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## MEMORANDUM

**DATE:** July 7, 2016  
**TO:** TechMIS Subscribers  
**FROM:** Charles Blaschke and Dr. Suzanne Thouvenelle  
**SUBJ:** Opportunities in Proposed ESSA Accountability Regulations in Lowest-Performing Schools; Best State Prospects to Target Now; Promising Online Opportunities for “Personalized Learning”; FY 2017 Appropriations Process Begins; States Receiving Last Year Funding for School Improvement Grant for New District Awards; City Funding for Pre-K

The USED-proposed accountability regulations point to potential opportunities for firms with specific interventions and services to “turn around” lowest-performing schools. While certain interventions have to meet new evidence-based criteria, complementary interventions in an overall strategy do not. For-profit external providers are allowed especially if they have a demonstrated track record.

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Degree Will Likely Vary Among States with Different Priorities**

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

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*July 7, 2016*

The May 26<sup>th</sup> proposed regulations on ESSA accountability provisions suggest the opportunities for firms with various types of interventions and services, which could be used in lowest-performing districts/schools; however, beyond the so-called Federal civil rights “guardrails,” the various flexibilities provided states will vary significantly depending upon the existing state accountability system, individual state priorities, and state interpretations of new Federal regulations once they go into effect (see related Washington Updates on existing state accountability ratings). Such opportunities will also be dependent upon when such provisions and regulations go into effect specifically for districts identifying and implementing interventions in the lowest-performing schools. The schools are similar to the “Priority” schools and districts under state waivers and existing School Improvement Grant (SIG) program, which were not included in ESSA legislation; however, as discussed below, the increased state 7% SEA set-aside (up from 4%) is supposed to “replace” SIG funding.

Before discussing specific opportunities in the lowest-performing schools identified for “comprehensive support and improvement” directly relevant, other related accountability regulations described in the “Official Summary” are noted below.

**General**

As stated in the Summary, the goal of the accountability regulations is to give “states new flexibility to ensure that every child gets a high-quality and well-rounded education while enhancing equity and maintaining critical civil rights protections.” Some of the directly-related accountability provisions include the following:

- States set their own goals and measurements of interim progress, academic outcomes and closing achievement gaps, and graduation rates;

- States are given flexibility to choose new statewide indicators for academic achievement and ELL progress toward English language proficiencies, to select new indicators of school quality success and report by subgroups of students including some new subgroups (e.g., foster children);
- States can propose weightings for the indicators as long as academic indicators are given a “much greater” weight;
- Schools identified for “comprehensive support” cannot be exited based only on progress and “student quality or student success unless it is also making significant progress for all students on an academic one.”
- Measures which states include in their plan with indicators of academic progress and school quality or student success must be “supported by research indicating that performance or progress on such measures are likely to increase student academic achievement or at the high school level graduation rates.”
- For English language learner populations, states must consider student characteristics such as students’ initial language proficiency level in setting goals and interim measures and determining progress in achieving English language proficiency;
- While so-called “super subgroups” cannot replace individual subgroups, states are required for any “N size greater than 30 students [to] submit a justification for its N size in the state plan.”
- For each school, a “comprehensive summative rating” for all indicators must be specified and made available to parents and the public generally.

Specific opportunities for firms wishing to target the lowest-performing schools/districts (similar to current Priority schools) are provided in much greater detail in the 192-page set of proposed regulations; however, details are likely to be changed based upon “comments,” which are due in August. However, it should be noted that the date by which districts/schools “identified for comprehensive support” have to be identified is before the 2017-18 school year, but recent letters from SEAs indicate that such a deadline may not be able to be met.

### **Interventions for “Priority” School**

According to the proposed regulations, those schools identified for “comprehensive support and improvement” (which has to occur once every three years) have to be in the bottom five percent of Title I schools, have graduation rates below 67% based upon the four-year adjusted cohort graduation rate (ACGR), and are have chronically low-performing subgroups that have not improved after additional “targeted support.” It would appear that alternative schools including public charter schools with enrollments of 100 students or more would be included (e.g., under the definition of “dropout factories”) which was called for in the GradNation Report (see the May TechMIS issue) and would be included in the state list of schools identified for “comprehensive support.” The draft regulations also state that an SEA may “permit differentiated and proven activities that use evidence-based interventions for schools that predominantly serve students returning to school after exiting without a regular diploma or who are significantly off track to accumulate sufficient academic credits to meet high school graduation requirements.”

The schools “identified for comprehensive support” would be required to develop/conduct a needs assessment that involves stakeholders, provide academic achievement information in academic areas for each subgroup of students, the reasons identified for “comprehensive support,” and include justifications for one or more interventions. The appropriate interventions must be “evidence-based” and supported to the extent practical “by the strongest level of evidence that is available, appropriate to meet the needs of the schools as identified by the needs assessment and by research conducted on a sample population or setting that overlaps with the population or setting of the school to be served.” If the intervention is on a state-approved list, it must be so identified.

Several types of interventions are cited as examples including the following:

- Interventions based upon data from early warning indicator systems;
- Strategies designed to increase diversity by tracking and retaining students from varying social /economic backgrounds;
- Interventions that increase access to high-quality preschool and change school governance;
- Reorganization of the school to implement a new instructional model; and
- Conversion of the school to a public charter school.

It also indicates that if the identified school is a public charter school, the LEA can revoke the charter and replace it with an alternative charter school.

The LEA’s application for state funding should address any inequities such as disproportionate rates of ineffective, out-of-field or inexperienced teachers, and per-pupil expenditures that may have been identified by the states as needing to be remedied relating to allocation of state and local funds to Title I schools (i.e., violation of supplement not supplant regs). The availability of the identified schools’ access to advanced coursework, preschool program, quality instructional materials and technology may have to be addressed. It should be noted that the draft regulations specifically state that not all of the interventions and activities selected by the state and/or LEA must be evidence-based, but only that the intervention which is assumed to have been identified as being needed during the needs assessment; and it must meet the evidence-based criteria and the “definitions” in the new ESSA statute.

