA to focus strictly on "continuous performance improvement" through state and local capacity building.
  - b) Building upon the Administration's ConnectEd Initiative started almost two years ago, USED announced during Open Education Week 2015 the launching of the Online Skills Academy, which is designed to "leverage free and openly-licensed learning resources" and using technology to create high-quality, low-cost pathways to degrees, certificates, and credentials.
  - c) The Education Commission of the States has made available a new database of states' policies and funding on dual language learners' approaches and types of

funding, which can be useful to firms in identifying what states may be most appropriate for targeting their products.

- d) A two-year extension of the Secure Rural Schools Act was passed by the House by a huge bipartisan vote at the end of March.
- e) The Senate Committee unanimously approved the “Innovative Technology Expands Children’s Horizons” (I-TECH) amendment, which is similar to the E2T2 technology grants passed a decade ago, but has not received any funding since 2010.
- f) Senators Boxer (D-CA) and Murkowski (R-AK) have introduced a bill to stave off attempts in GOP ESEA reauthorization bills to fold the 21<sup>st</sup> Century Community Learning Centers program into a major block grant under GOP proposals.

If you have renewed your TechMIS subscription, we look forward to continuing to provide our services for you. If you have yet to renew, we will send you a follow-up email with renewal agreement and invoice shortly.

Please call me directly if you have any questions on the report or the renewal (703-362-4689).

**Special Report:**  
**The Every Child Achieves Act (ECAA) of 2015**  
**Which Would Reauthorize ESEA**  
**Passes Out of Committee by Unanimous 22-0 Bipartisan Vote,**  
**Creating Opportunities as Well as**  
**Some Problems for TechMIS Subscribers**

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

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*April 29, 2015*

On April 16<sup>th</sup> by a unanimous bipartisan 22-0 committee vote, the Every Child Achieves Act of 2015 (ECAA) was passed after 87 amendments were filed. A few important amendments were filed but withdrawn and will undoubtedly be addressed during Senate floor debates. Some of the Title I and other Program Provisions as well as General Provisions have significant implications for TechMIS subscribers, which could be modified subsequently. Below, we highlight some of the Program Provisions and amendments; and then the General Provisions of ECAA, referred to as the ECAA Alexander/Murray compromise, which could have implications for some TechMIS subscribers.

**Program Provisions**

As addressed in previous TechMIS reports and updates, some of the provisions in the first Senate version submitted by HELP Chairman Lamar Alexander (see January TechMIS Special Report) that would have resulted in major changes in large programs such as Title I and subsequent consolidations have been deleted or modified in the bipartisan Alexander/Murray version (ECAA). These include:

- Deletion of the so-called Title I “portability” provision allowing Title I funds to follow students to schools of their choice.
- The withdrawal of “Maintenance of Effort” (MOE) which could result in reduction of state and local funding efforts supporting Title I programs.
- Maintaining the current Title I formula which would have been changed in a companion House version, which in turn would have reduced Title I funding in large, urban districts.

Subsequent amendments on the Senate floor or during the House conference could surface once again (e.g., vouchers and anti-bullying measures). Provisions having implications for TechMIS

subscribers are highlighted below.

The current testing regimen would generally be maintained, with more flexibility and responsibility given to states which would have the option of using summative tests or formative periodic test results which would be combined for a single individual assessment score. Disaggregated subgroup scores would still be a state reporting responsibility.

States would be responsible for identifying low-performing schools and could withhold up to four percent of Title I funds to allocate to those schools to use interventions, which districts and/or states would develop.

The current School Improvement Grant (SIG) program would disappear as would the Federal prescribed interventions that are currently required and the required targeting of SIG Title I funds to serve only Priority and some Focus schools. States could determine how many schools are “lowest-performing.” As the ECAA summary explains, “School districts will be responsible for designing evidence-based interventions for low-performing schools, with technical assistance from the states and the Federal government is prohibited for mandating, prescribing, or defining the specific steps school districts and states must take to improve those schools.”

Under Title II formula and other grants, such funds could be used to reduce class size (hiring more teachers), but as *Politics K-12* (April 7<sup>th</sup>) noted, “but only to an evidence-based level.” This could result in a relative increase of the current one-third of the \$2.5 billion Title IIA funds being used for professional development to increase even more. An earlier House version of ESEA reauthorization included a cap of no more than ten percent of such Title IIA funds being used for class size reduction (CSR) acknowledging previous research which indicated CSR not an effective use of Title II funds. The General Provisions specify the allowable uses of these and other Federal funds for professional development (see below).

Unlike the current state waivers requiring teacher evaluation systems to incorporate students’ achievement scores, ECAA does not require, but does allow states to develop such systems while at the same time eliminates the definition of a “highly-qualified teacher.”

The Act requires districts to monitor and report on progress being made by English learners in terms of English language proficiency and meeting academic standards; and provides incentives for LEAs to implement practices leading to significant improvement, including professional development for teachers to engage parents. States would have responsibility for establishing statewide entrance and exit procedures/criteria for English learners.

Reflecting Senator Murray’s priority on preschool and literacy, a comprehensive state literacy program would be created and funding from a variety of ESEA programs could be used to fund early childhood education. Also, a competitive grant program would also be created to foster better coordination of early childhood programs.

As noted by *Politics K-12*, similar to the earlier Alexander version, Title II funding and Title IV

funding could be used for school climate issues and 21<sup>st</sup> Century Community Learning Centers, and would be 100 percent transferable between the various programs, whereas now only 50 percent of the funds would be transferable. For charter schools, three competitive grant programs could be created -- one for states to start or replicate quality charter schools, another to fund management organizations to replicate or expand charter schools and another to finance construction or renovate facilities.

During the two and half day Senate committee hearings, a number of amendments that have direct or indirect implications for TechMIS subscribers were passed. An amendment to Title IV would reinstate 21<sup>st</sup> Century Community Learning Centers, which in the earlier Alexander version such activities could be funded under two consolidated block grants; 21<sup>st</sup> CCLC would continue to receive its separate funding stream and would allow for both extended learning time in-school and after-school programs. In addition to this amendment which would help firms with a vested interest in STEM, another amendment referred to as STEM Instruction and Student Achievement was also passed.

