
New NCES Survey on Internet Access Finds Significant Progress Being Made in High-Poverty Schools' Use of Broadband and Internet-Accessible Computer/Student Ratio

An NCES survey conducted in the Fall 2001 has found that the gaps between high-poverty and low-poverty schools, in terms of Internet access along several dimensions, has narrowed significantly over the last two years. For example, while the overall average number of students per Internet-accessible computers was 5.4:1, an improvement from 12.1:1.0 in 1998, the ratio in high-poverty schools has declined from 9.1 in 2000 to 6.8 students per computer in 2001. While the percentage of schools with broadband connections increased between 2000 and 2001 from 81 percent to 93 percent in schools with the highest minority enrollments, the percentage of schools with highest poverty concentration using broadband connections to access the Internet increased from 75 percent to 90 percent. Much of these increases can be attributed directly to the E-Rate discount initiative as virtually all of the internal connection "priority two" discounts were approved for schools with 85 percent or higher percentages of poverty enrollments.

The new report addressed other issues for the first time. For example, the survey found that over half of all public schools provide students with access to the Internet outside of regular school hours. This access was more likely to be available in secondary schools and schools with enrollments of 1,000 or more, than in elementary schools or schools with smaller enrollments. Almost 100 percent of the access was after-school. Also, in 2001, ten percent of public schools lent laptop computers to students. Such a lending program was more prevalent in rural schools than city or urban fringe schools. An average of ten laptops per lending school were available for loan.

The survey also addressed for the first time indirectly the issue of providing “reasonable accommodations” for special education students to access the Internet and otherwise use technology as required in IDEA 1997 and the reauthorized ESEA 2001. By far the largest category of special education students nationwide are those with learning disabilities. Surprisingly, the report found that 55 percent and 53 percent of reporting schools had special hardware and software, respectively, for this population of mildly-handicapped students. For students with hearing disabilities, 61 percent of the schools had special hardware while only 39 percent had special software. For students with visual disabilities, 64 percent had special hardware and 56 percent special software. Overall, about half the schools in the country provide reasonable accommodations; the remainder do not provide such accommodations or the special education students do not need them. In the meantime, the number of states mandating Section 508-like policies is increasing (see Missouri update).

The most recent survey also addressed the extent to which and how Internet is used to communicate with parents and students. About 95 percent of the schools with Internet access sponsored or supported e-mail addresses for administrative staff and 92 percent for teachers. Only 16 percent said that e-mail addresses were provided for students and of the 16 percent only a third indicated that all or most students had school-sponsored e-mail addresses. About three-fourths of public schools had a website with a large gap between low-poverty schools (83 percent) vs. high-poverty schools (59 percent). Similarly, the likelihood of websites linked to education tools was 66 percent for low-poverty schools and 44 percent in high-poverty schools. Half the schools with websites indicated they could communicate with parents via the website. The gaps between high- and low-poverty schools in terms of school/parent communications via the web, is likely to be reduced significantly as the newly reauthorized ESEA requires parent/school communications in over 40 areas, mostly related to Title I parent choice and

supplemental services, and to reporting on the progress of limited-English-proficient students. For the copy of the new report go to <http://nces.ed.gov/pubs2002/2002018.pdf>.

Secretary Paige Denies that the “Analysis of Reading Assessment Instruments for K-3” Released Through the Institute for the Development of Education Achievement, University of Oregon, Represents an Approved List of Assessments For Use Under the Reading First Program

In the August Washington Update, we raised the question as to whether or not the University of Oregon report listing 24 assessment instruments as being appropriate for Reading First would be an “approved USED list” similar to the alleged list of scientifically-based reading approaches. In response to a letter from Pat Schroeder, President, AAP, raising the same question, Secretary Paige stated, “I assure you that the findings of this study do not in any way represent an approved list of assessments for use under the Reading First program. Rather, this analysis examines the technical qualities of a group of K-12 instruments, not their suitability for use in conjunction with Reading First.” However, one of the criteria used for narrowing down the list to 24 assessment instruments, was that the reading assessment measures selected for review should be “representative of the five essential components of reading instruction: phonemic awareness, phonics, fluency, vocabulary, and reading comprehension.”