It is important to note that for a school identified for “comprehensive support” to meet exit criteria, progress must be made for all students in the academic achievement indicators; progress only on non-academic or school quality indicators cannot be used to justify a school exiting from its lowest performing five percent status. On the other hand, as a justification for the interventions, the regulations clarify that the “alternative evidence-based state-determined strategies authorized by Section 111.... may include whole school reform strategies that would simplify LEA efforts to identify appropriate comprehensive approaches to turning around their lowest-performing schools.” With no School Improvement Grant funding included in the new ESSA, the new ESSA would allow SEAs to set aside 7% up from the previous 4% for school improvement, of which 95% would be distributed through direct competitive grants or by

formula to schools implementing “comprehensive or targeted support and improvement.”

Awards would be for up to four years, which may include one planning year. Among the criteria used by states in selecting the identified schools would be the degree to which the LEA is “strongly committed to improving student achievement and outcomes.” Grants would have to be of “sufficient size” to enable an LEA to implement the strategy and must represent geographic diversity. With approval from the LEA, the SEA could provide activities directly using support teams, education service agencies, or for-profit external providers “with expertise in evidence-based strategies to improve achievement, instruction, and schools. The SEA report card must list all schools receiving the set-aside funds, the amount each schools receives, and the types of strategies each school implemented.”

In its application for funds, the identified district/school would have to describe: one or more evidence-based interventions “based on strong or moderate or promising evidence in each school the LEA proposes to serve”; a “description of the rigorous review process that an LEA will use to recruit, screen, select, and evaluate any external providers with which the LEA intends to partner; and an overall plan for how the LEA will carry out its responsibilities and modify any practices needed to facilitate effective implementation of the plan in the specific schools. The proposed regulations would require the selected school to approve/select the type of interventions to be used, which AASA argues that this responsibility should be up to the district without giving the school “veto” power. Under SIG, over time school-level decision-making gave way to the district level. To be of “sufficient size,” the regulations would require grants of \$500,000 for each school identified for comprehensive support and improvement annually unless the LEA could justify to the SEA a smaller amount would be sufficient. For districts identified for targeted support and improvement, the amount would be \$50,000.

### **Strategies**

One obvious criterion firms should use in determining which states to target is whether the firms’ products/services are designed to help states meet their priority indicators. As the CAP report (see related Washington Update) found, academic achievement accounted for 48% of states’ ratings for schools in existing accountability systems which can be expected to remain the same or possibly increase. ESSA’s definitions of core subject areas now also include writing in addition to reading, math, English/language arts, and science and also likely to include computer science, coding, among others as likely allowed in forthcoming regulations. Inclusion of a number of school quality indicators such as “school climate” among other indicators in all states will likely be expanded and the “measures” used could affect demand for certain products, such as:

- attendance and absenteeism could increase the demand for anti-bullying materials;
- high dropout rates could point to the need for credit recovery and related approaches;
- school climate measures such as student engagement, socialization, and teamwork could bolster the demand for social/emotional learning skills, and so-forth.

Stakeholder inputs, which are required more extensively than in the past, could pressure states to



include these indicators and measures. The context and dynamics of each state will influence the selection of specific non-academic, non-achievement indicators and measures by creating the demand for certain types of products and services.

While states are allowed flexibilities, in most areas certain requirements are new and will be required in all states' accountability systems. One such new requirement is progress in English language proficiency, which takes into account entry-level ELL students' characteristics -- whether native languages are spoken at home, type of ethnicity (Spanish versus Asian), and other factors. As noted in Education Week's Inside Research blog, the amount of research available to states to rely upon in deciding differentiation in growth rates among ELLs with different characteristics is "very scanty," which could provide rather immediate opportunities for TechMIS clients offering R&D products and services in this area.

By comparing the proposed regulations for school improvement with those previously prescribed for School Improvement Grants one can infer certain implications pointing to possible opportunities, once states begin to implement comprehensive activities and supports in identified schools/districts. States are supposed to identify districts identified for comprehensive support indicating the name of the school, and the amount of funding in the state's report card by December 31<sup>st</sup> of each year. However, when each state will first be able to identify and select such districts allocate funds and when LEAs will actually begin planning or operational implementation will vary considerably among states. Depending upon their respective priorities, early implementing states are those likely to: (a) have necessary stable, longitudinal assessment data; (b) have state-determined or approved interventions and possibly external providers' lists; (c) use existing external providers and/or their interventions which, have proven to be effective in increasing student achievement and school performance in low-performing schools under SIG; and (d) have mechanisms in place which have been continually used to support implementation of the 4% SEA set-aside for school improvement.

Unlike the SIG grants program, which prescribed four interventions initially and then two years later as a result of congressional amendments, added three more interventions (which included "state-determined" models), states and/or districts have greater flexibility in developing/selecting interventions. Assuming that an individual state is not satisfied with the degree of success of specific intervention strategies used under the School Improvement Grant program, one wise move might be to approach SEAs now with potential interventions and/or component/services, which can be integrated into new or modified "state-determined intervention" models. If a state is satisfied with the "state-determined intervention" model which it plans to continue for certain subgroups, then the state might be willing to consider more innovative, perhaps experimental-type interventions, particularly for subgroups of students whose academic or other performance has been persistently low. Or, if the state is searching for interventions, which could increase the SEA planned measures for assessing school quality, school climate, and other non-academic indicators, then the SEA could be willing to consider new approaches.

Even though many of the framers and sponsors of the new ESSA considered the new law providing flexibilities so SEAs could be creative and innovate such is not likely to occur

immediately unless other dramatic changes happen (e.g., a new state superintendent with a penchant for certain interventions). The most likely opportunity for innovative interventions will be at the district level where the state provides new flexibility to districts to develop and/or implement interventions of their choice. This opportunity will be impacted by the extent to which the intended flexibility in supplement-not-supplant provisions in the ESSA statute is allowed by USED in its final regulations. If allowed, Title I will become a “testbed for innovation” whereby successful products can be purchased for Title I and then used in non-Title I schools without violating supplement-not-supplant requirements.