Senator Mike Bennet (D-CO) proposed an amendment which would “provide grants to states and districts to develop, implement, replicate, or scale-up testing of entrepreneurial, evidence-based, field-initiated innovations which would improve student achievement for high-needs students.” This amendment is very similar to the proposal by Dr. Martin West, Harvard University, which would provide opportunities for for-profit organizations and would be modeled after the successful SBIR program (see related item). Senator Bennet’s amendment to increase financial literacy and federal financial aid awareness was also passed.

Similar to the E2T2 technology grants funded during the last decade, the so-called I-TECH (Innovative Technology Expands Children’s Horizons) amendment under Title IV was passed by a voice vote to provide grants to states and districts to use technology to prepare students for college and career readiness, improve teachers and other school leaders technology-related skills, and increase generally education effectiveness.

A number of amendments in the area of testing were also passed. One would provide competitive grants to states to work with universities to improve the quality, validity, and reliability of state assessments, to include assessments for students with disabilities, and measure student growth, and to evaluate new assessment methods such as competency-based models and computer-adaptive tests or portfolios. Another amendment would allow Federal funds to evaluate current assessments to determine whether all such tests are needed. It is important to note that certain amendments included provisions specifically stating that computer adaptive assessments were not prohibited, which is a marked difference from the No Child Left Behind era and the early years of the Obama Administration.

Several amendments were “filed” but subsequently “withdrawn,” such as one that would have eliminated the one percent cap on the number of special education students with cognitive disabilities from being assessed using alternative assessments (the so-called one percent cap). Other amendments affecting foster care children, comprehensive high school redesign funding,



middle grade students at risk of dropping out of high school, and closing the Title I “comparability loophole” were withdrawn but could be addressed subsequently during Senate floor debate or in the House.

### **General Provisions**

The Title IX “General Provisions” of the Every Child Achieves Act proposed reauthorization could have direct implications for many TechMIS subscribers in the areas of professional development, types of evidence-based products and services, which are allowable for purchasing using Federal funds, among other areas. During the Senate debate, few amendments addressed the proposed General Provisions (GPs), which suggest that most GPs will remain intact throughout the remaining floor debate and possibly during conference committee with the House before the bill, if passed and signed by the President. Some of these provisions are highlighted below, with the caveat that Congressional intent will be reflected in the final Conference Report, which in turn could result in further changes in the Act’s regulations, available 12-18 months later!

Differing from No Child Left Behind, the subjects included under “core academic subjects” are expanded to now include writing, technology, engineering, computer science, music, physical education, “and any other subjects as determined by the state or local education agency.” As Education Week’s Politics K-12 blog (April 8<sup>th</sup>) notes, “That simply expanding the list of core academic subjects is unlikely to have a broadening effect on the curriculum since the old subjects would require tests for English/language arts, math, and science.”

As we have recently reported, Secretary Duncan has been emphasizing in speeches before the Council of Great City Schools and the CCSSO, a the higher priority is being placed upon “evidence-based research” products being purchased and used in flagship competitive grant projects, such as School Improvement Grants, and also in formula programs such as Title I. A new definition of “evidence-based,” which is similar to that included a year ago in “EDGAR,” is being proposed. The term “evidence-based” means an activity that “demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes” based upon well-designed and implemented experimental studies, quasi-implemental studies, or correlational studies “with statistical control for selection bias.” While the above definition is built upon those standards followed by What Works Clearinghouse and used in the i<sup>3</sup> competitive grant program, “evidence-based” can also include high-quality research findings that strongly suggest a rationale that an activity is likely to improve student outcomes. For the Title I program, “evidence-based” has a narrower definition in that it means an activity that meets the rigor of evidence from well-designed and well-implemented experimental studies or quasi-experimental studies. The definition of evidence-based applicable to Title I appears to be much more rigorous than currently being applied, conjuring up standards and criteria applied to “scientifically-based research” when NCLB was passed early during the last decade. A strict interpretation could have serious implications for firms whose products are purchased with Title I funds.

The term “expanded learning time” codifies some of the existing “definitions” which would include time extensions or reschedules in order to include additional time not only for instruction

and enrichment, as included in most 21<sup>st</sup> Century Community Learning Center after-school programs, but also providing additional time for staff to “collaborate, plan, and engage in professional development, including professional development on family and community engagement” within and across grades and subjects. Unlike the original Alexander version (see January TechMIS report), an amendment would continue the 21<sup>st</sup> CCLC as a separate funding stream and maintains integrity rather than being included in two block grants as proposed in the earlier version.

As we have noted in previous TechMIS reports over the last two years, groups such as the National Center for Learning Disabilities and the National Center for Education Outcomes (University of Minnesota), have lobbied for a definition of Response-to-Intervention (RTI), which is used sometimes interchangeably with Coordinated Early Intervening Services. Because of the confusion created by its use in both ESEA and IDEA, the proposed General Provisions define Multi-Tier System of Supports (MTSS) as it would apply to ESEA -- “the term multi-tier system of supports means a comprehensive continuum of evidence-based, system-wide practices to support a rapid response to academic and behavioral needs, with frequent database monitoring for instructional decision-making.” Undoubtedly, some of the key staff who drafted the proposed ECAA were instrumental in including MTSS/RTI in the IDEA reauthorization of 2004, and now support expansion into ECAA/ESEA, especially in Title I programs. As we have reported, the use of RTI approaches in schoolwide programs where the IDEA 15 percent set-aside for CEIS is allowed to be combined with Title I programs to serve all students in need is encouraged in USED rules. An earlier draft of the Senate version would allow expanded use of RTI in Title I schoolwides under more flexible provisions relating to supplement-not-supplant. The proposed definition of MTSS provides a framework for more detailed guidance reflecting Congressional intent which would likely be reflected in greater detail in any conference report.

