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## MEMORANDUM

**DATE:** January 19, 2016  
**TO:** TechMIS Subscribers  
**FROM:** Charles Blaschke and Dr. Suzanne Thouvenelle  
**SUBJ:** FY 2016 Education Budget Good News; New ESSA Flexibility Interpretations; Regulatory Developments Underway; Update on OMB New Procurement Guidance; Among Others

The Special Report highlights the FY 2016 education budget passed shortly after the President signed the new ESSA; the appropriations would break the sequester “cap” with more funding for Title I, IDEA, and several other programs which should benefit most TechMIS clients. While large formula programs such as Title I will be allocated beginning in July under NCLB provisions, not the new ESSA, some states and districts will likely implement some of the new ESSA provisions which were in NCLB previous guidance, but not taken advantage of for a variety of reasons (e.g., those affecting schoolwide programs and supplement-not-supplant provisions for most districts identified for improvement). Some of these early opportunities will likely be addressed in USED’s “official” FY 2016 budget explanations and preliminary regulations shortly, which we will analyze and include in periodic TechMIS updates. Please call Charles directly if you have any questions (703-362-4689).

The Washington Update items address a range of issues of interest to many TechMIS subscribers, some of which are updates, while others are new:

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A number of miscellaneous items are also addressed including:
  - a) Even though President Obama’s most recent State of the Union address did not include “education” as a “major accomplishment” nor include any new education proposals, the biggest winner in the K-12 arena in terms of this year’s priorities and use of “flexible funding” as sources of support was science, math, and technology, including computer science, followed by universal preK-early childhood education.
  - b) The most recent American College Testing (ACT) report, “Condition of STEM” found only 20 percent of high schoolers who took the ACT are academically ready to take first-year college courses if they plan to major in STEM.
  - c) The most recent survey from the *Teachers Know Best* project, created by the Gates Foundation in 2013, found 93 percent of teachers use digital tools, but digital tools make up just 25 percent of their resources to teach standards; 54 percent felt digital tools are most effective for enrichment activities while only one in three believe they are effective for remediation.

- d) The International Association for K-12 Online Learning (iNACOL) annual Policy Brief calls for “blended learning,” which is student-centered and personalized with “more outcome-based performance metrics [built] into agreements with full-time and supplemental online education providers.”
- e) In its new report, the Center Budget and Policy Priorities (CBPP) argues most states have “cut school funding, and some continue cutting, which differs from some reports and projections by education technology publications.”
- f) In order to help meet the demand for new instruments to assess non-academic factors as part of states’ accountability plans, the California CORE districts plan to make available the instruments they have developed and researched “in hopes that other educators can learn from their research,” as reported by Education Week (December 10<sup>th</sup>).
- g) According to EdSource (January 7<sup>th</sup>), California Governor Brown’s “new approach” for early childhood education would provide districts greater flexibility in 2016-17 spending through a new “block” grant using the \$1.6 billion existing level spent in 2015-16.

**Special Report:  
New FY 2016 Education Budget Passed With \$1.2 Billion Increase,  
Breaking the Sequester Cap With More Funding for Title I, IDEA,  
and Other Programs, Which Have Positive Implications  
for Most TechMIS Subscribers**

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

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*January 20, 2016*

As we anticipated in March, the FY 2016 education budget was passed at the last moment by Congress and immediately signed in December by the President. Even though the new ESSA reauthorization of the ESEA was passed several days earlier, the changes in ESSA generally do not affect the funding for most large formula education programs. The funding impact of those significant ESSA changes, for the most part, will not be felt until the FY 2017 budget, although some SEAs and LEAs could make some changes in school year 2016-17 which are aligned with ESSA where flexibility exists. Below are highlights for major programs based upon a review of the 2001-page Appropriations Act.

As expected, Title I grants to LEAs would receive a half billion dollar increase to \$14.4 billion. Following similar patterns over the last few years, basic grants and concentration grants together would receive about \$7.7 billion, while targeted and incentive grants would receive \$7.1 billion and all of the \$500 million increase; the latter two components (targeted and incentive grants) of the Title I formula benefiting large, urban districts primarily. While some of the reauthorization debate focused on changing the Title I formula, the current formula generally remains as is. Under ESSA, once districts receive such Title I funds, LEAs have greater flexibility in deciding how such funds can be used in some cases benefiting TechMIS subscribers, such as the new supplement-not-supplant flexibility (see December 4<sup>th</sup> TechMIS Special Report on ESSA).

IDEA special education state grants would receive an increase of approximately \$410 million to \$11.9 billion. All of the smaller IDEA programs received small to moderate increases; IDEA preschool grants increased \$15 million to \$368 million and grants for infants and families increased \$20 million to \$458 million. Funding for "interventions" in the latter program has increasingly been encouraged/mandated.

And, similar to last year, of the total \$12.9 billion budget for all IDEA special education programs, \$3.4 billion would become available on July 1<sup>st</sup>, and the remainder \$9.2 billion on October 1, 2016. The language in the budget also addresses the complexity in the Title I formula, and provisions relating to IDEA "maintenance of effort," which affect state and district allocations and redistribution of funds, where "maintenance of effort" requirements are not met by a district or state. These will likely be addressed in the official USED budget document, expected to be available in January.

In addition, the budget calls for \$250 million for the Preschool Development grant programs and has been codified in the new ESSA Act, which increases the probability of continued/expanded funding in FY 2017. At the same time, the new budget for DHHS would get a \$570 million increase to almost \$9.2 billion. As Christina Samuels' *Early Year* blog (December 16<sup>th</sup>) notes, "The new Head Start regulations have proposed a shift to a six-hour day and a 180-day year for center-based Head Start programs, which in some cases doubled the amount of time students must spend in most Head Start centers. The estimated cost would be about \$1 billion."

Even though the School Improvement (SIG) program grants were not included in the new ESSA, the FY 2016 budget does include \$450 million, down from \$506 million this year to continue the SIG program. Language in the Act does state that such funds "may be used to serve any school eligible to receive assistance under Part A of Title I and has not made adequate yearly progress for at least two years, or is in the state's lowest quintile of performance-based on proficiency rates." The language also reiterates that such funds up to \$2 million per eligible school can use the "whole school reform strategy," which uses an evidence-based strategy in partnership with the strategy developer or an alternative state-determined school improvement strategy; or an LEA can use any of the four initial and the above two intervention strategies, making changes in one element. Under ESSA, Priority or Focus schools receiving SIG funds (discussed below) currently would continue to be funded out of a new 7% SEA set-aside with ever greater flexibility being delegated to the SEA and/or the LEA to select which school and/or which intervention strategy can be used.