In their applications, states must demonstrate how they will evaluate the appropriateness, validity, and reliability and the alignment of assessments they propose to use as part of the state’s reading program. As Secretary Paige noted in a September 10 letter, “Reference to the University of Oregon analysis is not sufficient information to meet the review standard for this criterion. In fact, the expert review panel has found proposals that merely assert the intention to select assessments from the analysis, not to meet the required standard. Conversely, proposals have been found to meet or exceed the

requirement standard without any reference to this analysis.” In conclusion, Paige stated, “As I indicated in my previous letter to you, there is no approved list of instructional materials for use in connection with the Reading First program and I assure you that this includes instructional assessments. The Department will further clarify this point in a notice on the Reading First website.”

As noted in our August TechMIS issue, one legitimate criticism of the IDEA process and final report was that IDEA looked initially only at widely-used assessments with which staff were familiar and could find easy access to the manual and/or guide. This selection criteria precluded some of the newer online assessments which are almost required to meet the new reporting requirements for Reading First and Title I. One other criticism is that the University of Oregon has one of its instruments included in the final list of 24. If anyone is interested in reviewing a copy of the letter from Secretary Paige to Pat Schroeder, for possible distribution to sales staff targeting Reading First programs, please contact me directly or go to www.publishers.org/press/pdf/paigeltr.pdf.

Opposition to Certain Provisions in No Child Left Behind is Surfacing in Many Quarters Suggesting Some Changes Will Be Made Through Technical Amendments or the Regulatory Process

As of October, a number of articles and polls strongly suggest growing opposition to several key provisions in No Child Left Behind not only among educators but also other groups, such as urban parents.

The October issue of Phi Delta Kappan includes several articles critical of NCLB requirements. While Alfie Kohn, author of Education Inc., Turning Learning Into a Business, takes a shot at corporate takeovers and profit making in education (naming corporations who support the Bush Administration), other articles identify effects of specific provisions both intended and unintended. In his 12th Bracy Report on the

Condition of Public Education, Gerald Bracy notes that some superintendents and principals have begun to feel a “big brother” aspect to No Child Left Behind beyond just the testing requirements. As he notes, “Aside from those provisions, NCLB is a trap, a Trojan Horse, whatever - choose your metaphor. Behind its idealistic name lies the cynical reality. Schools will fail in such numbers that those on the Right will once again shout, ‘The public school system as we know it has proved that it cannot reform itself. It is an ossified government monopoly.’ In fact, Chester Finn, former assistant secretary of education, screamed precisely those words in the Wall Street Journal four years ago, so we know my conclusion is not hyperbole.”

Regarding the use of the NAEP as its benchmark assessment to reduce the possibility of states using dumbed-down tests for state assessments, Bracy states, “We already know that in most states a much higher proportion of students reaches the proficient level on state tests than on the NAEP tests. The verification process, therefore, will lead to accusations that schools are still failing and that state and local officials have been lying to parents about school quality for years...They (NAEP achievement levels) have been rejected by everyone who has ever studied them, which includes CRESST, the Government Accounting Office, the National Academy of Education, and the National Academy of Sciences.”

Another article by Wendy Darling (a pseudonym for a teacher), provides an insightful “street level bureaucrat” perspective regarding the new diagnostic assessment requirements. She notes, “On the second day of training, we ‘analyze the data.’ We spend nearly two hours examining a grid of our test scores for the last four years for grades 2 through 6. We look horizontally, vertically, and diagonally. We discuss one- or two- point score differences as if they actually mean something. As recently pointed out, from 50% to 80% of scores can be attributed to random influences...The real analysis comes as we disaggregate the naked numbers...And one concludes, ‘you know, the new teachers can’t teach to the test because they didn’t see them the year before.’ ”

A recent poll of slightly more than 500 adults in urban areas, including parents, conducted by the Annenberg Institute for School Reform at Brown University, suggests that parents of children enrolled in urban districts also oppose certain provisions. For example, only 47 percent of the parents have heard of the No Child Left Behind Act. This is not too surprising as an earlier report conducted by Public Agenda of parents of special education students, found that over 60 percent felt they were not familiar with IDEA (see July TechMIS). Some of the findings directly or indirectly related to NCLB provisions are noted below.

While 60 percent of parents rate the quality of education offered by urban public schools as either fair or poor, almost four out of five parents felt that singular approaches, such as performance standards and other “quick fix” solutions, will not improve struggling urban schools. They also reject the “one school at a time” approach reflecting a strong preference for district-wide solutions that target all schools within a community. One of the major provisions of NCLB is to target specific schools which are failing.