Professional development reform has been a high priority in this Administration and as recent reports have argued (see related Washington Update item) Title II has generally not been effective. The key proposed General Provisions outline the activities that are allowed when Federal funds are used for various types of “professional development.” Those of greatest interest to most TechMIS subscribers are noted below.

- Improve teachers’ ability “to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based upon such analyses.
- Understanding of effective instructional strategies that are evidence-based.
- “To the extent appropriate, provide training for teachers, principals, and other school leaders in the use of technology, so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curriculum and academic subjects in which teachers teach.”
- Improve knowledge and skills to provide instruction and academic support services, including positive behavioral interventions and supports, multi-tier systems of supports, especially with children with disabilities.



- To provide high-quality, sustained, intensive, collaborative and job-embedded, data-driven, and classroom-focused training, but “are not one-day or short-term workshops and conferences.”

Many of the allowable activities under professional development which can be funded under various titles would have to be clarified and detailed in subsequent guidance.

It is important to note that thus far, there are few prohibitions against purchasing such professional development products or services from for-profit organizations. In many cases, current guidance and regulations have such prohibitions or “encourage” professional development provided by non-profit organizations and entities. As a result, of the several billion dollars of professional development purchased using Title I, Title II, and other ESEA Federal funding sources, only about a quarter of such services are purchased from for-profit entities, with most provided internally by districts or related entities (e.g., education service agencies, and other non-profit professional development organizations).

As expected, many of Senate HELP Committee Chairman Alexander’s desires to reduce the Secretary of Education’s waiver authority and to further prevent and/or reduce federal intrusion into state and local control of education are included as “prohibitions.” For example, in those areas in which the Secretary still maintains allowable waiver authority to approve requests made by schools, districts, as well as states, the General Provisions state that the “Secretary shall not place any requirements on a state educational agency, local educational agency, or Indian tribe as a condition criteria or priority for approval of the waiver request unless such requirements are otherwise required under this act are directly related to the waiver request.” The General Provisions allow schools and/or LEAs to request waivers for regulations which are permissible and require the Secretary to expedite the waiver approval or disapproval process. The General Provisions continue prohibition or endorsement of curriculum by the U.S. Department of Education, stating, “No funds provided to the Department under this act may be used by the Department directly or indirectly, including through any grant, contract, cooperative agreement, or waiver provided by the Secretary under Section 941 to endorse, improve, or sanction any curriculum (including alignment of such curriculum to any specific academic standards) designed to be used in an early childhood education program, elementary, secondary school, or institution of higher education.” The language here is more restrictive on the Secretary than under NCLB, and the provision continues by prohibiting Federal approval of standards by stating “no state shall be required to have academic content, or academic achievement standards approved or certified by the Federal government, in order to receive assistance under this act.”

In addition, prohibition of Federally-sponsored testing is amended by not allowing any ESEA funds to be used to “develop, incentivize, pilot-test, field-test, implement, administer, or distribute any Federally-sponsored national test in reading, mathematics, or any other subject unless specifically and explicitly authorized by law, including any assessment or testing materials aligned to Common Core State Standards, developed the Common Core State Standards Initiative, or any other academic standards common to a significant number of States.”

Some observers believe that the above prohibitions against “Federal intrusion” may be further

strengthened as the Senate bill is addressed in the House or during a House/Senate conference committee.

The 600-page ECAA version before amendments is available at:  
<http://blogs.edweek.org/edweek/campaign-k-12/Senate%20Bill.pdf>

# ***Washington Update***

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***Vol. 20, No. 4, April 29, 2015***

## **Firms With RTI Solutions or Components/Services Should Target Districts Which Spend All or Most of 15% IDEA Set-Aside for Students Over-Represented in Special Education, Which Are Identified in New Report**

IDEA Money Watch, the most influential independent watchdog of how Federal IDEA funds are used or mis-used, has published a report which identifies districts which spend all or most of their IDEA 15% set-aside on CEIS because they have been identified as having “significant disproportionality.” Since the reauthorization of IDEA in 2004, this requirement has provided momentum to the grassroots nationwide “RTI movement” in special education and later in regular education. Estimated growth of RTI spending in education has increased from approximately \$500 million in 2005 to between \$4 and \$5 billion in 2011, when the last major survey was conducted by Spectrum K-12 in partnership with various associations such as the Council for Exceptional Children. Our estimate for 2014 was about \$4 billion using a variety of Federal and state funding sources.

As *Education Week's On Special Education* blog (March 16<sup>th</sup>) notes, “The states have flexibility in deciding the levels of over-representation which are significant. There has been a growing interest among groups (e.g., National Center on Learning Disabilities, NCEO at the University of Minnesota) in developing national definitions/standards in this area, “Most

state education leaders have been cool to the idea of the Feds establishing a national standards for over-identification,” according to the blog. However, as we noted in our January TechMIS report on highlights in the Senate GOP ESEA reauthorization proposal, language has been proposed which would allow Coordinated Early Intervening Services (CEIS/RTI) funding to be allocated to schoolwide programs and comingled in such a way that “supplement not supplant” requirements would be significantly loosened which could encourage an increase of more funding to be used for CEIS/RTI in such schools without districts having audit concerns. Since 2011-12, more states have been changing their state policies regarding requirements for CEIS for state funding for special education, which could further reduce potential problems created by “supplement not supplant” provisions.

Report 2 published by IDEA Money Watch lists districts that were required to spend the 15% set-aside for CEIS in 2011-12 school year because it was determined by the state that the district had “significant disproportionality.” These districts were required to spend most if not all of the CEIS funds, to serve students in the group identified for likely disproportional misassignment to special education programs. In many cases, these students were in Title I schoolwide programs where CEIS/RTI funding could be comingled with Title I funds if not discouraged by the SEA.