The Striving Readers program, which would receive approximately \$30 million more for a total of \$190 million; it would be continued with a different "program name" under ESSA and would fund activities related to pre-literacy through grade 12. For 2016-17, 15 percent of funds would be used to serve children birth through age five; 40 percent for student in grades K-5; and 40 percent to serve students in middle and high schools. Eligible entities would be required to use funds for services and activities that "have the characteristics of effective literacy instruction through professional development, screening and assessment, targeted interventions for students reading below grade level, and other research-based methods of improving classroom instruction." Under NCLB, "scientifically-based research" (SBR) rigorous justifications were required and later different definitions of SBR taken from the Higher Education Act were applied, and in the new ESSA, the emphasis is on "evidence-based" activities and services, discussed in the December 4<sup>th</sup> TechMIS Special Report.

After-school program funding under the 21<sup>st</sup> Century Community Learning Centers increased

\$15 million to \$1.16 billion. Indicative of the budget battle between advocates of after-school programs versus those advocated for extended learning in school resulted in a provision stating that “none of the funds made available by this act shall be used to allow 21<sup>st</sup> Century Community Learning Centers initiative funding for expanded learning time, unless these activities provide enrichment and engagement activities for students at least 30 additional program hours before, during, or after traditional school day and supplements, but does not supplant school day requirements.”

As a sidebar to the record \$1.167 billion funding level for 21<sup>st</sup> CCLC, the Afterschool Alliance noted that Title I, Promise Neighborhoods, Gear Up, and TRIO programs and other programs are additional funding "streams" for after-school programs including:

- The new ESSA Full-Service Community Schools (\$10 million)
- Community Development Block Grants (\$3 billion)
- Childcare Development Block Grants (\$2.7 billion)
- Department of Justice Youth Mentoring Grants (\$90 million)
- STEM programs which receive some funding under NSF (\$800 million); and
- Math and Science Partnerships (\$152 million), among others.

And, as we noted in our December 4<sup>th</sup> TechMIS Special Report on ESSA, additional funding streams will come from new or expanded programs supporting STEM in the ESSA.

While one Obama flagship program, i<sup>3</sup>, would be flat-funded at \$120 million, the Promise Neighborhoods program supporting wraparound services, parental involvement, and related components, would receive a \$17 million increase to \$73 million. Another big winner would be the charter school grants, which would receive an additional \$80 million to slightly over \$330 million. Authorized charter schools operate under a legally binding "charter" or "performance contract" between the charter and the schools authorized by the "chartering agency" that takes into account the degree to which student academic achievement improved in determining whether to renew or revoke a school's charter. It is interesting to note that while the new ESSA requires the use of "non-academic" indicators in evaluations of Title I schools, the trend in charter school evaluation accountability is a more focused requirement upon "academic" factors such as math and reading. Another emphasis in ESSA is the use of charter schools to demonstrate new approaches, which if successful can be adopted by districts, one of the original goals of the charter school movement when it began in the 1980s, headed by Dr. Joe Nathan.

Grant allocations should result in charter schools in more states, which heretofore were not able to set aside funding for new schools, according to Nina Reese, President National Alliance for Public Charter Schools, as reported in Education Week (December 22<sup>nd</sup>). The same article notes that under the new ESSA, eligible entities, which now include only SEAs would be extended to governors, state charter school boards, and charter school support organizations. Moreover, state grants must be awarded annually, not every three years, and competition from charter management organizations (CMOs) has been codified, which means such CMO eligibilities for competitive grants would no longer be dependent upon annual appropriations.

Most programs funded under Safe Schools and Citizenship Education would receive small increases totaling about \$5 million, which increases the whole allocation to about \$75 million. The Adult Basic Education and Literacy State Grants Program would receive about a \$15 million increase to over \$580 million. A host of programs strengthening minority colleges and universities, including historically black universities, would all receive slight increases during this election year. Federal TRIO programs would receive a \$60 million increase to \$900 million and Gear Up would receive a \$21 million increase to \$322 million.

English Language Acquisition would be level-funded at approximately \$740 million for this coming year, but significant changes will be made under ESSA to the program, which will affect funds allocation next year. Another large program that was flat-funded was Career and Technical Education State Grants funded at \$1.1 billion. Also flat-funded at \$2.3 billion was Title II Teacher Quality, including the \$230 million Teacher Incentive Fund (see related Miscellaneous Washington Update item).

The USED Research and Evaluation Arm, the Institute of Education Sciences, which is very likely to be reauthorized in the immediate future, would get a \$15 million increase to \$195 million. As Sarah Sparks reported in *Education Week's Inside School Research* blog (December 16<sup>th</sup>), the regional education labs would be level-funded; however, under the new ESSA, they are likely to be a “potential source of much-needed support for states grappling with evidence-based standards created by the new education law.” For the last few years, most of the “scientifically-based research and evidence-based research activities have occurred within the What Works Clearinghouse within IES.” Under the new ESSA it is not clear whether the responsibility for “reporting” on evidence-based research findings used to justify funding for new, innovative approaches will rely on What Works Clearinghouse, or elsewhere, perhaps among the regional education labs. This could have a major impact upon what types of products, professional development, instructional and evaluation products, etc. will be allowed for use in Federally-funded programs.

Even though the 2016 education budget for research has a modest increase, the Institute for Education Sciences appears to be receiving more direction from Congress than in the past in that Congress calls for research in several specific areas:

- Disabled students’ participation and outcomes in high school and college technical education programs;
- Assessing different models and approaches for the use of Multi-Tier Systems of Support (MTSS), or Response-to-Intervention (RTI) approaches; and
- Research on effective approaches for students with disabilities, which have limited English proficiency and other dually-served students by special education and other categorical programs.

As a closing comment, TechMIS subscribers should be cautioned that the USED-proposed budget for FY 2016 will likely have more language changes affecting the activities and services

funded under some of the major programs noted above, and also have USED interpretations of what services and activities are allowed and others that may be "encouraged." Undoubtedly, some of these will relate to "easing" the transition from NCLB/state waivers to the new ESSA during the 2016-17 effective date of implementation. These are expected sometime in January or early February, and will be reported where important changes have been made or encouraged to be used by SEAs and LEAs.