# **Washington Update**

**Vol. 21, No. 6, July 7, 2016**

## **New Report Identifies the Degree to Which Individual States Meet New Accountability “Indicator” Requirements in ESSA; For TechMIS Subscribers with Different Products and Services, Implications Should Help Clients Decide What States to Target Now and/or When State Accountability Systems Have to Be in Place in 2017...or Later!**

The Center for American Progress (CAP) has identified the major accountability requirements and new ESSA “indicators,” which individual states have to include when they design their own accountability systems that go beyond test scores in math and reading. The degree to which individual states currently meet some of these specific requirements (and specific details yet to be finalized in regulations) should be taken into account as TechMIS clients decide what states should be considered Priority 1 in their marketing approaches. The Center for American Progress, a liberal leaning think tank with close ties to the democratic party, particularly presidential hopeful Hilary Clinton, has reviewed existing state documentation, reports, and websites, and data collected individually from states in “rating” whether or not the individual states meet which of the new requirements and provides the current “weighting” of such ESSA “indicators” in their existing accountability systems. The primary indicators included in the CAP analysis include:

- student performance in reading/English language arts and

mathematics similar to those requirements in NCLB and state waivers;

- a second academic indicator, which can include student progress in ELA and math, English language proficiency, high school graduation rates;
- at least one measure of school quality or student success such as school climate; and
- disaggregation of the indicators by subgroups of students.

In addition, the state must give a “substantial weight” to the academic indicators and lower “weights” to measures of “school quality,” which will likely be detailed in regulations (see Special Report on “proposed” regulations).

The report also includes a database under the title “Explore the Data for Making the Grade,” which has a 50-state analysis of existing school accountability systems and “indicators” with “weights” where they exist.

Education Week’s Politics K-12 blog summarizes the CAP report and database stating, “The report is intended to show where states are now. But it could also show where states’ appetites are in terms of what they want to include in the ESSA-friendly accountability systems.” One can infer from the article and a long-term view of the evolution of state accountability systems that what is in the current state systems in terms of “indicators” is likely to

remain and perhaps be added to; however, the “weights” of the different “indicators” or “measures” in the states’ accountability reports to USED (and in turn their assessments of districts meeting the state-designed accountability requirements) which are made public are likely to change.

Education Week’s interviews with the three major authors of the report, including former Assistant Secretary Carmel Martin and two of her former USED counterpart officials, generally confirmed that a vast majority of the states “will have a lot of work to do to meet ESSA’s requirements...that students’ English language proficiency be included in state accountability systems...virtually no states disaggregate all of their accountability data by individual subgroups.” Not surprising, as the May 19<sup>th</sup> article notes, CAP reports that among the states weighting of their accountability indicators “academic achievement counted for 48 percent of a school’s rating.” In addition, the article notes, “42 states use at least one of the following as a school quality indicator: an early warning indicator like attendance, chronic absenteeism, and whether students are on-track to graduate, persistence indicators including dropout rates and the re-engagement of dropouts; college- and career-readiness indicators like post-secondary enrollment; and other indicators involving things like school climate, arts, and physical fitness. However, 14 of those states only use such indicators for high schools.”

As one reviews the state-by-state profiles of the required types of indicators that currently exist and the weighting currently given to such indicators, the results are enlightening, especially for firms that have specific types of products or services.

For example, in the area of school climate and social/emotional learning skills, there are 23 states that currently have “other indicators” and four of those states (New Mexico, Nebraska, Illinois, and Georgia) have school climate and social/emotional learning skills that are provided some “weight” in the states’ existing accountability system. Virtually all of these 23 states have one “other indicator:” “test participation of less than 95 percent of student limits or reduces overall rating or clarification.” Achievement indicators include reading, math, writing, science, and social studies. Under “persistence” indicators, weights are provided on reducing dropout rates, re-engagement of dropouts (credit recovery), and other indicators such as obtaining GED certificates. Under the college and career-ready indicators, measures include AP or IB classes or dual enrollment, performance on SAT, ACT, ACCUPLACER or Compass, completion of college/career and technical education classes or WorkKeys, and state-level exit or placement tests.

While the new CAP report is likely to be first in a series in which updates will probably be provided, it does offer a somewhat unique opportunity at the general level to help firms to explore state marketing possibilities that exist now, and perhaps in the future for their respective products and services.

To view the report and the individual state-by-state analysis, go to:

<https://www.americanprogress.org/issues/education/report/2016/05/19/137444/making-the-grade/>

## **Promising Opportunities for Expanding Online “Personalized Learning” in the New ESSA Are Described in New iNACOL Report; Cost Savings and Other Benefits from Appropriate Use of Technology Could Be Realized as State and District Remove Policy “Barriers”**

The new report, “Promising State Policies for Personalized Learning” from the International Association for K-12 Online Learning (iNACOL), identifies individual states which have implemented pilot or large-scale personalized learning initiatives. It also identifies new opportunities for appropriate, effective expansion under the new ESSA by removing some of the state policy “barriers” needed to realize the benefits for students and districts in terms of time, effort, and cost effectiveness. The report, authored by Dr. Susan Patrick and associates, cites a growing number of policy researchers, reports supporting personalized learning along with constructive critics such as *Education Week’s High School & Beyond* blogger Catherine Gewertz; these influencers represent an effective, responsible force amid the “bells and whistles” sector and “Johnny come lately” crowds who “tout” the virtues of “on-line.”

The report reminds readers that all of the iNACOL recommendations made in its “Federal Policy Frameworks” report in 2015 have been included in ESSA, including:

- “ESEA [reauthorization] should allow all state assessments to:
  - Measure individual student growth;
  - Use multiple measures of student learning from multiple points in time to

determine summative scores [annual determination]; and

- Use adaptive assessments that can measure students where they are in their learning.

ESSA [reauthorization] should establish an innovative assessment pilot to allow states to apply for permission to develop rigorous assessment systems that better align with student-centered competency-based models...With these policies in place, the Federal barriers have been removed and the states can redesign assessments for student-centered learning.”

The report argues that future state accountability systems should be aligned to student-centered learning and rely on “real time data to better identify the schools and students who need more supports to be successful...and will utilize multiple measures and indicators of student progress to support continuous improvement throughout the year.” The new accountability models should ensure equity by including measures such as “effectiveness based upon the amount of learning per unit of time.” Accountability systems should “calculate how quickly the achievement gap is being closed and show in real time where groups and subgroups of students in schools need supports and interventions.”

iNACOL also recognizes that highly-trained and engaged educator workforce will be the “single most important driver of successful competency-based education system.” It specifically points to the creation of teacher and principal academies in the new ESSA and calls for states to initiate the next “critical step which is shifting the focus to education competencies as the basis for

credentialing on demonstrated outcomes rather than time-based inputs.”