In 2011-12, 347 LEAs were required to use the 15% set-aside. The report identifies the

districts and the amount required and the amount actually spent. The total amount spent was \$107 million. The districts were located in 25 states and the number of districts ranged from one district in Arkansas, Indiana, Utah, Oregon, and Maryland, to 36 in New York, and 104 in Louisiana. In the previous year, the number of districts required to provide the 15% set-aside was 356.

Money Watch Report Number 3 identified 1,243 LEAs located in 44 states which had voluntarily used IDEA Part B funds for Coordinated Early Intervening Services (RTI) and the total amount allocated was \$109 million. The number of districts that voluntarily used Part B funds for CEIS ranged from one LEA in Vermont to Wisconsin with 86 LEAs. The total number of districts in the previous year for providing voluntarily Part B funds for CEIS was 1,265.

The activities authorized for the use of the 15% CEIS set-aside or voluntarily allocated Part B funds included:

- “Professional development for teachers and other school staff to enable delivery of scientifically-based academic and behavioral interventions, including scientifically-based literacy instructions and where appropriate, instruction on the use of adaptive and instructional software.”
- “Providing education behavioral evaluation services, supports, including scientifically-based literacy instruction.”

The database where all of the above LEAs are identified shows, for example, Pinellas County, Florida was required to allocate

approximately \$4 million of which \$4 million was actually spent on 12,787 students.

To review the report and database, go to: <http://ideamoneywatch.com/balancesheet/?p=692>

### **Proposed “Education, Innovation, and Research” Amendment Included in Senate Reauthorization Act Includes Opportunities for For-Profit Organizations to Develop, Replicate Tests, Evidence-Based Innovations, Which is Patterned After the Successful Small Business Innovation Research (SBIR) Program**

The “Education, Innovation, and Research” amendment, sponsored by Senator Mike Bennet and Senator Orrin Hatch, passed by voice vote as part of Every Student Achieves Act, includes grants for the “development, implementation, replication, or scaling and rigorous testing of entrepreneurial, evidence-based field-initiated innovation to improve student achievement and attainment for high-needs students.” Very similar to a proposal by Harvard professor Martin West, who has served as an advisor to Senator Lamar Alexander, the amendment could create opportunities for for-profit entities, not only for non-profit organizations. Both the amendment and the West proposal are modeled after the highly successful Small Business Innovation Research (SBIR) model, which has been recognized as a success by the Government Accounting Office, several TechMIS subscribers, along with such associations a SIIA.

In a Huffington Post blog, Dr. Robert

Slavin, Founder Success for All, who was mentioned in the proposal by Professor Martin West, called the Education Innovation and Research amendment sponsored by Senator Bennet, et al, “one small step for Washington, one giant leap for children” in its goal of promoting evidence-based approaches in education. As he noted in the blog, the amendment was supported by over 140 groups and was passed by a voice vote, suggesting bipartisan support in the Committee which he noted means “an extremely strong likelihood that it will withstand the floor process (should there be one) and make it into the final Senate bill. Even if ESEA fails to get reauthorized this year, the fact that this provision is now in the Chairman’s bill sets an important precedent for inclusion in future attempts to reauthorize ESEA.”

As professor West noted in his proposal, most current education research conducted by the Institute of Education Sciences/USED is field-initiated, but is primarily designed to benefit the research community. Dr. Slavin also wrote in the blog, “Policy-wise, this kind of bipartisan embrace of innovation and research in the realm of education represents a new era.” And, in light of the current Innovation in Education i<sup>3</sup> grant which provides support for non-profits and their district partners, the amendment would represent an important departure from USED’s policies and level the playing field for for-profit organizations, and hopefully would benefit entrepreneurial for-profit organizations with a credible track record in providing innovative breakthroughs which actually work.

## **Survey Finds Chief Technology Officers’ Number One Priority Is Preparing for Online Assessments, With 80 Percent Expecting Instructional Materials Will Be at Least 50 Percent Digital Within the Next Three Years**

The third annual COSN K-12 IT Leadership Survey of Chief Technology Officers whose responses are generally not included in “supply-side” industry reports, anticipate for the second year in a row, their number one priority is online assessments with about 30 percent reporting they are not fully prepared; about 80 percent expect instructional materials to be at least 50 percent digital in the next three years.

About 60 percent said the issue of privacy and security of student data is a major issue -- more important than it was last year. Wireless access and mobile learning were also among the top three priorities for this year. Other findings of interest to many TechMIS subscribers included:

- Almost 60 percent said they were increasingly open to outsourcing and were involved in outsourcing one or more IT functions which, however, is lower than last year, possibly because of privacy and security concerns.
- A majority of respondents reported insufficient staff for implementing new technology and integrating technology into the classroom.
- The lack of relevant training and professional development was one of the top three challenges facing CTOs for the first time in three years.

It is important to note that three-quarters of



responding CTOs said they were in charge of both instructional and administrative technology, and that almost 60 percent said they report directly to their superintendent.

The third annual survey received responses from district-level CTOs (55%), while 30 percent came from individual schools. Almost half of the reporting districts had enrollments of 2,500 or less, with 20 percent with enrollments of 15,000 or more. And, as the COSN report notes, “This means that small districts are under-represented in the results...” About a third each of respondents were rural, suburban, and urban districts; about 20 percent of respondents had been in their current position for 11-20 years, with 25 percent being in current positions between six and ten years. About 80 percent of respondents had completed college beyond the AB degree, with two-thirds having a Master’s degree.

For a copy of the report, go to: [http://cosn.org/sites/default/files/pdf/CoSN\\_ITLdrship\\_Report\\_v4IKS\\_SL.pdf?sid=7307](http://cosn.org/sites/default/files/pdf/CoSN_ITLdrship_Report_v4IKS_SL.pdf?sid=7307)

### **The Council of Chief State School Officer’s (CCSSO) Strongly Supported Priorities for ESEA Reauthorization, Which Were Discussed During the Recent CCSSO Annual Legislative Conference in Washington, D.C. on March 22-24**

The CCSSO priority on Assessments is clear: “Measuring student progress at least once a year at the same time encouraging innovation to explore new and possibly new ways for measuring academic progress of students.” The Secretary should be allowed to authorize pilot programs supporting innovative assessment models and allow

states “to apply for the necessary waiver to follow these pilots at the district level at their discretion.” Moreover, in addition, states would be allowed to “determine if the annual student score is based on one summative assessment or the combined results of assessments throughout the school year.” The latter is very similar to the reauthorization proposal by then Chairman of the Senate HELP Committee Tom Harkin two years ago and could provide increased opportunities for many firms which provide products/services which have “embedded” items or other means of conducting formative assessments integrated with curriculum and lessons aligned with the Common Core.