<b>U.S. DEPARTMENT OF EDUCATION FUNDS AVAILABLE TO PURCHASE SUPPLEMENTAL/TECHNOLOGY PRODUCTS AND SERVICES</b>			
(millions of dollars)			
	<b>FY 2014 Appropriations</b>	<b>FY 2015 Appropriations</b>	<b>FY 2016 Prop. Approp.</b>
Title I (Total)	15,553	15,578	16,578
Total LEA Grants (Part A)	14,385	14,409	14,909
Basic	6,459	6,459	6,439
Concentration	1,362	1,362	1,369
Targeted Grants	3,282	3,294	3,544
Finance Incentive Grants	3,282	3,294	3,544
Striving Readers	158	160	190
School Improvement Grants	506	506	450
Race to the Top	250	250	0
Investing in Innovation (i <sup>3</sup> ) Fund	142	120	120
Improving Teacher Quality (Title II)	2,350	2,350	2,350
English Acquisition	723	737	740
State Assessments	378	378	378
Math Science Partnerships	150	152	152
Teacher Incentive Fund	289	230	230
Promise Neighborhoods	57	57	73
Special Education (EHA/IDEA) State Grants	11,000	11,497	11,912
Adult Education	578	582	581
Career/Technical	1,125	1,117	1,117
21st Century Community Learning Centers	1,149	1,151	1,169
Charter Schools	248	253	330
Safe & Drug Free	90	70	75
Statewide Assessments	N/A	378	378
College Mentoring (GEAR-UP)	302	301	322
HEA TRIO Program	838	839	900
Preschool Development		250	250

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# ***Washington Update***

***Vol. 21, No. 1, January 20, 2016***

## **Within the Context of the Current White House-Congress Partisan Politics, the ESSA Regulatory Process is Underway With a Smooth Takeoff, but a Rough Ride Expected**

The ESSA rulemaking “flight” has experienced a smooth takeoff, with an expected bumpy ride as differences on clarifications and definitions cause “seatbelt warnings” to “light up” as fundamental policy differences arise before the final destination is reached. The Act goes into “full” effect in 2017-18. USED is calling for comments from various stakeholder groups and is holding two initial meetings in January; and Congress plans to hold at least three major oversight hearings on regulatory development and implementation over the next year.

During the first two stakeholder hearings in January, influential education associations stated their positions, which generally had few surprises – AASA and NSBA generally felt the law was clear without the need for further Federal interpretations and guidelines; the Council of Great City Schools, as expected, sought clarity of the transition process and the elimination of set-asides at the state and district level; and the Chief State School Officers argued that the Federal regulations should leave it up to states for refined definitions and clarifications, making it clear about their much stronger role in implementation. Education Week’s Politics K-12 blog described the context as the regulatory process begins: “The law seeks to strike a

delicate balance between handing power over to the states and reigning in the education department on one hand, while also ensuring there are some ‘guardrails’ in place to help struggling schools and traditionally overlooked groups of students.” It quotes one GOP aide intimately involved in the process as stating that the law “is meant to ensure states are free to make decisions about accountability, school improvement, and standards and assessment without Federal interference. If the Secretary chooses to ignore the law, then Congress and the state and local leaders can use the tools they have to hold the Secretary accountable.” On the other hand, a Democratic aide said the Department still has “the authority to fill in many of the blanks in the law,” and argued, “while there are new limitations on proactive rulemaking, Democrats would not have supported legislation that completely removes the Department’s authority to interpret and implement the law.” And, as the article quotes the chief ESSA architect Senator Lamar Alexander that there are “specific prohibitions” on the Secretary’s authority. A real challenge will be identifying which prohibitions are for real and which leave room for interpretation and flexibility, and which are acceptable to congressional “oversight” processes in the Law.

A comparison of the 2002 rulemaking process in the previous reauthorization when NCLB was passed in 2001 with the current one, suggests that the Obama Administration may take a “hardline” approach attempting to include its interpretations of the Law and

Congressional intent in the regulations. In the previous reauthorization, the regulatory process occurred early, shortly after the election, and was focused on accountability, AYP, and other provisions, with regulations reflecting primarily the Bush Administration's intent. The process this time will reflect primarily Congressional intent to "do away with" NCLB and its prescriptive provisions. Only one year is left for the Obama Administration to change and/or enforce provisions. During its last four years, the Bush Administration began to provide flexibilities to NCLB regulations (e.g., SES set-asides) or its enforcement policy was to look the other way. The Administration will not have time for introducing such flexibilities.

Other differences between the last and current reauthorization process affecting the rulemaking process include:

- The Bush Administration was able to get Congress to appropriate some more money initially for NCLB and "pet" projects such as Reading First with subsequent larger increases, whereas the Obama Administration received large amounts of stimulus money not only for formula programs, but also for newly-legislated flagship programs such as Race to the Top, School Improvement Grants, among others; the \$4-5 billion was provided directly to the Secretary to use his authority to design and implement such initiatives; and
- The regulatory process for NCLB was relatively more focused students/subgroups of students and their performance, while a primary focus under this reauthorization will be the "governance" responsibilities, as mandates and interventions are being delegated to states and districts.

The bottom line question surrounding the development of regulations for ESSA is: to what extent will the current Administration attempt to include many of its priority "principles/pillars" (which are "prohibited" under strict interpretations in ESSA) into the final regulations within the context of legislative oversight tools built into the Law? And if its interpretations go beyond Congressional intent and prohibitions, there is a risk of a prolonged drawn out process with opposition from Congress and state and local authorities. And then, there is the risk that a new Administration after the election could rescind some and/or come out with other new regulations in 2017-18.

One clear indication of the Administration's strategy will be how it implements the so-called "negotiated rulemaking process." Confirming what we predicted in earlier TechMIS reports a year ago, *Politics K-12* (January 5<sup>th</sup>) argued, "The new law already makes it clear that regulations for three areas – standards, assessments, and in supplement-not-supplant rules (which govern how Federal aid can or can't replace state and local funds) – need to go through 'negotiated rulemaking' which calls for education advocates and the department to get in a room and try to hash out an agreement." If that process fails, which it often does, ESSA allows Congress to review the regulations in those three areas before they take effect. That unusual requirement is designed to further restrict the Federal role, a Senate GOP aide said." The development of the rulemaking process in 2002 after passage of NCLB involved six officials from SEAs, four from LEAs, four teachers and administrators, two from USED, and two students. The entire process took six months. Conspicuous by its absence, "supplement-not-supplant" was not

addressed under “negotiated rulemaking”; rather, these regulations were developed solely by USED officials and some of the Bush Administration advisors who were key in drafting NCLB, which reflected the “dictatorial climate” of NCLB, with its prescriptive and proactive activities versus the ESSA for which Congress was primarily responsible while rescinding many NCLB “redline principles” and sanctions.

The new “supplement-not-supplant” provisions would provide much more flexibility to districts in the use of Title I funds and could benefit most TechMIS subscribers significantly (see December 4<sup>th</sup> TechMIS Special Report and related Washington Update). In a discussion with several individuals who advocated the new ESSA flexible SNS rules, they have expressed several concerns, which we also share:

- Who will constitute the membership of the “negotiated rulemaking” team or the subgroup who will be responsible for developing regulations for implementing SNS?
- Will there be enough “institutional memory” and knowledge about SNS collectively or individually among the team members to reflect Congressional intent: to promote innovation to improve student performance; are very familiar with recent USED positive SNS trends (e.g., use of three levels of RTI in Title I schoolwides); and will be astute enough to minimize unintended consequences (e.g., conflicts between state waiver regulations on new state laws and SNS “required by state law” prohibitions in traditional SNS regs)? The latter is discussed in a related item in this TechMIS mailing.