In the May 19<sup>th</sup> *High School & Beyond* blog, “Personalized Learning: More than Technology” Gewertz notes that iNACOL, a key player in online learning, “emphasizes once again that personalized learning is far more than using technology to learn.” As the report makes clear, iNACOL envisions personalized learning as being served by – and not defined by – computers and other technology tools. Some of the characteristics of personalized student learning she notes are allowing students to progress at their own pace, ensuring students have meaningful roles in how they are learning using authentic learning measures such as portfolios, and creating alternative ways for student learning.

During the recent Education Writers Association meeting, personalized learning was a hot topic among the education press attendees and this suggests that the use of innovative technology to implement personalized learning could be an area covered more extensively. Over the last several decades, we have found that members of the Education Writers Association have been one of the most objective accurate and reliable sources we have cited in our TechMIS reports and updates; this suggests that firms with effective tools and components and/or training which supports personalized learning should take advantage of the opportunities for accurate and reliable public relations.

## **Gates Foundation Head Announces Course Correction in its Support for Common Core by Partnering With “Free” Digital Content Providers to Make Aligned Materials Available to Teachers**

The new Gates Foundation CEO Sue Desmond-Hellmann announced in a “letter” on the Foundation’s website a course correction in its multi-million support for education, especially Common Core implementation: it would be “doubling down” its efforts for greater teacher access to learning materials of the “highest quality” by supporting efforts of providers of “free” digital content and tools – “including LearnZillion, Better Lessons, and Engage NY [which] are providing millions of teachers with an increasingly attractive alternative to traditional textbooks.” The letter also states, “We’re supporting a partnership with EdReports.org, the Consumer Reports of K-12 curriculum to provide free and open access to teacher-led reviews and evidence on instructional materials. This will increase the capacity of educators across the country to seek, develop, and demand high-quality aligned instructional materials.”

In explaining the reason for course correction, the letter stated, “Unfortunately our foundation underestimated the level of resources and support required for our public education systems to be well-equipped to implement the standards. We missed an early opportunity to sufficiently equip educators, particularly teachers but also parents and communities, so that the benefits of the standards could take flight from the beginning...far too many districts report that identifying or developing Common Core-aligned materials is a

challenge, meaning that teachers spend their time adapting or creating curriculum, developing lessons, and searching for supplemental materials.” Without question, the degree to which teachers are developing and are adapting curriculum and lessons to ensure greater alignment with Common Core standards has been found to be a widespread phenomenon. The Center for Education Policy (CEP) report in its recent survey (see May TechMIS Washington Update), the recent RAND report, and a Harvard University Center for Education Policy Research report noted in Education Week’s Curriculum Matters blog (May 23<sup>rd</sup>) corroborate the existence of this phenomenon. And, without question, survey findings that many textbooks and commercial products are not perceived by teachers and others to be closely aligned with Common Core standards cannot be denied; however, one can question whether the availability of “free open education resources” will reduce the perceived need by teachers to modify/adapt digital and related content, lessons, etc.?

And the Gates new partnership with EdReports.org, which the *Curriculum Matters* blog referred to as “a website that aims to be the Consumer Reports for K-12 Common Core curriculum” can meet a perceived need. Over the last five years, at least 20 non-profit and a few for-profit groups have attempted to provide similar services and reports to help educators select and purchase instructional materials. Most have faltered because of the lack of financial and other support and for a variety of other reasons, including bias and lack of objectivity. As *Curriculum Matters* notes, “previous Education Week articles on EdReports.org by groups ranging from the National Council on Teachers for Math to

the National Council of Supervisors for Math to individual commercial publishers have criticized some of the initial evaluations reported by EdReports.org as being incomplete, containing errors, or misleading regarding the degree of alignment with Common Core.”

The stated support by the Foundation for the non-profit providers of “free” digital content and related tools, along with EdReports.org, will undoubtedly provide support which will bolster these providers’ capacity and capabilities in the future. In announcing the new Gates initiatives in health and education, the new CEO also felt that these initiatives in K-12 education would booster “our ability to have impact in order to realize our vision.”

Citing some examples of “reform initiatives” such as the failed initiatives in districts such as “bonus teacher pay based on student scores” in Hillsborough (FL) and the “small school experiment” in New York City, the editorial board of the Los Angeles Times (June 1<sup>st</sup>) called the Gates course correction a “remarkable admission.” It does so without referring to the LAUSD controversial Common Core “experience” with the Gates Foundation, Pearson and other firms. The editorial also criticized politicians and policymakers at the Federal level “who have given the educational wishes of the Bill and Melinda Gates and other well-meaning philanthropists and foundations too much sway in recent years over how schools are run...Philanthropists are not generally education experts, and even if they hire scholars and experts, public officials shouldn’t be allowing them to set the policy agenda for the nation’s public schools.”



One can infer that the new Gates vision supporting “free digital content” is very similar to that of former Secretary Arnie Duncan who supported Open Education Resources (OER), including proposed regulations on “open licenses.” These and other initiatives have violated long-held traditional USED policies regarding “unfair Government competition” with the private sector. At the least, most groups and associations representing private sector publishers, software vendors, et al. have called for a “level playing field,” vs. the Administration’s increased competitive grant priorities and regulations favoring not-for-profit organizations, including those providing so-called “free digital content.” In a recent discussion with the executive of a leading industry-supported education association, he indicated that his association’s influence is limited to government action or inaction, not to that of foundations or philanthropic organizations such as Gates. These foundations represent a “shadow government,” and are typically immune from congressional oversight unless they are recipients of Federally-funded grants. On the other hand, those philanthropic groups with a leaning toward a current Administration can be extremely helpful in implementing the Administration’s desired policies when in office...and possibly when an Administration leaves office.

**USED Releases Final Title I Allocations for States/Districts, Identifies the Types of Adjustments to Be Made by States, and Confirms NCLB Procedures to Be Used During Transition to New ESSA**

On June 14<sup>th</sup>, USED sent to each state final

Title I state and district allocations for schoolyear 2016-17. The letter identifies types of adjustments the SEA can make before SEA official notifications are sent to districts. It also confirmed that allocation procedures will be those used under NCLB during the transition to the new ESSA in 2017-18 school year.

In our March 10<sup>th</sup> TechMIS Special Report on preliminary Title I district allocations we identified districts receiving at least a \$200,000 or 20% or more increase in preliminary Title I allocations; we mentioned certain adjustments that would be made by USED in determining final state and district allocations, which have now been made with one exception – if states have not reported their state per-pupil expenditures (SPPE) by June 1<sup>st</sup>, then USED will make final adjustments by October after receiving SPPE. In addition to making adjustments in the final state allocations based mostly on SPPE, USED also used new NCES data on numbers of students in institutions, foster homes, and from families receiving assistance under TANF to make the final state allocations. These state allocations are in Exhibit A.