Under Teacher and Leader Evaluation requirements, the CCSSO supports recommendations in the Education Policy Center recent report “Title II, Part A: Don’t Scrap it, Don’t Dilute It, Fix It,” which argued that most of the \$2.5 billion a year allocated to states, which has been used mostly for professional development and class size reduction, is not delivering “all that it could” (see related TechMIS Special Report and Washington Update). The report called for a broader definition of “professional development with a focus on performance improvement, while keeping “implementation flexible.” Moreover, it recommends that this be done by building capacity at the state and district levels with appropriate funding to initiate and then sustain such capacity rather than having Title II funds be used primarily for one-on-one direct professional development on a periodic basis, which the Education Policy Center argues, has not been effective. This emphasis on capacity building has direct implications for TechMIS subscribers and other groups which provide continuing and



periodic one-on-one teacher-focused professional development, although it could help firms with tools to help capacity building such as online, on-call, or on-demand services.

The Funding and Flexibility priority argues that states should be “given the authority to combine and utilize Federal title funds to meet stated agreed upon goals.” And, as the CCSSO statement specifically notes: “provide more allowable uses of title funds, such as increasing the viability of statewide system of support. Allow states greater flexibility to consolidate title funds to achieve multiple programmatic goals that will better serve disadvantaged students.” In light of the GOP’s ESEA reauthorization proposals to consolidate many Federal programs into two or more block grants, this priority could have one major significant implication for many TechMIS subscribers. Even though USED policy has increasingly supported the notion that in Title I schoolwide programs Title I should be combined with most other Federal funds to serve all students in need in such schools, many SEAs have recommended or otherwise not allowed districts to do so; instead they discouraged “comingling” and required separate accounting in order to ensure that each title funding stream and its use be tracked separately for auditing purposes. Indeed, during the CCSSO conference two years ago, Assistant Secretary Delisle (who while State Superintendent in Ohio, took a lead role in promoting comingling of Title I with other Federal funds in schoolwides) announced a new USED policy that greater flexibility would be allowed as comingling occurred without violating supplement not supplant provisions. If the Chiefs’ proposed priority on consolidating Title funds in schoolwides

is incorporated into a reauthorized ESEA, then the legality of comingling or consolidating such funds would become law rather than being promoted by regulations and/or non-regulatory guidance. Even if the priority is not incorporated into a reauthorized ESEA law, by singling out this priority now implies CCSSO and individual SEA support for comingling in Title I schoolwides which now is only encouraged in USED regulations or guidance.

We discussed with Richard Long, former Executive Director of the National State Title I Association, the implications of the apparent increased priority among the state Chiefs on the possibility of increased use of Coordinated Early Intervening Services/RTI in Title I schoolwides. Long and Bill East, Executive Director of the National Association of State Directors of Special Education, formed a task force in 2012, which worked with USED officials to develop a framework acceptable to both special education and Title I advocacy groups which would allow multiple Federal funds to be comingled and used to foster the use of not only Level 2 and 3 RTI approaches, but also Level 1 approaches, which would allow replacing the “core curriculum” in Title I schools without violating supplement not supplant provisions. Given that a similar provision was included in the initial reauthorization proposal by Chairman Lamar Alexander to “loosen supplement not supplant provisions,” we both agreed that some of the SEA resistance for comingling and opposition from advocacy groups supporting strict interpretations of categorical programs and targeting, would dissipate (see related TechMIS Washington Update on disproportionality and CEIS allocations). He agreed.

**During the Annual National Association of Federal Education Program Administrators (NAFEPA) Conference, USED Officials Discussed New Reorganization for Monitoring/Providing Technical Assistance for Title I and Other Federal Education Programs, and Encouraged SEAs and LEAs to Take Advantage of Existing Flexibilities Allowed in USED Regulations/Guidance**

*Washington Update contributed by Cheryl Sattler, Senior Partner, Ethica, LLC*

At the National Association of State and Federal Education Program Administrators annual meeting in Washington, D.C., many discussions focused on “blending” and “braiding” funds, according to Cheryl Sattler, TURNKEY TechMIS contributor. The US Department of Education is encouraging states and districts to combine fund sources across federal programs to support broader initiatives (see related CCSSO item). This is a positive development as it recognizes the “lines” between federal programs shouldn’t prevent districts from doing the right thing for students. This broader thinking is underscored by some changes in organizational structure at the federal level. There is no more a Federal Title I office, or even SASA (Student Achievement and School Accountability). Instead, Dr. Monique Chism now heads the Office of State Support. Every state now has 2 program officers across all programs, who “fully understand the state in context.” That should make leveraging funds across programs less controversial -- but the feds will have to send a clear, convincing message to persuade risk-averse districts and

SEAs. The Office of State Support includes: Title I A; Title II A; Title III; Race to the Top; RTTT assessments; School Improvement Grants; allocations; Turnaround School Leaders program; Accountability workbooks; assessment peer review; and enhanced assessment grants.