Key committee staff involved in drafting ESSA are keenly aware of the SNS issues and Congressional intent (see related update), which can be a positive step if “oversight tools” have to be applied.

### **New ESSA Flexibilities in the Use of Funds: Updates on New Interpretations and Developments of Interest to TechMIS Subscribers**

In the December 4<sup>th</sup> TechMIS Special Report on the new ESSA funding flexibilities and related provisions of most interest to TechMIS subscribers, we highlighted some of the new ESSA flexibilities in the final draft which were included in the bill signed by the President in mid-December. These included new opportunities under supplement-not-supplant changes, schoolwide programs, among others. Since then, further interpretations by USED officials, policymakers, and observers and other “regulatory process” developments have occurred, including further explanations and other funding flexibilities not included in our December 4<sup>th</sup> report. These are highlighted below and will continue to be addressed as regulations and guidance are being developed in the regulatory process (see related Washington Update).

#### **Supplement-not-supplant (SNS)**

Beginning early in January 2015, we began following the proposed changes in supplement-not-supplant (SNS) requirements in Title I, which we felt at that time, and even more so now, would create numerous opportunities for most TechMIS subscribers. While we agreed with some of the key individuals advocating the changes that the least media attention, would be the

best strategy, it would appear that the controversial nature is now receiving much more attention, which will most likely draw opposition from some civil rights and other groups. As Education Week's Politics K-12 blog (January 5<sup>th</sup>) argues, the SNS provision in ESSA "does make significant changes in how schools can use dollars set aside for economically-disadvantaged students...Those and other changes give states and the districts more flexibility in general and particularly in how they use Title I aid." It is now clear that supplement-not-supplant will be one of only a limited number of issues, which will go through the "negotiated rule-making" process, which is noted in a related Washington Update item. As the article notes, the long-term traditional SNS rule was "that schools cannot use Title I funds for anything their states already require them to spend money on under the No Child Left Behind Act...schools had to itemize the cost of services and programs to show that Title IA was providing supplemental services. But under ESSA, schools don't have to identify those individual costs – they only have to show in fiscal terms that Title I dollars supplement state and local dollars and they don't need a waiver to do so. Districts no longer have to worry about showing whether each expenditure is a core service or supplemental for Title I purposes."

In our December 4<sup>th</sup> report, we reiterated the same interpretation, and argued that the new provision would codify some of the current USED guidance allowing more SNS flexibility for Title I schoolwide programs which, however, many SEA officials would not allow districts to take advantage of and/or expand under the state waivers this flexibility to Title I "targeted schools." The article quotes key partners from the Federal

Education Group (FEG) (which provides legal services to many districts) which argued that districts would be "freer to look at paying for broader initiatives – a new K-3 reading curriculum, or enhanced education technology for example," which they argue would "open up the door to more comprehensive services." As we argued, it would also allow districts to use Title I as a test bed for new innovative programs which, if successful, could be used in non-Title I schools with similar students. This flexibility was allowed in the September 2, 2009, regulatory guidance for districts "identified for improvement," but in many cases, was not allowed by SEA officials.

It would appear that SNS will be one of the first issues addressed under "negotiated rulemaking." If the new funding flexibility provisions follow a "strict" interpretation of the Law (see December 4<sup>th</sup> Special Report), then the anticipated positive impact for many TechMIS subscribers and districts seeking to improve the effectiveness of Title I through innovative programs will be realized. On the other hand, if the proposed rulemaking team does not include advocates supporting these changes, either from districts or the private sector, such opportunities could fade away, unless Congress exercises its "oversight" responsibility.

### **Consolidated Block Grant**

As noted in our December 4<sup>th</sup> Special Report, approximately 50 programs would be consolidated under Title IV, which is authorized to spend a total of \$1.6 billion. This consolidation would include new programs such as the I-TECH amendment, which some advocates argue would replace the E<sup>2</sup>T<sup>2</sup> technology grant program which has not been funded for the last five years.

It also includes some of the existing programs such as the Advanced Placement Program and School Counseling, among others, which currently are receiving funds. However, as Joel Packer, Executive Director Committee for Education Funding reported in Education Week (January 5<sup>th</sup>), the actual appropriations for existing programs that are included in the consolidation add up less than \$200 million, significantly less than the authorized level of \$1.6 billion. As stated in the article, “So he’s not clear where the rest of the money would come from.” Moreover, Packer also argued that the formula funds allocated to a district under the block grant consolidation have to be at least \$30,000 before some of the ways such funds must be used “kicks in” (e.g., 20% on health and safety, 20% on well-rounded students; and 60% on technology-related professional development and content, as noted in the December 4<sup>th</sup> TechMIS report). Packer notes that since program funding which goes out to districts is likely to be very small and few districts will let go to meet the \$30,000 level, he concluded that these conditions could “undermine the way the block grant was constructed. It’s going to be very interesting.”

Given the amount of advocates’ energy to resurrect the E<sup>2</sup>T<sup>2</sup> through the I-TECH amendment and lobbying efforts in deciding what portions of such I-TECH funding would go to infrastructure, professional development content and other purposes, it would appear that the Title IV block grant could result in a “stillborn infant” without any increases in funding for FY 2017.

### **Title I Weighted Formula Pilot**

The pilot program included in ESSA would allow up to 50 districts to combine Federal, state and local funding and allocate more of

those combined funds to low-income and special needs students over a three-year period. The net result would be that schools with larger numbers of “weighted poverty” or “high-need” students would be receiving relatively more Title I and other funding than in previous years. Districts currently using or exploring “some version of weighted funding in recent years include Baltimore, Indianapolis, and Seattle,” along with Denver (all members of Council of the Great City Schools), whose former Superintendent Senator Michael Bennett sponsored the bill. Developments in these and other “new flexibilities” areas will be reported periodically as they occur.

### **While Many Legislators in States May Welcome the New Flexibility for States and Districts in the Every Student Succeeds Act (ESSA), Unintended Consequences in Some States Could Arise, Creating Confusion, Delays, and Implementation Landmines, Which Could Have Implications for TechMIS Subscribers**

Education Week (January 6<sup>th</sup>) suggests in an article, “New K-12 Law Adds Buzz as State Legislatures Set to Convene” that legislators let out a “collective sigh of relief” when President Obama signed the Every Student Succeeds Act last month, noting that ESSA delegates much of previous Federal power to governors and legislatures. Officials from the National Conference of State Legislatures noted in the article that legislators “have been asking for a decade for some of these changes and they have been very frustrated that we’ve been limping along with the NCLB waiver system that enticed states to put into place policies they

wouldn't put into place otherwise.”