With regards to USED’s final district Title I allocations, we compared some district final allocations to those preliminary ones in the March 10<sup>th</sup> report in Exhibit A and Exhibit B and found that the differences were relatively small ranging from less than one percent in the vast majority of cases and 2-3 percent in some of the districts receiving large percent increases.

The primary reason for basing our March 10<sup>th</sup> report on preliminary district allocations was to give TechMIS subscribers a competitive advantage in contacting districts

receiving increases before any SEA notifications to districts and exploring the possibility of districts using unspent Title I FY 2015 funds held in reserve, to be spent on products prior to the June 30<sup>th</sup> deadline in more than 40 states. The adjustments made by USED to final district allocations are relatively small compared to adjustments which will now be made by SEAs which in virtually all cases could result in adjustments up to ten percent. We believe the use of the preliminary district allocations in selecting districts to target remains the most appropriate course of action to be followed by TechMIS clients' sales staff. However, if any TechMIS subscriber wishes to receive the database on final allocations for all 12,000+ districts, please contact Charles Blaschke directly (703-362-4689).

The June 14<sup>th</sup> USED memorandum to Chief State School Officers(CSSOs) and Title I State Coordinators confirms the use of existing NCLB procedures, which we emphasized in our March 10<sup>th</sup> TechMIS Special Report, by reiterating the following, “[USED] would like to note that under the Every Student Succeeds Act (ESSA) transition provisions as clarified by PL114-113, FY 2016 formula grants including Title I Part A generally will be awarded and administered in accordance with the Elementary and Secondary Education Act as amended by the No Child Left Behind Act of 2001 (ESEA). This means that the U.S. Department of Education (ED’s) Title I Part A Formula Grant allocation to SEAs as well as an SEA’s Title I Part A sub grants allocated to LEAs under the Title I Part A formulas will be made in FY 2016 for SY 2016-17 in the same manner and using the same allocation formulas as for SY 2015-16.” Evidently, some TechMIS subscribers’ sales staff have been told by district staff or

other sales staff have raised the question of whether the sales process has changed as a result of ESSA. The simple answer is “no” – the purchasing cycles (March-June 30<sup>th</sup>, July-September, October and November, and April-June) essentially remain the same; the limitation of carrying over more than 15 percent of Title I funds from one year to the next remains the same (only once every three years without a state waiver); SEA allocations of the 4% set-aside for school improvement to districts identified for improvement/Priority I districts remains about the same and so forth. One major exception to NCLB requirements will be that no district in the 42 waiver states will be required to set aside 20% for supplemental educational services (SES) and/or school choice. Districts in states (e.g., California) without flexibility waivers are now under the exception and do not have to set aside the 20 percent for SES and/or school choice.

The June 14<sup>th</sup> USED letter to CSSOs highlights the types of adjustments SEAs may be required to make, which we mentioned in our March 10<sup>th</sup> report and should be once again re-emphasized with sales staff. This is important now because very few states notified districts of their preliminary Title I allocations in March, and virtually none of them made SEA adjustments in any prior district notification letters. One adjustment will be made in states with relatively large numbers of charter schools that do not have geographic boundaries; in these instances, the state will have to adjust LEA allocations for these charter schools or other “special LEAs” whose boundaries and attendance areas were not known to USED. As the letter states, each SEA must adjust LEA USED district allocations to account for “eligible LEAs” that did not receive a Federal Title I



allocation.

SEAs might have to make additional adjustments to take into account the extent of the hold harmless provision (e.g., 85%, 90%, 95%) that applies to each district and its allocation. This type of adjustment can be complex and should be taken into account by sales staff. However, another adjustment which takes into account district “hold harmless” provisions relates to the 4% SEA set-aside for school improvement allocations. In general, it would take 4% of a district’s allocation and reallocate it to districts, which have Priority I schools or other schools “identified for improvement.” However, if a district is under a hold harmless provision, then the SEA cannot take away all of the district’s 4% for reallocation. As a result, in some states the SEA may not be able to set aside the entire 4% for school improvement, which will affect the total amount for SEA reallocation, usually occurs in October, to districts with eligible Priority schools.

And lastly, a state may also opt for the flexibility with USED’s approval to use “alternative poverty data” to determine eligibility and re-distribute USED-determined Title I allocations for districts with less than 20,000 residents. Some states like California also allow districts to use alternative sets of poverty-related data which can be taken into account in determining allocations of Title I funds.

It must be re-emphasized to staff that the final USED district Title I allocations will be different from the official SEA-determined allocations for districts after SEAs have made their adjustments!!

Again, it is important to remind sales staff

that after July 30<sup>th</sup> when state flexibility waivers are no longer in effect, all districts will be back under NCLB provisions and that the procedures for Title I allocations to SEAs and from SEAs to districts will be very similar to the past. Also, the patterns such as purchasing cycles “spend it or lose it” behavior and other factors are the same as last year. Perhaps even more important because districts will be back under NCLB provisions, those flexibilities included in NCLB regulations, which were not taken advantage of by most districts five or six years ago, are still in effect. And, for those districts and schools identified for improvement, which are the vast majority of districts, opportunities for using Title I funds in a much more flexible manner (e.g., for professional development for all teachers, not just Title I teachers) will be greater. And, SEA resistance in the past not allowing districts to take advantage of such opportunities is likely to have dissipated as a result of changes in key ESSA provisions such as supplement-not-supplant. These opportunities are described in our two Special Reports in the April TechMIS.

If anyone has any questions, call Charles directly at 703-362-4689.

### **Senate Begins the FY 2017 Appropriation Process, Providing Little Additional Money for the New ESSA Implementation During its First Year**

In spite of bipartisan “energy” supporting the initial year of ESSA implementation, the Senate Appropriations Subcommittee proposed few new funds for formula programs, including Title I and IDEA, and the new consolidated ESSA Title IV Student

Support and Academic Enrichment grant program. The overall USED education budget would be cut by \$220 million to \$67.8 billion.