Among its priorities:

- Focusing on the urgency of change
- Raising expectations for students
- Increasing the number/percent of high schools that offer more than 1 core course in the high school math and science sequences (Only 50% of high schools offer calculus, and only 63% offer physics)

Another (potentially useful) item in the works is a Toolkit -- “Toolkit for Using Federal Formula Grants to Sustain Education Reforms”. It was previewed at an accounting conference last year, but is somewhere in the bowels of ED. An ED session previewed the toolkit, which includes the fact that Title I can support:

- Early warning systems
- Extended school year/day
- Revamped discipline processes
- Reorganizing class schedules to create teacher planning time
- Increasing personalized learning
- School safety
- Career academies
- Music & art
- Data analysis in Title I schools

If a district’s needs assessment shows a need, and it’s put into the schoolwide plan, Title I, Part A funds can be used. ED also offered some useful resources:

Examples of Leveraging ESEA and IDEA funds for digital teaching and learning: <http://tech.ed.gov/wp-content/uploads/2014/11/Tech-Federal-Funds-Final-V2.pdf>

Federal programs and support for school counselors: [http://www.nacacnet.org/counseling-pros/Documents/Duncan\\_enclosure\\_July22014.pdf](http://www.nacacnet.org/counseling-pros/Documents/Duncan_enclosure_July22014.pdf)

Maximizing flexibility in the administration of federal grants: [http://programs.ccsso.org/projects/Membership\\_Meetings/LegCon13/documents/Mon\\_1100\\_USED.pdf](http://programs.ccsso.org/projects/Membership_Meetings/LegCon13/documents/Mon_1100_USED.pdf)

The federal special education office is singing off the same song sheet: NASDSE Director, Nancy Reder said that her group had held a number of focus groups with administrators, asking what kinds of flexibility they would like. Interestingly, 90% of the flexibility that they requested is ALREADY ALLOWABLE.

As a reminder, up to 15% of IDEA funds can be used for students who have NOT been identified for special education (see related Washington Update). Although the emphasis is K-3, funds can be used K-12, for example to:

- Offer PD to deliver standards-based academics or behavioral interventions
- Fund direct interventions
- Fund services aligned with ESEA

At a state level, SEAs may reserve up to 10% of funds for “other state-level activities” that support students with disabilities -- but can be very broad

initiatives that support all students.

### **During a Press Conference to Kick Off Next Round of Waiver Renewals, Secretary Duncan Announces Waiver Approvals for Five States, Which Took Advantage of the Early “Expedited” Waiver Approval Process**

Secretary Duncan and state superintendents from Virginia, New Mexico, and Minnesota, explained why their newly-approved NCLB flexibility waivers would continue the progress that they had made and answered questions from reporters. While Secretary Duncan reiterated his priority for getting “an acceptable” NCLB reauthorization passed by Congress so the President can sign rather than veto it, he emphasized that waivers are “still needed” to increase flexibility for states. Suggesting their priorities, each state superintendent identified the key flexibilities in the approved waiver request which they felt would be critical over the next four years to continue making progress. Steve Staples, Superintendent Virginia, felt USED’s allowing Virginia to move from a “relative” to a “growth” assessment model would not only allow for greater “personalized, individual student instruction,” but would provide testing results which could be used more easily by teachers to improve instruction. Minnesota State Superintendent Brenda Cassellius emphasized on two occasions that the four-year waiver approval will provide stability, whereby all participants are aware of the goals as the “chains are moved on the sideline to achieve those goals.” The stability is particularly critical for the further implementation of their proposed teacher evaluation system, she argued. The

superintendent also noted the success of the Regional Centers of Excellence which are now working closely with Minneapolis and St. Paul, noting that nearly 75 percent of the initial low-performing schools have been reduced and are no longer designated as low-performing.

Hanna Skandera, Superintendent New Mexico, felt that the waivers provided flexibility for the state to “encourage” districts to use specific interventions to remove the achievement gaps for minority groups, which she said generally, has been reduced by ten percent over the first waiver years; the objective is to continue reducing such gaps as minority students meet achievement goals. She noted that graduation rates gaps have decreased with seven percent growth in graduation rates every year.

The two other waiver renewal states were Kentucky and North Carolina but their superintendents were not at the press conference. In a press release, Kentucky Superintendent Holliday acknowledged the state’s graduation rates have increased to 87 percent, while the college and career readiness rate among high school student graduates has increased from 30 to 60 percent over the last five years. Regarding USED approval of its plan, he said, “However, what Kentucky and all other states really need is a stable, long-term plan for moving education forward that is accomplished only through the Congressional reauthorization of ESEA.”

Also in the press release, North Carolina State Superintendent June Atkinson said that the initial waiver gave the state the freedom to raise standards without “fear of labeling” every school as failing to meet AYP, and to

increase graduations to an all-time high of almost 84 percent. Under the approved waiver, she emphasized that waivers would continue providing flexibility to not only focus on improving student achievement and growth, but also innovate for the next generation of learners.

In the USED press release, Secretary Duncan also emphasized several waiver provisions which should be included in a transition to a reauthorized ESEA, if and when, that occurs:

- “Addresses funding inequities for schools that serve high proportions of low-income students.”
- “Makes real investments in high-poverty schools and districts and in expanding high-quality preschool.”
- “Identifies schools that are consistently not making progress and dedicates extra resources and support, including in the lowest-performing five percent of the schools that are struggling year after year.”

### **New Education Commission of the States (ECS) Database Identifies States With Policies/Systems in Place to Facilitate College Remediation, Which Should Help TechMIS Clients Develop Strategies for Targeting States in this Growing Niche Market**

As we and several other observers predicted almost five years ago, the demand for high school and college remediation would increase during and shortly after the states’ administration of Common Core assessments. Over the last three decades, one of the initial and expanding use of

online distance learning has been online diagnostic assessments and delivery of instruction/remediation/support to help high school students prepare to be college-ready, or provide different methods of remedial/development instruction once they enter college (see February 2012 TechMIS Special Report).