As we have argued over the last two years, many states passed state laws (or otherwise included in their education code) to meet many of the “conditions” and “requirements” USED tied to states receiving Obama flagship grants funding such as Race to the Top, SIG, and even certain formula programs. Now that NCLB waivers will no longer be in effect after August 1<sup>st</sup>, such state laws could come back to haunt such states in a very fundamental way. Under the long-term traditional “supplement-not-supplant” requirements, Federal funds cannot be used to pay for activities that are “required by state law.” In late 2012, USED realized that USED regulatory changes had to be made to allow Title I and other Federal funds to continue paying for services that were now required by newly-passed state “mirror image” of Federal laws in certain areas such as teacher evaluation systems and other provisions. Since the waiver era and its guidance will no longer be in effect after August 1<sup>st</sup>, unless state legislatures rescind such laws and regulations when ESSA is scheduled to become fully implemented in 2017-18, in many cases Federal funds such as Title I and Title III will no longer be able to be used to pay for such services, which means state legislatures are having to appropriate state funds to pay for those services that continue to be required by state law.

Providing new funds will be difficult in a number of states in which other financial matters are top state priorities, such as those noted in the Education Week article, “reversing teacher-staffing shortages, fixing school funding formulas that courts have deemed unfair, and in a handful of states, cutting state money bound for school district

budgets.” The Education Week article also notes several other examples pending state priorities, including:

- reducing “opt-out actions” by parents from taking high-stakes tests, which are being addressed by task forces in 16 states;
- conducting reviews in 19 states of their state standards and making changes from Common Core; and
- reduced revenues to pay for state education aid in oil-producing states such as Alaska, Oklahoma, Louisiana, North Dakota, West Virginia, Wyoming and Texas.

To fend off such additional pressures on state legislatures to appropriate state funds to pay for newly-legislated activities required under recent state law because of the NCLB waivers or other Federal conditions noted above, one solution might be to provide a waiver to the state extending the August 1st deadline, allowing the legislature more time. Or, during the negotiated rule-making process, the “required by state law” provision could be changed to accommodate the situation confronting those states, which made the necessary changes in state laws in order to receive Federal money under Race to the Top, SIG, and other grant programs, or in order to receive increased flexibility under NCLB state waivers authority. On the other hand, even though three-fifths of the states’ legislatures are controlled by the GOP, rescinding some of the state laws could be difficult politically because of opposition from civil rights groups and/or due to different types of inertia from different quarters opposing rescinding new state laws.

In deciding which states to target with their

products and services, TechMIS subscribers should follow such developments as noted above. Otherwise, some states, districts and TechMIS subscribers who were counting on using traditional Federal funds such as Title I to pay for products and services, which under the NCLB waiver flexibility would be allowed, might abruptly find that such funds can no longer be used for such purposes. We plan to follow developments in this area in our future TechMIS reports.

### **USED Provides Updates on Procurement, Conflict of Interest, and Related OMB Guidance to Districts Using Federal Grant Money to Purchase Products and Services from TechMIS Subscribers**

Last February, we sent a lengthy, detailed Special Report on new OMB requirements placed upon states and districts, which used Federal USED competitive grant funds (not Federal formula funds such as Title I) to purchase products and services from vendors, which affects virtually all TechMIS subscribers. Dr. Cheryl Sattler and I prepared the report and she submitted questions/comments on the “interim” draft that became effective December 2014, with the caveat that additional clarifications/requirements from USED would be “forthcoming.” Such updates have been provided, usually on a requested basis from different groups in response to questions and/or comments. Some of these changes are very important and are highlighted below; however, districts have until July 2017 to finally comply, although, as we have noted periodically since our February 2015 report, that some states and districts are already implementing the “interim” regulations that came out

December 2014. Some of the important changes are noted below.

#### **Conflict of Interest**

While many states have on the record strong “conflict of interest” legislation and regulations, USED clarifications state, a “conflict of interest” situation exists when:

- the district drafts and publishes an RFP and solicits information, specifications, etc. it must solicit inputs from several vendors, not just one;
- when a vendor actually drafts part of the work statement or other critical elements in an RFP;
- when an officer or agent of the contractor participates in the contract selection process.

In these situations, the contractor/organization has to be excluded from the bidding process.

In our February report, we and others, including SIIA, expressed great concern about one big issue: when a firm which conducts a field test in a district paid for by Federal Title I funds, for example, that produces expected results, the OMB guidance argued that the district would have to conduct a competitive RFP bid process for “scaling-up” of the successful product; this we argued opened up all possibilities such as a competitor “low-balling” the RFP process in terms of cost, or otherwise preventing districts from scaling-up the use of its successful products from the firm owning it and conducting the pilot test. One clarification is that in the initial RFP process for the field test, the RFP must state that if the district wants to expand its purchases of the product beyond the field test, the field test contractor firm has the option to scale-

up, assuming equitable pricing arrangements can be negotiated on a sole source basis. Another exception would be that if the product is the only compatible one with districts' infrastructure or enterprise software/hardware, etc., then such a purchase can be sole source rather than a competitive RFP. These exceptions are particularly critical regarding the use of field tests of technology-based hardware and software.

OMB has also made it clear that price is not the only factor to be taken into account in a competitive bid.

Another concern expressed by us, among others, related to required profit negotiations in most situations between the vendor and the district. It would appear that the modified guidance holds that if the purchase price for a product would be more than \$150,000 (i.e., the limit under the "simplified acquisition threshold," as noted in our February report), the district must continue to use a competitive process. However, if a cost analysis for purchasing a product by the district is conducted, profits can be negotiated with the vendor in cases where the "simplified acquisition threshold" is not used. This likely would be also applied to relatively large contract extensions.

We will continue to follow developments in this area.

## **New ESSA Weaves Early Learning Provisions into Several Programs Throughout, With Coordination Authority Under Preschool Development Grants**

Many early education publications and pundits have reviewed the recently passed ESSA to determine the implications for early care and learning, which are woven throughout provisions within the new legislation, including those addressing Title I, the Ready to Learn literacy program, Promise Neighborhoods, and charter schools.

In addition, language now refers to an educational "pipeline" that extends from early childhood throughout post-secondary education. Section 854B emphasizes Congress' view that state decisions regarding early learning and child care should be independent of Federal choice for parents through a mixed delivery system of services so parents can determine the right early learning and child care option for their children.

According to the McCormick Center for Early Childhood Leadership "the centerpiece of early care and learning in the new law is under the umbrella of Preschool Development Grants, found in Section 9212. *This set of provisions actually refers to the coordination of comprehensive mixed delivery systems of all early care and learning programs within states, including all federally, state, and privately funded programs serving low and moderate-income children.* This encompasses child care, Early Head Start and Head Start, licensed family and center-based child care programs, public schools, and community-based organizations" (December 11, 2015).