The Official Congressional Summary points to a \$500 million increase to \$15.4 billion above the FY 2016 level for Title I, which is very misleading due to Title I changes in the new ESSA. For example, the new Law does not include the School Improvement Grants (SIG) programs now funded as part of Title I; SIG is supposed to be replaced by an increase in the SEA's budget set-aside for school improvement from 4% to 7%. This would lead to a net increase of about \$50 million in terms of Title I funds allocated to districts; however, because of additional changes in ESSA during the first year of implementation, according to a report by the Congressional Research Service, many districts in more than 30 states could lose additional funding estimated to be \$200-\$250 million range because the "hold harmless" provisions affecting district allocations would no longer apply during the first year of implementation of ESSA (i.e., "hold harmless" protects LEAs from unusually large cuts in one year). However, there is a positive implication, as described below. In any event, education groups led by AASA has requested that Congress appropriate an additional \$250 million for Title I for FY 2017 to reduce the impact on individual districts of not being protected by hold harmless, which has yet to occur.

In addition to the proposed "cuts" to districts because of the school improvement SEA set-aside increase to 7%, a state can set aside with approval of districts, an additional 3% for Direct Student Services (see May TechMIS Washington Update). In such cases these funds could be converted to

competitive grants and provided to selected district grantees to implement Direct Student Services such as tutoring, which would mean additional reductions for districts not receiving such competitive grants.

These new set-asides were major "bones of contention" during the March Council of Great City Schools Legislative Conference in which the Council argued that the 3% for Direct Student Services was over and above the 7% set-aside, while USED officials argued that the 3% would be included as part of a 7% set-aside; it has subsequently been clarified that USED's position during the conference was incorrect. The "bottom line" is that even though the proposed \$500 billion increase in Title I would benefit some districts some would end up receiving less funds under the FY 2017 budget.

On the other hand, as noted above, one implication for TechMIS subscribers is that because state adjustments will not be made to 2017 district allocations under "hold harmless" to reduce funds due to increased amounts of SEA set-asides, a larger number of districts than were identified for FY 2016 in our March 10<sup>th</sup> report (about 1,200) will receive preliminary increases in their FY 2017 district Title I allocations when the Title I formula and new Census data are applied next year. We will keep TechMIS subscribers apprised of any developments in this area.

Another major formula program, IDEA Grants to States, would receive a \$40 million increase over last year to \$11.95 billion. This small increase does not make up for the projected increase in number of students served in special education programs, which have been increasing over the last two years, and does not cover the

inflationary cost of providing such services; the original 1975 IDEA mandate calls for Federal funds to cover 40% of the additional cost of providing services for students in special education. The actual level of costs paid with Federal funds has varied between 15-18% over the last several years.

Perhaps the greatest disappointment was the \$300 million appropriations for the new formula Title IV block grant program that consolidated almost 50 existing programs whose combined budgets are \$278 million; hence, the \$300 million only represents a \$22 million increase over this year. This increase (which is much less than the proposed \$500 million by the Administration, is significantly less than the authorized level of \$1.6 billion) takes almost “all of the wind out of the sails” of the Title IV new program, which is supposed to allocate about 20% for “well-rounded education” and “safety and supported learning environments” each and 60% for the use of technology and directly-related professional development if the funding trigger of close to \$1.6 billion is met. Pointing to disappointment among education groups and supporters of their flexibility initiative under the new Title IV, Education Week’s Politics K-12 blog states, “Advocates aren’t consoled, in part because this is a such an important year for the block grant. First off, Congress will likely build on whatever the program starts, and \$300 million advocates say isn’t a strong starting point. What’s more, \$300 million spread across the country doesn’t do much for most districts.” And, perhaps the most important downside of this development of the low-level of funding is that there’s a long history that categorical program funds, which when consolidated into block grants, lose their support from constituencies and

congressional “pet projects” sponsors. Allowable uses of the Title IV funds include student health, counseling, advanced coursework, safety, arts, education, STEM, technology and related professional development, among other areas. One can expect funding of these programs to be cut as support from their sponsors and advocates will likely disappear over time. For this reason, supporters of many of the consolidated programs, according to the Education Week article, such as Patty Murray (Senator – Washington), and Lisa Murkowski (Senator-Alaska), have said that they are “hoping that the block grant can grow later on in the legislative process...There was a lot of hope for the grant, she [Murkowski] said, which are aimed at helping school districts fund everything from college to career guidance to suicide prevention to music and arts...to technology...just about everything you can think that would allow schools to help improve student health and provide students with a well-rounded education.” Regarding the funding level for Title IV, ranking Democrat Senator Patty Murray reportedly said she was “bummed” that the bill didn’t provide more for Title I and the Title IV block grant, but that it doesn’t “mean these programs won’t see increases in the future,” stating, “I’m hoping this is a floor we can build on,” as reported by Education Week.

Other programs of interest which were reported on in the Appropriations Subcommittee Statement that are of interest to most TechMIS clients included the following:

- Preschool Development Grants would be level-funded receiving \$250 million;
- In Department of HHS (where the Preschool Development Grant

Program has been transferred), the Head Start program would receive an increase of \$35 million to \$9.2 billion to serve more children and families, or perhaps to increase the duration of the program on a daily or year-round basis.

- The \$2.8 billion Childcare and Development Block Grant program (CCDBG) would receive a \$25 million increase to help pay for quality improvements in the 2014 amendments. (These primarily target the health and safety requirements and the professional development focus on caregivers meeting these.)
- Charter schools would receive \$343 million, an increase of \$10 million over last year primarily to be used to help states and Charter Management Organizations (CMOs) start up, replicate, or expand high-quality charter schools;
- The Promise Neighborhood program would be level-funded at \$73.2 billion to continue providing comprehensive neighborhood-based programs and fund “wraparound” activities.
- The Education Innovation and Research Program, which replaces the Investing in Innovation grants (i3) program, would receive \$120 million; however, even though it would be level-funded, the new law would provide new opportunities for for-profit organizations to participate more directly in the program, partnering closely with districts and SEAs in developing, validating, and/or “taking to scale” innovative products and approaches. Under i3, few if any for-profit organizations

ended up participating with eligible grantees.

- Title II Teacher Quality would receive about a \$200 million reduction below its current level at \$2.3 billion, which many clients consider a major source of funding for professional development (approximately \$800 million); however, approximately \$1.3 billion of Title I funds have been used for professional development annually over the last several years with more likely to be used for that purpose in the near future.