While slightly more than 70 percent of parents and adults were favorable to the No Child Left Behind Act generally, about three in four adults and parents expressed concern about a provision that allows students from under-performing or failing schools to transfer to high-performing schools because this “will harm the struggling urban schools from which the students transfer.” The percentage expressing concern was higher among minority parents and adults. This finding may explain why, in most urban districts, less than five percent of parents of children in schools targeted for improvement are exercising their choice option requesting that the district transfer their child to another school under the new Title I provisions. Slightly over 70 percent of adults and parents agree that standardized test scores as a measure of accountability are usually not available in time to help individual students or schools that are struggling, a problem which the new law does address; however, implementation thus far suggests that states have a long way to go to

ensuring quick turnaround of results in a form that can be used by teachers and parents. Results of the poll can be obtained at school www.communities.org.poll_findings.

A number of highly-respected education policy analysts, such as Jack Jennings, have questioned the justification for No Child Left Behind and the realpolitik of many of its provisions, such as choice being a lead-in to non-public school vouchers. Those in the field who are actually attempting to implement the Law are beginning to express frustration about their futile efforts, particularly over specific provisions. Software and supplemental materials publishers, as well as hardware vendors, need to be aware of this frustration and resistance when approaching, for example, district Title I officials and certainly principals in schools that have been targeted for improvement. Several tactics are suggested. First, emphasize that you want to work as a partner with the district or Title I program in coming up with solutions that address their immediate problems. To be successful, a “comfort level” in dealing with you and your services has to be developed. Second, you should be in the business of “improving student performance” by providing the necessary materials and support which will continue to be provided by individuals who school officials respect, not junior-level replacements. Third, as a partner, you should make it very clear that your firm is willing to bend with the political wind as Federal or state policy-makers formulate changes and that any contracts are subject to renegotiation. Fourth, proposed pricing arrangements should be flexible in order to accommodate the funds allocation process and local budgeting procedures, as well as other constraints, (i.e., in special reduced price offers ensure that such prices are extended at least six months in the future to when districts receive the final Title I or other allocations. Last, you need to build upon your strengths, such as brand names, corporate stability, and reputation and financial wherewithal, such that the client does not become concerned about firms being acquired or otherwise “disappearing.”

Pro-School Choice Advocates Deride Public Schools for Placing Obstacles Before Parents to Minimize Exercising Their Choice Options Under New Title I

The School Reform News (October 2002), published by the Heartland Institute, the leading press instrument for choice advocates, has criticized many districts and even states, for placing stumbling blocks in front of parents who want to exercise their choice options. Citing Mayor Richard Daley as having termed “ridiculous” the Federal government’s mandates that 125,000 children in 179 failing public schools be offered transfer to other schools, the final decision was to offer only 3,000 transfer slots across 90 schools and prohibiting transfers to high performing schools more than three miles away from a failing school. The article accused the Chicago Public Schools of not considering an obvious solution, namely Catholic schools of which 14 had to be closed in January 2002.

In Los Angeles, the article notes almost 230,000 children qualify for public finance transfers but fewer than 100 seats were available in better performing schools. The articles quotes Superintendent Roy Roehmer as stating “you can take the existing school and make it work.”

The article also characterizes states as “culprits” because the number of schools targeted for improvement varies significantly from over 1,500 in Michigan, none in Arkansas; 625 failing schools in Georgia, but only 31 in neighboring South Carolina.

In the same issue of School Reform News is an article entitled “Ready or Not, Education is Changing” which provides the highlights of the July 25-27 Eduventures Conference organized by the Association of Education Practitioners and Providers, whose membership includes primarily for-profit entrepreneurs. Many of these firms are categorized as firms that take over schools (providing their management and even staffing services), online learning providers, and cyber-schools, among others.