The Center for Law and Social Policy (CLASP) identifies the basic tenets of the \$250 million Preschool Development Grants (PDG). Jointly administered by DHHS and USED, the 2014-15 \$250 million in grants would help states provide a mixed delivery system of services so parents have choices regarding options for early learning and child care that meet their families' needs. To this end and as a significant departure from the current PDG program, ESSA limits the ways in which DHHS and USED can implement the PDG program, including restrictions on specifying, defining, or prescribing early learning and development guidelines; measures or indicators of quality; teacher and staff qualifications; class sizes and ratios; the provision details of services to children and their families; and other standards.

The following may have particular interest for TechMIS clients with systems or programmatic solutions that can be leveraged to support these new ESSA provisions:

- The goals of the program include assisting states to develop, update, or implement a strategic plan that facilitates collaboration, coordination, and reporting among child care and early education programs and to encourage partnerships among child care and early education programs.
- One year grants may be awarded on a competitive basis with priority for states that have not previously received a PDG. States may use PDGs to conduct a needs assessment and develop a strategic plan for improving collaboration and coordination among early childhood programs and for quality improvement activities.

- Grants may be renewed for a maximum of three years. In the first year of a renewal grant, states may subgrant up to 60 percent of funds to early childhood programs to increase access to high-quality early education programs with that percent increasing to 75 percent in years two and three.
- The bill permits states that currently have PDGs to continue their activities under the current terms of the program, at the discretion of DHHS and USED. They may also be considered for renewal grants (for a maximum of three years) under the new program according to (CLASP, December 18, 2015).

In 2015, five states were awarded development grants: Alabama, Arizona, Hawaii, Montana and Nevada. Thirteen states received expansion grants: Arkansas, Connecticut, Illinois, Louisiana, Maine, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Tennessee, Vermont and Virginia.

### **The Association of American Publishers (AAP) Harsh Critical “Comments” on USED-Proposed Regulations on Open Education Resources (OER) and Open Licensing Policy Provides Many TechMIS Subscribers Legal and Policy Arguments to Justify Opposition; USED Proposed Regs, if Adopted, Could Do Serious Harm to the Publishing and Software Sectors**

Not since the NSSEA “took on” USED in the late 1970s opposing its attempts to stop granting copyrights to publishers, which develop products using Federal funds, has any group presented such legal and other

arguments against USED, which is proactively promoting OER and Open Licensing. The AAP document is attached with AAP permission, and should be carefully read and used by TechMIS subscribers to justify various opposing positions depending on the products and/or services they sell to school systems. The AAP, which includes PreK Early Learning Group (which merged with Association of Education Publishers several years ago), argues:

- The proposed regulations reflect USED’s perception that private sector publishers are not “stakeholders” regarding the issue on one hand, while at the same time, stating, “In addition, publishers and other third parties may incur loss of revenue since their commercial product will potentially compete with freely-available versions of a similar product.”
- USED would “use its grant recipients as surrogates to facilitate government-funded competition,” which violates the OMB four-decade-old policy on “unfair competition.”
- The proposed regulations would violate key aspects of current Federal laws on copyright and violates “Executive Office directives on ensuring data quality and the critical need for ‘evidence-based’ establishment and implementation of new Federal regulatory programs and policies.”

In addition to these and other arguments in the 19-page document (contact Jay Diskey: [jdiskey@publications.org](mailto:jdiskey@publications.org)), it would also violate the intent of the Small Business Innovation Research Program (SBIR), which provides funds for developers/publishers to develop and

“copyright” innovative programs, many of which would be used in so-called “thin markets” such as special education; SBIR has been recognized by Congress as one of the limited number of successful Federal R&D programs for TechMIS subscribers, among others. This proposal from recently-resigned Secretary Duncan and some of his Chicago “zealots” who left USED and have now returned, is a “swan song which should be quelled.”

### **Major Factors Which Contributed to the Passage of ESSA in December**

About four years ago, when ESEA reauthorization began to surface as a priority, the White House and Congress were eons apart in what changes should be made to No Child Left Behind, and because of the partisan standoff, Secretary Duncan used the Secretary’s “authority” (created in 1994) to establish the state waiver flexibility initiative, which in the beginning was used as a “stop gap” to fix some of the unintended consequences of NCLB. During the 2012-13 timeframe we argued that Chairman Lamar Alexander’s proposed ESEA “reauthorization” by providing “fix-it” amendments would prevail; indeed some “fix-its” were addressed by some of the waiver provisions.

When Chairman Alexander released the draft reauthorization in January 2015, the prospects for a full reauthorization increased followed shortly by an on-again, off-again, on-again much more conservative House version, which passed. During the late summer, as we reported, some of the veteran education policy influencers and Congressional Education Committee staff veterans began to talk about the possibility

of the reauthorization this year. Individuals such as Jay Diskey, now Executive Director of the Association of American Publishers, PK Learning Group, and former key staff member of the House Education Committee (who also served as a consultant to AEP before it was merged with AAP and opening up legislative support for RTI), did predict such a reauthorization would occur, possibly as early as between Thanksgiving and Christmas.

Several commentators have added their observations regarding the passage of ESSA; however, we believe the one which tends to explain perhaps the most important factors, was recently published by Rick Hess, *Education Week's Straight Up* blogger (December 18<sup>th</sup>), an important policy influencer at the American Education Enterprise Institute, who stated: "ESSA required a pretty particular confluence of circumstances, crucially I don't think it would ever have been made without Lamar Alexander and his staff's role. Alexander brought immense credibility on these issues, a record of having challenged Duncan's Department of Education on his troubling over-reach, and a history of being able to work across the aisle. Meanwhile, he has a veteran staff, that knew the law cold, knew where their non-negotiables were, and were savvy enough to compromise on particulars, while safeguarding principles. Of course the table was set for all this by the unintended consequences of NCLB and the fact that Duncan's imperial posturing had finally united right and left in the desire to rein him in."

And, while Hess agrees that ESSA is an overall positive step forward, we also agree that it will have a net positive impact on virtually all TechMIS subscribers, but as

Hess cautions, "I do have concerns about how the particulars and the rule-making will shake out." It is interesting to note that less than a week after ESSA was signed, according to the *Morning Education* blog (December 17<sup>th</sup>), "Education Secretary Arne Duncan told *Morning Education* that his department will send out guidance to states on the Every Student Succeeds Act as early as this week, and possibly next week," which it did. As we have previously argued, this Administration will likely attempt to incorporate into guidance, regulations, and other parts of the ESSA "legal" and unofficial "framework" some of the Administration's important "interpretations" of key provisions in the new Law, which could have significant implications for many of our TechMIS clients. Indeed, our review and analysis of these regulations and other aspects of the new ESSA "legal framework" will be a major focus of reports and analyses in TechMIS issues over the next 8-10 months.