While the proposed computer science initiative supported by a new coalition and key congressmen has received high verbal support, the subcommittee did not appropriate any funding for the proposed multi-million initiative. Unless amendments are added during the floor hearings and/or last minute language changes are made in the appropriation bill, computer science funds could be limited to the Title IV block grant funding, which is significantly less than the amount needed to trigger a 60% set-aside for technology and related professional development; or priorities which are built into some of the competitive grants under the new ESSA, which allow flexibility such as the replacement for i<sup>3</sup> or Title II for computer science teachers’ professional development. A more likely alternative will be state appropriations. Virginia is the latest of the seven states to allocate funding for K-12 computer science education, according to *POLITICO Morning Education* where districts would receive \$550,000 in annual funding over two years.

The Appropriations bill also includes some language indicating the Senate’s priorities

and concerns. The Summary explains “there is increasing concern about executive agencies’ use of guidance documents. Such documents are not legally binding, but many regulated entities including states, institutions of higher education, school districts, and employers interpret them as imposing new legally-binding requirements. The bill includes new requirements on agencies funded in this bill to improve the development, issuance, and review of guidance documents, including ensuring that guidance documents are not interpreted as legally binding unless describing a specific statutory or regulatory requirements.” This is a concern to Senator Lamar Alexander, who has threatened to cut funding because of its “extended interpretation” of ESSA’s strict statutory language on supplement-not-supplant draft regulations. As *Politics K-12* noted, “Alexander said in a hearing earlier this year that he could use the appropriations process to help put the brakes on supplement-not-supplant regulations that he feels over steps Congressional intent that ESSA...it doesn’t appear that the bill includes any policy riders that would seek to put the kibosh on the Department’s approach to supplement-not-supplant...”

The next step for the proposed appropriations is the full-committee and Senate floor.

### **New Official SAT Practice Test With Free Online Khan Academy Has Four Times the Total Number of Students Using All Commercial Test Prep Classes During its First Year Rollout**

In the June 2<sup>nd</sup> press release, the College Board announced that in the first year availability the Official SAT Practice Test

for the new SAT with the Khan Academy had more than 1.4 million “users” – this represents four times the total population of students who use all commercial test prep classes in the year combined...almost half of all SAT takers on March 5<sup>th</sup> used official SAT practice to prepare, causing a 19 percent drop in the number of students who paid for SAT prep resources.” The College Board press release does not estimate the decline use in other specific SAT commercial prep practice tests. The press release states, “When students receive their SAT or PSAT/NMSQT results, they can connect their College Board and Khan Academy accounts to get free personalized study recommendations for the SAT. This represents one of the largest examples of personalized learning in the world: in less than six months, more than 450,000 students have taken advantage of that feature and have been able to focus their practice on areas that need the most work.”

According to the press release, the College Board and Khan Academy during the second year will introduce new features including additional practice tests, an opportunity to get help from subject matter experts, and live instruction on Facebook. In addition to the four full-length practice tests available through Khan Academy, a fifth practice test will be added this summer. In all, the official SAT practice includes more than 4,000 practice questions, video lessons, diagnostic quizzes, personalized practice recommendations, and feedback provided to participants.

The Founder of Khan Academy, Saul Khan, noted he was “humbled” by the great reception Official SAT Practice on Khan Academy has received thus far, but this is just the beginning. We’re in this for the



long haul and are invested in building the world's best SAT resources – that just happened to be free.”

During the recent CIC conference in Philadelphia sponsored by AAP Pre-K Learning Group, our attempts to discuss with the College Board attendee the first year results described in the press release were not successful. An official from a competitive test group was not aware of the press release and results, which if accurate could have serious implications for “independent” commercial test prep firms.

### **USED Announces School Improvement Grants for 16 States**

On June 23<sup>rd</sup>, USED announced that 16 states would be receiving School Improvement Grants totaling slightly over \$113 million for new grants and/or to continue efforts in existing SIG schools to turn around persistently lowest-achieving schools under the last year of funding for the School Improvement Grants program. Awards to the remaining 35 states will be made “on a rolling basis over the coming months,” according to the USED press release. In announcing the grants to the 16 states, USED noted that, “We know there’s a lot of work to be done in transforming our lowest-performing schools so that all students have the chance to be successful and thrive in diverse school environments. That’s why we are making sure that in addition to these funds, the Department continues to look for ways to support social/economic diversity in schools whether it is through SIG funding or other grant competitions.” This comment confirms what we predicted several months ago that the Administration is likely to include as a

competitive or “absolute” priority in any new grant competitions activities supporting social/economic diversity in schools, including priorities placed upon racial integration.

The announcement also says, “States are also given flexibility to develop their own state-determined and prevention model that focuses on whole school reform and is designed to improve student achievements. Today, the Department approved state-determined models in two states – Georgia and Maryland.”

Even though detailed letters to each state are not available yet, based on the press release it would appear that grants and funds are being provided to the following states for new grant competitions and awards to Priority schools:

- Arizona (\$10.7 million), Georgia (\$16.5 million), Maine (\$1.6 million), Maryland (\$6.6 million), Massachusetts (\$7.8 million), Michigan (\$15.7 million), and Nebraska (\$2.4 million)

The following states will receive funds for both new and continuation awards:

- Connecticut (\$3.8 million), Iowa (\$3.0 million), Oregon (\$4.9 million), South Dakota (\$1.4 million)

States receiving funds for continuation grants to existing SIG schools include:

- Arkansas (\$5.1 million), Illinois (\$22.1 million), Kansas (\$3.8 million), Minnesota (\$5.0 million), and Utah (\$3.0 million)

While the FY 2015 SIG funds (which were allocated almost a full year late) could be used for new school awards or continuation grants using one of the four prescribed SIG

models, the FY 2016 funds in the above grants can be used also for the congressionally-mandated new interventions strategies which include:

- The “schoolwide reform models” which have been listed by USED as “proven based on evidence-based research”;
- State-determined models which the states, usually in consultation with districts, developed which could include a variety of specific interventions; however, the state-determined model intervention as a whole has to be approved by USED (as noted in the cases of Maryland and Georgia above)
- Pre-k development interventions following the basic outline of the criteria and type of evidence used in the Pre-K Development grant program.