Education Week's Digital Education blog (March 31<sup>st</sup>) "Online Testing Shift in States Includes Focus on College Readiness" (i.e., a cross-posting from the *Curriculum Matters* blog) summarizes the growing number and types of assessments being used to implement Common Core standards generally. It cites the new Education Commission of the States (ECS) Policy Brief, which "describes college readiness testing landscape and a map of states with detailed information about how each state measures college readiness and what actions they take based upon those scores." The new ECS database includes each state's respective policies, if any, regarding the assessments used to determine college readiness and the types of interventions used for remediation. (See November 2014 TechMIS Washington Update on ECS Brief on College Readiness)

The new ECS Policy brief entitled *Using Assessments to Inform 12<sup>th</sup>-Grade Interventions and Accelerations*, (March 2015) "delves into statewide high school, college, and career readiness assessments and how states are using them to overcome two persistent challenges -- the 'wasted senior year,' and 'high post-secondary remediation rates.'" One of the takeaways from the Brief is that "relatively few states have articulated the scores on these assessments that deem a student college-ready or in need of interventions to achieve

college readiness by the end of grade 12," while another takeaway argues that the implementation of meaningful statewide interventions requires states to make numerous "critical decisions on student identification metrics, forms of intervention, curriculum and instructional supports, to name just a few."

The database identifies state interventions policies -- whether interventions must be offered a student not demonstrating college readiness; which students must participate in college readiness interventions; and whether states allow students to take remedial coursework through dual enrollment programs. A review of the database indicates that 21 states have taken a statewide approach to remedial education, while an additional ten are also using a statewide approach to placement. The survey found "eight states with college readiness benchmarks on statewide ELA and math assignments require interventions to be offered to an identified student." State policy is unclear whether the interventions are courses, modules, or integrated supplements, although courseware was found to vary considerably among states. The report said six states -- Florida, Kentucky, Tennessee, Texas, Virginia, and West Virginia -- require identified students to participate in an intervention. Three of these states -- Kentucky, Texas, and West Virginia -- explicitly require a retest after the intervention.

The ECS state database can provide useful information for firms considering entering this niche market and/or refining existing products. For example, Texas has a statewide policy for both "remedial and placement" and a "uniform statewide system" to determine which students need



remedial classes and testing system for placement. Georgia has a statewide remedial and placement set of policies. The database addresses remedial policies adopted by two- and four-year colleges, identifies the assessments that can be used to direct students to appropriate courses, and/or allow eligible high school students to enroll in dual enrollment courses.

The *Curriculum Matters* blog (April 23<sup>rd</sup>) cites states which are planning to accept the college ready cut scores on the Smarter Balanced tests, which would allow passing students to enroll directly in credit-bearing entry-level courses without remediation. These states and a number of colleges/universities are:

- California (101 campuses)
- Washington (49)
- Oregon (14 all in the state)
- Hawaii (10)
- Delaware (7)
- South Dakota (6 all in state)

The ECS database can be viewed at: <http://www.ecs.org/clearinghouse/01/18/05/11805.pdf>

## Miscellaneous (a)

The Education Policy Center new report, “Title II Part A: Don’t Scrap It, Don’t Dilute It, Fix It,” recommends that Congress redefine professional development requiring Title IIA to focus strictly on “continuous performance improvement” through state and local capacity building. During the March Council of Chief State School Officers legislative conference, the report was a major topic of discussion regarding how to improve the \$2.5 billion a year Title II program for which Secretary Duncan has

called for major changes, as the report questions whether “this investment is delivering all that it could.”

Some of the current state-level uses of Title IIA funds of interest to many TechMIS subscribers include: specific professional development regarding standards and assessments, and assisting districts to develop proven innovative strategies to use technology to deliver professional development and training programs to integrate technology into curriculum instruction. Allowable uses at the district level include funding programs to train and regular and special education teachers and specialists, and professional development to improve knowledge and skills of teachers and principals. One of the key state concerns raised at the annual CCSS conference two years ago was whether any Title II funds could be used to help states implement Common Core standards and assessments. Numerous GOP bills have been introduced in Congress to prevent the use of Title IIA funds to implement Common Core and associated activities. Since that time, it would appear that states are increasingly using funds for these purposes by “bending the rules” or getting waivers allowing them to do so.

The Policy Center acknowledges the flexible use at the district level, stating, “Although Title IIA is a state grant program, states for the most part exercise relatively little control over how districts spend the money. In addition, no states systematically analyze the results of this funding so no one can determine definitely that the Title IIA program has made a discernible difference in student learning (the reason for the law).” Based on USED reports from states on spending in 2013-14, the Center reports that



64 percent of all districts spend at least some of their funding on professional development (about \$850 million) which includes activities for teachers and paraprofessionals (39.5%), promoting professional growth (6.1%), and professional development for principals and superintendents (4.1%). The report also notes that in 2013-14, about \$250 of Title IIA professional development funds were allocated per teacher, which the report notes is probably an over-estimate considering paraprofessionals were not included in the total number of teachers. Most of the remaining funds are spent on class size reduction, including hiring highly qualified teachers (35.3%). The report also notes that a recent study conducted in 2009 the American Institute of Research found “that by and large U.S. teachers have been receiving professional development that is superficial and short-lived and incoherent.” It also notes that in a 2012 town hall speech, Secretary Duncan asked teachers whether they think the \$2.5 billion Federal investment in professional development is worth it, they either laughed or they cried.”

The Education Policy Center report includes several recommendations related to capacity building rather than the use of funds for year-to-year professional development provided in some cases by firms on specific topics and techniques. For example, funds should be used for strategic management of capacity building activities by providing incentives to states to disseminate innovative models of effective approaches, providing multiple venues for education leaders to share success stories, and to provide support for district coordinators to manage and monitor district professional development activities. It also recommends that Title II funds not be allocated or

combined with other programs or allow districts to transfer such funds to other programs such as in Title I schoolwide programs (see the attached Special Report). The recently passed Senate ESEA reauthorization bill would not allow Title II to fund one-day workshops.

The report is available at: <http://educationpolicy.air.org/publications/tile-ii-part-dont-scrap-it-dont-dilute-it-fix-it>

### **Miscellaneous (b)**

Building upon the Administration’s ConnectEd Initiative started almost two years ago, USED announced during Open Education Week 2015 the launching of the Online Skills Academy, which is designed to “leverage free and openly-licensed learning resources” and using technology to create high-quality, low-cost pathways to degrees, certificates, and credentials.