Obviously, many of them are counting on No Child Left Behind to generate a market for their services, either as service providers or firms to be used in school “corrective action” situations. Indeed, a related article entitled “Already Booming - Tutoring Receives Large NCLB Boost” stated that USED has estimated that NCLB will pump an additional \$1 billion per year into public funding for tutoring. That estimate was based upon a projection made by USED earlier in the year that 8,600 schools would be targeted for improvement for one or two years, thus providing parent options, increased staff development, and/or supplemental services. As the final number of schools targeted for improvement is currently being tabulated by some states, the actual number -- when last year’s test scores are counted and released -- is likely to be significantly less, particularly for schools which would otherwise have to provide supplemental services. The earlier USED projections and the optimism which apparently pervaded the Eduventures Conference, failed to take into account:

- the resentment of many state departments of education that their prerogatives have been undermined by many NCLB provisions, their limited staff capabilities in light of enormous administrative changes, and their unwillingness to make risky decisions in light of differing USED messages over time, thereby resulting, in many cases, in extremely slow implementation;
- the resistance on the part of a number of Title I directors to become the “black hat” in telling other district directors (e.g., special education), or even superintendents what they had to do (e.g., regarding qualifications of newly-hired aides); the lack of flexible resources after set-asides for supplemental services, training, and transportation were made; and their desire to ensure that every possible Title I dollar in schools targeted for improvement for two consecutive years would be kept within the district rather than flow to outside service providers.

For example, in Georgia of the 120 + approved supplemental service providers as of September, almost half were school districts who wanted to set up internally-operated tutoring and other after-school programs using staff from high-performing schools to provide services as a parent choice option in targeted schools.

As we have previously noted, given the events that have occurred thus far among states and districts, the opportunities for outside providers of supplemental services are certainly much less than originally projected, at least for this initial year. On the other hand, the proportion of schools targeted for having failed two consecutive years (thereby requiring them to allocate at least 15 percent for professional development out of the district “reserve fund”) could be a boon this year for firms providing directly-related professional development.

The School Reform News issue refers to a new book by Dr. Edward Gordon, President of Imperial Consulting Corporation, whose tutoring division was the first service to be credited by the North Center Association of Colleges and Schools, which confirms the rocky road many outside service providers are going to have even under new NCLB provisions. He notes that volunteer non-profit groups do about 30 percent of the tutoring; teachers or groups of teachers do another 30 percent; 34 percent provide tutoring from university clinics and workforce programs; only 3-6 percent of students are tutored through franchised tutoring centers. Information about Gordon’s book entitled “Tutor Quest” is available at www.tutorquest.info. School Reform News is available on the Internet at www.heartland.org.

The November Elections and Some Possible Scenarios

The national November elections for the House and Senate could have a major and immediate impact upon instructional software and other materials sales if either of the two scenarios outlined below occur.

If the November elections result in five or more new Senate Republican seats and if the House continues to be controlled by the Republicans, then the following scenario is likely to occur. First, regarding the 2003 budget, a special session will likely be convened as Congress returns early next year; two budget items are likely to be addressed: (a) the FY

2002 budget which has been allocated already to states and is being allocated to districts, could have a portion rescinded, which will create enormous uncertainty as states will be required to return the portion of their FY 2002 funds, similar to the situation which occurred when Speaker Gingrich took over the House in 1995; (b) the FY 2003 budget level will likely be closer to the President's proposed budget and the House budget which is about \$3 million less than the current Senate proposed budget. Either of these two events would lead to a reduction in district expenditures on instructional software and materials. However, some districts, in which Title I directors may recall the 1995 rescission by Speaker Gingrich, may begin spending or encumbering Title I funds in anticipation of another rescission of this year's allocation at the beginning of 2003.

As the result of overall Republican control, there are likely to be amendments to No Child Left Behind in the form of granting extensions or waivers with respect to: (a) extending implementation of the new teacher and new teacher aide hiring requirements for being highly qualified; (b) allowing schools that have been failing for three consecutive years to begin providing supplemental services beginning next Fall; (c) increasing the percent of students that can be exempted from taking state assessments from .5 percent to 1.0 to 1.5 percent, among other items. By cutting the budget, the House and Senate could justify the delay in implementing new provisions. Moreover, Republicans no longer can blame Democrats who have been the primary supporters and proponents of higher teacher qualifications. While the specific implications for sales are not clear, uncertainty and "changing the rules of the game" will create some degree of market paralysis.

If the elections result in a Democratic takeover of the House by five or more seats and an additional two or three seats in the Senate, then the following is likely to occur.