### **Several Recent Articles on Presidential Candidate Hilary Clinton's Education Priorities Show How They Differ from the Obama Administration**

As reported in *Fritzwire* (November 17<sup>th</sup>), the AFT recently released a transcript of an interview with Hilary Clinton in which Clinton said she has "for a long time been against the idea that you tie teacher evaluation and even teacher pay to test outcomes. There's no evidence." This is a 180-degree turn from one of the Obama/Duncan highest priority in their waiver initiative.

As *Education Week's Politics K-12* reports,

her position on charter schools differs from the Administration not only because many “charter schools do not have the experience” and according to her they “don’t pay attention to education research. They have a pet idea.” During the recent AFT roundtable, *Politics K-12* reports, “Ultimately she said that in addition to relying on sound research, charters should serve as a supplement, not a substitute, for traditional schools,” and said:

- charter schools should be held to the same standards as other schools;
- she would “turn to research to see which charter schools models are most successful”; and
- “we should incentivize and fund more of these models whether it’s a public school or a charter school, and try to get more cooperation between the two.”

Over three decades ago, one of the major goals of charter schools envisioned by Joe Nathan, who spearheaded the charter school movement at that time, was to have charter schools develop innovative approaches, which would compete with public schools and to the extent that the innovations demonstrated success in the charter schools, they would be adopted by public schools.

In terms of programs, Hilary Clinton, as a young lawyer, worked for the Children’s Defense Fund, which has been one of the oldest “watchdogs” over Title I and Head Start implementation; she is likely to place a high priority on funding for both of these programs. However, as the *Politics K-12* blog notes, “Given her record and how controversial some of the Obama Administration’s K-12 policies have become with both Democratic base and other voters, there’s a decent chance Clinton would put

less emphasis on K-12 issues, particularly if ESEA is reauthorized this Congress, and pivot to the early childhood arena, where she might also stand a chance of having greater success of the bipartisan kind.” Under the likely ESEA reauthorization, many of the accountability provisions and enforcement policies for Title I would be delegated to the states, leaving funding as the major Federal responsibility. Placing a higher priority on early childhood education, including Head Start, would compliment an already high priority among governors (see related Washington Update item), whereby she could place her “fingerprints” on a “flagship” early childhood education program which would likely succeed, by riding on a “bandwagon” driven at the state level by governors.

### **Miscellaneous (a)**

Even though President Obama’s most recent State of the Union address did not include “education” as a “major accomplishment” nor include any new education proposals, the biggest winner in the K-12 arena in terms of this year’s priorities and use of “flexible funding” as sources of support was science, math, and technology, including computer science, followed by universal preK-early childhood education. Over the last four years, his State of the Union addresses have increasingly called for expansion of funding in various STEM-related activities ranging from the call for 100,000 new STEM teachers by 2021, to promoting specific activities in the recent speech -- he stated students should learn how to “write computer code” and school should offer “every student the hands-on computer science and math classes that make them job-ready on day one.”

Commenting on the speech, the Washington Post reported that only 25 percent of U.S. schools teach computer science and programming, and that efforts by Microsoft (whose CEO was Michelle Obama's guest at the occasion) and non-profit groups such as Code.org, "along with the push from the Obama Administration, has led 17 states to expand funding and change policies to count computer science toward high school graduation credits."

His specific mentions in the speech should boost priorities and perhaps funding for afterschool programs in which the demand for STEM activities have increased dramatically, as noted in our September TechMIS Special Report. The use of hands-on science curriculum and the new priority being placed on the Technology and Engineering portion of STEM (which include coding and computer science), should receive increased attention and represent potential sales increases for firms with such products. He also claimed that under his Administration and under the new ESSA, graduates in fields like engineering will increase, which helps this new STEM-focused activity gain traction in after-school programs.

In his speech, he continued to challenge the next President to support universal preK, even though the his ten-year \$75 billion proposed effort has not been included in ESSA nor in the FY 2016 budget; however, the \$250 million Preschool Development Grant program attempts to coordinate multiple preschool and early childhood programs relying on various funding streams, ranging from Head Start to Child Care Development Block Grants (CCDBG), among others; these have received increased funding in the FY 2016 budget (see related

TechMIS Special Report and Washington Update).

Among the accomplishments he cited in K-12 education were the increase in high school graduation rates to 82 percent, and a general reduction in achievement gaps between disadvantaged groups of students and their peers, which he cited in his first State of the Union addresses as priorities. As Education Week's Politics K-12 blog stated, "Experts say though that it is tough to tell exactly why graduation rates are up and whether or not Obama's policies played a role, and some are concerned that the rising graduation rate on its own doesn't show whether an increasing share of students are exiting high school truly ready for higher education or the workforce." In pointing to another accomplishment, he stated, "We've protected and opened Internet and taken bold new steps to get more students and low-income Americans online," referring to the E-Rate Modernization Initiative which was started last year. While the USED took a lead role in formulating and promoting with the White House the so-called ConnectED initiative that eventually was linked to the new E-Rate initiative, the Federal Communications Commission (FCC), an independent agency, played the major role in its creation and subsequent implementation. This is not the first time that a political "entity" has claimed to be instrumental in the creation of implementation of major activities related to the Internet, beginning with former Vice President Al Gore who claimed to "have invented the Internet."

We agree with *Politics K-12's* prediction that the Obama Administration "will likely spend the next year setting the stage for work, in part, through the early

implementation of ESSA,” referring to the development of regulations and their early implementation before the President leaves office. On the other hand, it is very likely that the Administration will continue to reallocate funds from grant programs and other sources for which there exists flexibility and/or place absolute and competitive priorities on STEM-related activities in any new rounds of grant funding, and for preK early childhood programs, the Administration will continue to “piggy-back” off the multiple funding streams.

### Miscellaneous (b)

The most recent American College Testing (ACT) report, “Condition of STEM” found only 20 percent of high schoolers who took the ACT are academically ready to take first-year college courses if they plan to major in STEM. The new STEM benchmark used by ACT is more rigorous than the benchmark for individual general science and math courses because ACT felt that STEM courses in the first year, such as physics, calculus, chemistry and biology, require more rigor.

The ACT report indicates that about half of high school students, who took the ACT, were interested in STEM careers and college majors, about the same level of interest as those taking the ACT last year. However, student interest in STEM has increased about one percent over the last four years, according to Education Week’s High School and Beyond blog (November 11<sup>th</sup>). As the blog notes, the percentage of students taking the ACT over the last four years, who are interested in majoring in computer science and math and in engineering and technology

has increased two percent, while those interested in health and medical majors has declined three percent.