The overall Open Education Resources Initiative, spearheaded by USED’s Office of Technology, will increase use of digital devices in the classroom and Open Education Resources. Last year, ConnectEd began a series of regional workshops for superintendents who have pledged to support and promote ConnectEd, and to build upon the Department of Labor’s Trade Adjustment Assistance, Community College and Training grant program (TAACCT), which has funded the development of college-level OEM resources including 1,500 new programs of studies involving 700 colleges. Another example of the overall OEM policy thrust has been USED’s Learning Registry, which shares data about online education content through an open source platform which has been adopted and

refined by states such as Illinois and California by building portals to allow educators to search and share resources from Federal sources, such as the National Archives and NASA. More information on Open Education Week and related initiatives is available at [www.ed.gov](http://www.ed.gov)

### **Miscellaneous (c)**

The Education Commission of the States has made available a new database of states' policies and funding on dual language learners' approaches and types of funding, which can be useful to firms in identifying what states may be most appropriate for targeting their products. The database includes information about what types of funding are provided to LEAs in the state beyond Federal Title III English Language Acquisition funds; these include categorical, formula, or other types of state funding. For example in Texas, the database, which was updated November 2014, defines an "English language learner" as one acquiring English or has another language as the first languages; "limited English proficient student" is used interchangeably with "English language learner." The programmatic approaches, which state policy authorize in Texas include bilingual education in K-elementary; and bilingual education instruction and ESL transitional language instruction in post-elementary grades. In grades 9-12, ESL instruction is authorized. State funding includes the regular state aid formula, to which an additional weight of ten percent is added for ELL per-student. As the ECS report notes, Maryland's ELL funding system uses a formula approach, which includes a weight of 90 percent for ELLs and "This is the most

generous ELL funding system in the country."

In addition to formula and categorical funding, some states reimburse districts for the cost of ELL programs based upon accrued costs, which have to be approved by the SEA. While the funding methods vary significantly among states, where a state provides less funding, districts must absorb the extra costs.

One important area not addressed in the ECS database is detailed information on the state's mandated "core language instructional program," which is important to firms to determine whether their "supplemental instructional program" could be used and paid for out of Title III funds without violating the "required by state law" provision under Title III "supplement not supplant" requirements and raise a "red flag" for auditors.

To access the ECS report, go to: <http://www.ecs.org/clearinghouse/01/17/92/11792.pdf>

### **Miscellaneous (d)**

A two-year extension of the Secure Rural Schools Act was passed by the House by a huge bipartisan vote at the end of March. Included in the so-called "doc fix" Medicare bill, the extension of the Secure Rural Schools Act created in 2000 has provided between \$300 and \$500 million annually to more than 4,000 schools in counties with National Forests, where income is generated from timbering, but no taxes go to local counties as do LEAs receiving Impact Act. In FY 2014, about \$330 million was distributed to more than 40 states with the

vast majority of funding being allocated to counties in Northwest states, particularly Oregon, Northern California, and Washington. Eligible districts have used their funds for a wide variety of activities, including telecommunications and distance learning, especially in rural districts.

As reported by Education Week's Politics K-12 blog (March 27<sup>th</sup>), the House bill also included a two-year extension of the Children's Health Insurance Plan (CHIP) program. Under this program, districts can use reimbursement for related services provided to low-income students. CHIP reimbursement funds have been used in the past by districts to purchase technology-based "systems" which can ensure maximum districts' reimbursement for providing the various types of related services which are not allowed for funding under IDEA.

As the *Politics K-12* article notes, "The Senate plans to take up the measure after Congress returns from its two-week recess the week of April 13<sup>th</sup> and Senate Majority Leader Mitch McConnell (R-KY) said he expects it to pass in a similar bipartisan fashion."

### **Miscellaneous (e)**

The Senate Committee unanimously approved the "Innovative Technology Expands Children's Horizons" (I-TECH) amendment, which is similar to the E2T2 technology grants passed a decade ago, but has not received any funding since 2010. The amendment, sponsored by Senators Orrin Hatch (R-UT) and Tammy Baldwin (D-WI), if included in a final passage of the ESEA reauthorization, would require about

half of the funding be used for professional development and the rest could be used for a wide range of technology, including hardware, software, digital devices, among others. Proponents argue that several major allowable uses will likely be online courses for instruction and professional development, and opportunities for personalizing or individualizing instructions to meet student needs. The GOP House has opposed vigorously any "new" programs such as I-TECH. Unless it can be positioned as an updated version of the old E2T2 program, I-TECH may be difficult to justify and fund.

### **Miscellaneous (f)**

Senators Boxer (D-CA) and Murkowski (R-AK) have introduced a bill to stave off attempts in GOP ESEA reauthorization bills to fold the 21<sup>st</sup> Century Community Learning Centers program into a major block grant under GOP proposals. 21<sup>st</sup> CCLC, funded at slightly more than \$1.1 billion, would be included in a \$1.6 billion block grant called Safe and Healthy Students Program, which would join a number of other current categorical programs such as mental health, counseling, drug and violence prevention, Promise Neighborhoods, among others. If included as part of the block grant over time, history has shown that such categorical programs tend to lose their identity and constituent support for funding after consolidation. Both of the Senators have introduced similar legislation, according to Education Week's Time and Learning blog (February 4<sup>th</sup>), in 2013 and 2011. The introduction of the bill, known as After School for American's Children Act, was introduced as one of the major initial steps taken by a variety of advocacy groups,

including the After School Alliance to fend off the proposed consolidation. The President's proposed FY 2016 budget includes \$1.15 million to continue the 21<sup>st</sup> CCLC, which is the only dedicated program which began in the early 1990s under the Clinton Administration to provide enrichment and academic after-school

programs, which now serve about 1.6 million students in after-school and summer programs. Many of the after-school participants also receive services under the Title I program, which often supplements local after-school programs, which provide many opportunities for many TechMIS clients.