First, the President will likely call for a special session in Congress shortly after the election but before the end of the year, and arrive at a compromise funding level between

the Senate and House versions of the FY 2003 budget. Title I and IDEA will likely receive most of the increase. With uncertainty regarding the FY 2003 budget removed, districts are likely to expend all of the FY 2002 allocations without having to hold any for “carryover purposes.”

Second, the battle lines between the Congress and the White House will be clearly drawn with possible Presidential vetoes of many proposed changes or technical amendments to No Child Left Behind. While the Democrats will likely hold steadfast on increased qualifications for newly-hired teachers and aides, they are much more likely to allow states greater flexibility in defining adequate yearly progress, especially in states where disproportionate numbers of schools will have been targeted for improvement using current Federal and state definitions and criteria. States and districts will also be allowed greater flexibility in allocating more funds to schools that are failing, especially for increased staff development, and would require states to approve only service providers who meet the new teacher qualifications and scientifically-based research criteria imposed on Title I schools.

While state gubernatorial elections have been very important in the past, this year’s elections are less important from one perspective --- regardless of who is elected. No major new K-12 initiatives or reallocations from existing programs are likely to occur because of the continuing shortfalls in revenue and budgets that are frozen in most states.

House and Senate Reach Agreement on Reorganization of Office of Education Research and Improvement (Now the Academy of Education Sciences) Which Should be Signed by the President Into Law This Calendar Year

Following the hotly-contested debate giving the President authority to attack Iraq, if need be, the House passed the Education Sciences Reform Act, H.R. 5598, by unanimous

consent. This compromise version of earlier House and Senate versions creates a new Academy of Education Sciences. In the October 11 Press Release from the Committee on Education and the Workforce, subcommittee chairman Mike Castle (R-DE), stated that, “The House-Senate agreement addresses what I have come to know as serious shortcomings in the field of education research, including the funding and dissemination of questionable studies, programs, and practices, and an overly bureaucratic office with no real sense of mission. More importantly, this legislation will give teachers and schools the scientifically based research and technical assistance they need to implement the No Child Left Behind law and improve student achievement.” Chairman John Boehner (R-OH), noted, “This legislation will help to ensure education research priorities are driven by the needs of parents, teachers, and school administrations - not political pressure.” James Kohlmoos, President of the National Education Knowledge Industry Association, which represents, among others, research labs and centers affected by the legislation, emphasized that this compromise version will improve management of the entire program, streamline activities such as evaluation, research, etc., and delete certain activities which divert resources from the primary mission of the new Academy of Education Sciences.

Unlike its predecessor, OERI, which shied away from using for-profit organizations to conduct research and related activities, the Academy of Education Sciences embodies provisions “hidden” in the law which clearly allow for-profit organizations to apply for Comprehensive Center grants which will likely increase from 15 to 20. These Comprehensive Centers will conduct research or provide technical assistance to districts. The Regional Technology and Education Consortia (RTECS) will also be integrated into Comprehensive Centers while the Regional Education Labs will also provide technology-related training and assistance to districts.

The current Regional Education Labs will be placed in the Center for Evaluation and Technical Assistance under the presidentially-appointed Director of the Academy. The

ten regional education laboratories will not only provide training and technical assistance directly to schools, but will also be responsible for coordinating services with other technical assistance providers, which could include for-profit organizations. On the other hand, the regional education labs are authorized to develop education technology applications for “thin markets” where the private sector is not likely to invest in such software development. Most of the current regional education laboratories have a for-profit or nonprofit affiliate, which are already developing various instructional and tool applications and selling them directly to school districts, which is Federally-subsidized “unfair competition” with the private sector.

The negotiated legislation would create a National Center for Education Research which would award no less than eight national R&D centers. Each center must address at least one of the topical areas which include improving low-achieving schools, assessment standards and accountability research, innovation, and education reform, among others. Each center would also focus upon the potential role of education technology in achieving the goals of the center and conducting research into how technology affects student achievement under certain conditions.

The Academy Director will be current Assistant Secretary Grover Whitehurst, who will serve for six years and receive advice from a 15-member Presidentially-appointed board. Rounding out the three centers will be a third center which will house the current National Center for Education Statistics. Chairman Castle has been very vocal about isolating this center from political influence; this has been an ongoing criticism of NCES. For example, one National Center Director resigned when Vice-President Gore released the NAEP reading scores two days before schedule to enhance his political visibility. As Kohlmoos noted, the academies will always be subject to some political influence but the situation will be much better than under the new law, if and when signed by the president.