As we reported in our September TechMIS Special Report, the demand for district course offerings in after-school STEM programs is much higher than the supply of materials and offerings in engineering and technology areas, suggesting opportunities for firms with products and services, which could meet high-demand needs expressed by parents of after-school participants.

### Miscellaneous (c)

The most recent survey from the *Teachers Know Best* project, created by the Gates Foundation in 2013, found 93 percent of teachers use digital tools, but digital tools make up just 25 percent of their resources to teach standards; 54 percent felt digital tools are most effective for enrichment activities while only one in three believe they are effective for remediation. More than half felt they were effective across all subjects, but key gaps exist in all subject areas and grade levels. As reported in the Association of American Publishers EP Insider newsletter (November 18<sup>th</sup>), the top considerations among teachers when making/influencing a purchase decision are cost-effectiveness, saving time and the ability to “tailor” to individual student needs.

The report recommends developers target perceived gaps in the market by identifying and developing products for specific subject and grade-level “gaps” and needs. For example, some of the gaps in English/language arts range from “tailoring learning experience and diagnosing student

learning” in grades K-2 to supporting “student collaboration” and “varying delivery methods” in grades 9-12. Specific areas of demand for digital tools are described in pages 13-18 in the report available from the Gates Foundation entitled What Educators Want From Digital Instructional Tools 2.2, as cited in the AAP PreK-12 Learning Group EP Insider (November 18<sup>th</sup>).

### **Miscellaneous (d)**

The International Association for K-12 Online Learning (iNACOL) annual Policy Brief calls for “blended learning,” which is student-centered and personalized with “more outcome-based performance metrics [built] into agreements with full-time and supplemental online education providers.” As reported in Education Week’s Marketplace K-12 blog (November 10<sup>th</sup>), iNACOL has been one of the most vocal education advocacy groups calling for competency-based assessments and performance-type measures/benchmarks use by districts when contracting with online instructional providers, arguing that such mandates would “close achievement gaps and increase student achievement significantly.” The blog reports iNACOL’s number one issue in the reauthorization of ESEA is to focus less on static, end-of-year, summative assessments that increases “teaching to the tests” and more on “multiple measures of learning in real time” to personalize instruction using competency-based systems.

iNACOL recommends that state policies should require use of outcome-based student learning measures by districts/entities in their contracts with providers, and further

that those providers failing to achieve positive outcomes be discontinued. In addition, as recommended in a report several months ago, iNACOL called for performance-based funding blended learning models, which include incentives to increase student performance rather than reduce costs. These recommendations are similar to the intent of the OMB guidance (see February 2015 TechMIS Special Report) in cases where Federal grants are used by districts to purchase products and/or professional development and related services.

The push for the use of performance-based measures in state and district funding/purchases of online services has been intensified in light of recent reports about online cyber charter schools failing to increase student performance when compared to brick-and-mortar schools, as reported in a related Washington Update item. This heightened emphasis on districts using performance-based outcome measures in selecting and contracting with online providers should have direct and significant implications for TechMIS subscribers selling such products and services to online providers or otherwise providing online services directly.

### **Miscellaneous (e)**

In its new report, the Center Budget and Policy Priorities (CBPP) argues most states have “cut school funding, and some continue cutting, which differs from some reports and projections by education technology publications.” (see related Miscellaneous item on 2014-15 survey data). In its most recent survey, the Center found that most states provide less funding

per-pupil “in some cases, much less” than before the 2008 great recession, and some states continue cutting. Such cuts have resulted in reducing class size and access to high-quality early education after adjusting for inflation. Other findings from this survey include:

- 31 states provided less per-pupil funding in 2013-14 than in 2008 and 15 states’ cuts exceeded ten percent;
- in more than a third of states local per-pupil funding also fell during the same time period, while in 27 states, local funding increased, but did not make up for the overall funding gaps remaining since 2008;
- in half the states general or formula funding per-pupil is less than that in 2008, and in seven states the cuts exceed ten percent;
- while most states raised “general and formula” per-pupil funding, in 12 states new cuts were imposed this year.

### Miscellaneous (f)

In order to help meet the demand for new instruments to assess non-academic factors as part of states’ accountability plans, the California CORE districts plan to make available the instruments they have developed and researched “in hopes that other educators can learn from their research,” as reported by Education Week (December 10<sup>th</sup>). The CORE districts (Los Angeles, Long Beach, Fresno, San Francisco, Oakland, and Santa Anna) received district versus state waivers under which they developed and used instruments which measured non-academic indicators such as school climate and also began

incorporating student-level social/emotional learning data into the districts’ accountability scores for next year. The article also reports that the CORE districts have designed a school index, incorporating factors such as student traits, test scores, suspension rates, graduation rates, and the rate in which English language learners are classified as “fluent.”

While some of the instruments, particularly those related to measuring social/emotional learning skills (e.g., self-management, growth mindset, social awareness, etc.), have been criticized by the research community, as expected, the CORE districts will conduct surveys in 2016 and will provide the findings, instruments, and research to states and districts. And, while the CORE leaders, according to Education Week, said they plan to use their measurements in the future, whether or not they are tied to high-stakes Federal accountability, they are hopeful that other districts in California and other states will see the benefits of building upon their efforts. It is important to note, Professor Marion West of Harvard, who also worked with Senator Lamar Alexander and his staff in developing and drafting the Senate version of what later became ESSA, conducted field test analyses that “confirm that it is feasible to reliably assess student social/emotional competencies at scale through student self-report and teacher report surveys,” according to a press release from *Transforming Education*.

Additional information, according to Education Week, can be gathered by contacting *Transforming Education*, which helped design many of the “measures” at [www.transformingeducation.org](http://www.transformingeducation.org).



## Miscellaneous (g)

According to EdSource (January 7<sup>th</sup>), California Governor Brown's "new approach" for early childhood education would provide districts greater flexibility in 2016-17 spending through a new "block" grant using the \$1.6 billion existing level spent in 2015-16. Each district would receive the same amount they got last year under the Local Control Funding Formula. However, next year the early childhood block grant funding would be based upon numbers of students and percentage of low-income students served. Districts could allocate funds only for children from low-income families, charging wealthier parents a fee for participation. All state pre-k funding would go to the districts which

would decide whether or not to continue funding preschool programs operated by non-profit private organizations in the districts' attendance areas. The funding changes would have to be agreed to by the legislature as a rider in the appropriations bill.

In terms of the overall proposed California education budget, the Governor has called for an increase of \$5.4 million (billion?). Other increases would occur for career tech, English language learners, and rehabilitation of school facilities. Overall total expenditures from all sources would increase from \$14,184 to \$14,550 per-pupil in 2016-17.