It should be noted that the groups with “approved school reform strategies” are lobbying states under an unofficial effort headed by Dr. Bob Slavin, Director of the Success for All program. Some TechMIS subscribers have specific interventions, which could be considered and used in the “state-determined intervention” strategies. It should be noted that under the new ESSA 7% SEA set-aside for school improvement, only the specific intervention identified by a Priority schools needs assessment has to meet the evidence-based criteria; complementary interventions making up the whole intervention strategy do not have to meet the evidence-based criteria. Some states may take advantage of this increased ESSA flexibility now, even though it does not officially go into effect until next year.

Please call Charles if you have any questions (703-362-4689).

### **Learning Forward, Which Successfully Lobbied ESSA Sponsors for the Professional Development Strict Definitions and Requirements in the New ESSA General Provisions Section, is Urging PD Groups to “Offer Their Input” on Draft USED Regulations Supporting its Position on “Professional Development”**

In Education Week’s Learning Forward’s PD Watch blog, Stephanie Hirsh, Executive Director, has urged that states describe their systems for educator development, retention, advancement including how the states will ensure each LEA has and is implementing a system of professional growth and improvement for teachers, principals, and other school leaders. And, beyond the general support for elevating professional development, Learning Forward also urges advocates in their comments to support the definition of professional development outlined in the Law, which states that professional development is “sustained (not stand-alone one-day or short-term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused.” The General Provisions also allow many strategies aligned to student and teacher needs to be used. As the blog states, “Given the inclusion of the definition in the Law, Learning Forward will ask that regulations specify that professional learning aligned with the definition in order to have its full impact, please consider doing the same as you offer input.”

As we argued in our August 2015 TechMIS



Special Report on draft ESSA provisions, the definition of professional development and what can and cannot be purchased using Federal funds could limit taking full advantage of technology delivered professional development, which can be offered on demand, at teachers' convenience, if more "flexibilities" were allowed (e.g., short initial workshops with continuing professional development and support over one year).

Learning Forward also supported "evidence-based" professional development, which we also addressed in the August TechMIS Special Report. Its position now is that professional development should be "adequately supported" to achieve the goals of equity and excellence and therefore state plans should describe how "all available Federal funding sources" can be used to achieve it, noting that often Title II funding is treated independently of other titles and state and local sources leading to parallel or even worse competing systems of support. While Title II, funded at about \$2.2-\$3 billion, supports between \$800-\$850 million worth of PD annually, the amount of professional development funded under Title I is between \$1.3-\$1.5 billion. The Obama Administration, along with groups such as Learning Forward, supported more rigorous definitions and criteria for professional development and interventions which could be purchased with Title I funds. The final provisions will allow more flexibilities, which should be reflected in final regulations.

## **Local Cities Rally with Funding for Pre-K, Which Could Provide Opportunities for Clients With Quality Products/Services**

Despite the well-documented and widely acclaimed benefits to children's long-term achievement and success in school, there are simply not enough program slots to meet the needs of three and four-year-olds who could benefit from preschool experiences. State Pre-K and/or federal funding do not provide sufficient dollars to do the job, so cities have stepped up to fund greater access through a variety of creative funding mechanisms.

For example, in Philadelphia, PA in order to alleviate somewhat this lack of access, a "sugary beverage" tax has been imposed on consumers. The additional 1.5 cents per ounce is specifically targeted for expanding preschool services within the city center. Several other cities with a diverse set of preschool programs in Boston, Denver, Los Angeles, New York City, Salt Lake, San Antonio, San Francisco, Seattle, District of Columbia, and West Sacramento have undertaken the challenge to fund their own local initiatives. Although some of these locales have decided to target low-income children, notable Salt Lake City, according to a recent American Institutes of Research (AIR) report, others work to provide access to universal pre-K their cities.

The AIR report contends, "The role of quality in preschool programming is not an issue to simply gloss over, either. The AIR report combines many highly contested, complex issues under the umbrella of "quality" in its list of top considerations, including teacher qualifications, the importance of play and socio-emotional development in curriculum, and teacher pay.

Any one of these issues is likely to engender significant debate—and for good reason. Research shows that for children, particularly those from low-income backgrounds, to benefit from preschool it *must* be high-quality. But, high-quality programs and the resources necessary to provide them (i.e., well-educated, highly trained teachers and research-based curriculum) aren't cheap.” When the issues of quality become an integral part of the discussion of preschool programs, there is then an opening for TechMIS clients with professional development focused on this target audience of practitioners and caregivers.

The ten cities identified above are perhaps a focus for such workforce development efforts, and as these cities move forward with local funding, they become prospects that could yield returns for marketing efforts.

### **In 13 States, Graduates Are Required to Pass a “Citizenship Test” to Receive a Diploma**

Education Week's Curriculum Matters blog (June 7<sup>th</sup>) notes that the number of states is up from four last year and “zero at this time the year before.” The push to have high school graduates pass the same citizenship tests required of those immigrants applying for U.S. citizenship began in 2015 under the Civics Education Initiative, spearheaded by the Joe Foss Institute, which has proposed to introduce a similar law in every state by 2017. The 13 states with the requirements are Alaska, Arizona, Utah, Idaho, North Dakota, South Dakota, Missouri, Louisiana, Tennessee, Wisconsin, Virginia, South Carolina, and New Hampshire. Priority

states for “planned” passage of the requirements by 2017, according to the Joe Foss Institute are Washington, Montana, Colorado, Kansas, Oklahoma, Nebraska, Minnesota, Arkansas, Illinois, Ohio, Pennsylvania, Vermont, West Virginia, Maryland, Kentucky, North Carolina, Georgia, Alabama, and Florida.

The specific ways states implement the requirements vary considerably, from the grade level in which students first take the test to the percentage of the 100 questions which must be answered correctly in order to pass the exam. According to *Curriculum Matters*, in North Dakota, two independent groups of students have created apps to help students practice for the exam. While the rationale and perceived need recognized by states vary, the Joe Foss Institute, located in Arizona, has argued that “subjects like social studies and civics were getting a short stick in schools -- and that the test is simple and short enough that it hasn't drawn much backlash,” as reported by *Curriculum Matters*. Lucian Spataro, Jr., Chairman of the Civics Education Initiative at the Foss Institute, reportedly argued, “If [students] were learning this in schools, they should be able to answer them correctly.” He also argued that the test encourages teachers to teach about topics such as the Bill of Rights, Checks and Balances and that having students learn about government is critical when many Americans feel “disenfranchised or frustrated with elected officials.” For more information, go to: <http://joefossinstitute.org/>