As with the recently reauthorized ESEA, provisions affecting the operations of the new office and the three centers include support for appropriate technology tools and applications even though the RTECS (which have provided technical assistance to schools regarding the use of technology) have been disbanded. As noted earlier, their functions have been assimilated into the Comprehensive Centers. As noted in the last TechMIS Washington Update, many of the Congressional earmarks, amounting to about one-half billion dollars, for technology and other “pork-barrel” projects, were included in the Fund for Improvement of Education which has been transferred from the old OERI to the newly-created Office of Improvement and Accountability.

Review Process for “Whole School” Models Being Initiated for Possible Selection for Use Under Comprehensive School Reform Demonstration Act and Inclusion in Catalog of School Reform Models

The Northwest Regional Education Lab and the National Clearinghouse for Comprehensive School Reform have initiated a new review process this Fall for whole school models only, which provide coherent frameworks for schoolwide improvement. These models are organized around professional development, classroom practice, school structure, school culture, and other school operations, and focus on a specific vision of teaching and learning. This specific current review process will not address single subject, tool, product, or supplemental instructional techniques not considered whole school models. Applications are due Friday, December 20, 2002, and will be reviewed on a first-come-first-served basis. The Comprehensive School Reform Demonstration Act, passed as part of the 1997 appropriations bill, initially identified 17 “whole school reform models” from several publishers, such as McGraw-Hill’s *Direct Instruction*, and regional education labs, such as Johns Hopkins’ *Success for All*. This initiative was the first to identify specific programs and/or products which could be purchased by schools who wanted to participate in the new Title I Comprehensive School Reform Demonstration program. Although no publisher’s products are specifically identified in

the Reading First, Title I, or other components of No Child Left Behind, there have been numerous allegations in the press that USED has attempted to limit the number of reading approaches which meet the rigors of “scientifically-based research” as defined by different offices within USED.

The National Clearinghouse for Comprehensive School Reform will be transferred to the Office of Elementary and Secondary Education, headed by Secretary Susan Neuman under the recently announced reorganization (see September Washington Update). The future of this Democratic-sponsored bill is unclear as Administration support has been lukewarm. The recent Heritage Foundation Report (see September Washington Update), calling for the reallocation of numerous independent program funding to special education, stated “Funds from programs that researchers have found to be unproven or ineffective, such as the Comprehensive School Reform Demonstration, Even Start, Safe and Drug Free Schools, and Education Technology Grants, should be transferred to effective programs.”

Some of the components to be addressed in the application should include:

- evidence of effectiveness through submission of at least ten evaluations by the sponsor;
- the organizational capacity of the sponsor to scale up and serve additional schools;
- the type of training and implementation support to be provided by the sponsor;
- description of the model components; and
- conditions which have to be met by the school in order to adopt a model (e.g., 90 percent of the teachers must indicate “buy-in”).

Included in the application are two previously approved model applications; one from *Modern Red Schoolhouse* and the other *Direct Instruction* model.

The director of the project, Mark Buechler of the Northwest Regional Educational Laboratory, indicated that applications for other models are not likely to be available for a while. In a conversation with Mr. Buechler, he indicated that NREL was not going to have a review process for supplemental products such as HOTS, and emphasized that they were going “solely into the direction of comprehensive and hopefully, whole school reform models”; he added that the next update of their catalog would delete supplemental programs for dedicated focus programs such as High Order Thinking Skills. For a copy of the application form go to <http://www.nwrel.org/scpd/catalog/about/review2002.shtml> or call Buechler at 503/275-9585.

New ESEA Provisions Affecting English Language Learners Suggests an Early Reality Check Needed to Minimize Major Future Problems

Under the new Assessment and Accountability Provisions, achievement scores on state assessments must be disaggregated into subgroups of students including those who have disabilities and those with limited English proficiency. Moreover, under Title III, an English language learner who has been in an ESL or related program for three consecutive years must take the state assessment in English without the accommodations previously provided. The goal of reducing the achievement gap between such subgroups such that all subgroups achieve proficiency levels creates an inherent conflict between these provisions and a disincentive on the part of a school or district to remove a disabled or LEP student from such a category after the student begins to achieve significantly.

In the September 30 issue of the Course Crafters Newsletter, Editor Alex Ragan highlights the issue of ELL students, citing “facts” from California, Florida, New York, and Texas. For example, in California during the 1999-2000 school year, 7.6 percent of the ELL population, or about 112,000 students, were designated as Fluent English Proficient (FEP) and, during the 2001-2002 school year, 7.8 percent of the ELL population or 117,000 were designated as FEP. On the other hand in Florida in 2000,

almost 28 percent of LEP students (60,000) previously enrolled in ESOL programs, were redesignated as Fluent English Proficient. A decade old study in New York City and in Texas found almost 13 percent of the LEP population or about 70,000 were reclassified as English proficient. The relatively large percentages of such populations strongly suggest that each year, especially in these states, there are large numbers of students who graduate from LEP status to Fluent English Proficient status.

The other interesting fact identified by Ragan is that the average participation in English for speakers of other languages (ESOL) programs in Florida in 2000, was slightly over three years. However, a decade-old study in New York City found that only 62 percent of entering LEP kindergarten students met the exit criteria by the third year and almost 80 percent required six years and, for the remaining 20 percent, it took three additional years to meet the exit criteria. In Texas, of the entering first grade LEP students in the early 1990s, 43 percent met the exit criteria in three or fewer years, but the remaining 57 percent took 4-5 years. As the research and literature have indicated, many non-native speakers with limited schooling in their native language take 4-7 years to reach performance levels of native English speakers. Hence, many LEP students who require schooling in native language are not going to be able to take English written assessments adequately without some accommodation, which would conflict with the new Title III provision. In addition, districts have an incentive to continue to report students, initially identified within a disabilities subgroup and/or LEP subgroup but who exit from the program for Title I purposes, so that students' achievement scores are included as part of the group in order to reduce the achievement gap.

The problem is even greater when, as an Alabama Title I director noted in a recent NAFEPA conference, a student is reported in the disabilities and LEP categories and also in the race or ethnicity categories. Should students be reported in only one category or in all appropriate categories, which creates double or triple counting? On the other hand, if a reporting system could facilitate the use of different designations for one student among

the subgroups, and facilitate reporting which averages a student score in the respective categories when the student exits the program for the purposes of state reporting, then such a reporting system would be highly desirable; it could also minimize administrative headaches for local districts who are attempting to meet the new assessment and reporting requirements. For more information about the Course Crafters Newsletter, contact Alex Ragan at 978/465-2040 extension 236, or go to www.coursecrafters.com.

Unfair Competition from the Federal Government Thrives Under the Bush Administration

While unfair competition to software and other publishers by the Federal Government became a big issue under the Clinton Administration with the creation of the Federal Resources for Excellence in Education (FREE) website, it is also thriving under the current Administration in variety of arenas. On October 10, the National Science Foundation announced a \$3.2 million grant to nonprofit SRI International to train college students to design school software with the eventual goal of “producing more high-quality educational software for K-12 classrooms.” In a collaborative effort with Stanford University and the University of Colorado, computer science students will work in teams to develop prototypical educational software and pilot its use in local K-12 classrooms next Fall. Drexel University, through its Math Forum, will publish selected math software. The NSF press release justifies this initiative based upon key recommendations made by the Congressional Web-based Education Commission. As previously reported last August, USED provided a \$3.5 million grant to the Education Leadership Council, referred to as “follow the leaders” project, which is attempting to create pilot implementation of No Child Left Behind at the school, district, and state level. Currently, six states are in the process of implementing models for accountability and reporting developed by Accountability Works Inc., as well as instructional management and alignment tools developed by Project Achieve, which was acquired over a year ago by Achievement Technologies Inc. Next year, several million dollars more

will likely be provided to the ELC-headed group to select additional states for demonstration models. A number of software publishers have complained to groups such as SIIA about the unfair competition as this project clearly allows ELC partners to establish significant “beachheads” in specific districts and states. Also as previously reported, a number of textbook and software publishers have expressed serious concerns as reported in the national media about the “unlevel playing field” for them under the Reading First initiative, claiming that unofficially USED has been encouraging states and districts to use selected products and programs which allegedly meet “essential elements” criteria and that are scientifically-based.

During several meetings in which USED Assistant Secretary, Grover Whitehurst, described the envisioned What Works Clearinghouse, a number of smaller software publishers or publishers new to the field, voiced serious criticism of USED for almost precluding inclusion of their products in the What Works databases that would be made available to districts and schools who wish to purchase products which meet the criteria for purchases using Reading First and other ESEA funds. At one meeting sponsored by SIIA, the Assistant Secretary indicated that the approach would follow the pharmaceutical model which has two major components: (a) pharmaceutical companies actually pay researchers to evaluate the effectiveness of products using random assignment experimental/control tests; and (b) to reduce the time for FDA to conduct the reviews of the evaluation and research findings, firms provide additional fees to USDA to the extent that currently over half of the salaries of FDA staff are borne by these fees. During the conference, one veteran of the education software business, now with a new-start online remediation and assessment company, cautioned the Assistant Secretary that No Child Left Behind “could leave many small firms behind.” For a copy of the NSF item, go to [e School News Online](#), October 3, 2002.

New Survey Finds that 12-17 Year Old Students Believe Online Learning Needs to Have More Activities Relating Daily Life to What is Learned in Classrooms

A survey conducted by the Pew Internet and American Life Project, released in August, has found that teenagers feel that online learning could be “vastly improved” if more activities relating what they are learning to daily life are available. As reported in e School News (October 2002), high Internet-using teenagers believe teachers lack the proper training or are dissuaded by school policies from using the Internet. They cite this, as well as the quality of online access in the schools, as barriers to greater use of Internet. Students believe that the Internet saves time, helps them complete research, and provides answers on demand to test questions. These students also take advantage of online tutors, study groups, and online classes after school. Students also believe that there “needs better coordination between classroom activities and out of school education use via the Internet.” For a copy of the study go to www.pewinternet.org.

New Law Expands Fair Use Doctrine to Take Into Account Digital Distance Learning

Without much fanfare, Congress passed on October 3, its version of the Technology Education and Copyright Harmonization (TEACH) Act, which President Bush is expected to sign into Law; it would allow teachers to use portions of digitized copyrighted materials for online courses in district education projects without having to get permission from the copyright owner.

The predecessor 1976 copyright legislation only allowed copyrighted materials to be transferred one way as part of distance learning. However, the new legislation would:

- allow copies of copyrighted materials to be stored on servers on a temporary basis in order to allow transmission over the Internet;

- allow instructors to display limited portions of literary, musical, and audio-visual works; and
- no longer requires instruction to occur in the physical classroom.

On the other hand, the TEACH would require districts to update copyright policies and to use technology to prevent students from copying and distributing materials. While teachers could display portions of copyrighted materials, enrolled students could only access them during class time periods. The TEACH Act applies only to government-operated or accredited non-profit education providers and programs. According to eSchool News, district technology coordinators are very concerned as to whether technology can provide security of transmission and whether it can prevent unauthorized copied by students or even teachers.

In a related activity, Representative Rick Boucher (D-VA) has introduced a bill which would allow researchers to disable copyright protection measures if the person is acting solely in the realm of scientific research. It would also allow the researcher to circumvent technology protection guards on copyright work, if the copyright of the work is not infringed. According to eSchool News Online, the American Library Associations, which feels that the TEACH Act is an improvement of the old “fair use” doctrine, has created a website to help school officials understand the complexity of the act. A tutorial course is supposed to be available from ALA. For more information go to <http://www.kla.org>.

New Congressional Democratic Survey Shows 45 of 50 States are Cutting State K-12 Funds by \$6.7 Billion From Projected Increases Needed for This School Year

A survey conducted by Democratic committee staffs in the House and Senate, has found that more than \$6 billion in cuts have been made in 45 states as the result of continuing

state revenue shortfalls and chides the Bush Administration for not providing the necessary Federal funds to implement major No Child Left Behind provisions for next school year. The projected \$6.7 billion reduction in state funds is based upon inflation-adjusted 2002 budgets, assuming a 5.3 percent inflation rate and projected increases in enrollment.

Relying upon the most current estimates from the National Conference of State Legislatures, the Democratic staffers project an overall revenue shortfall of \$57 billion which includes a \$24 billion shortfall in California alone. To balance 2003 budgets, 26 states have had to cut spending while 23 tapped unused state funds and 16 percent used tobacco settlement or rainy day funds.

While 45 of the 50 states have been required to make some cuts in the FY 2003 budget, budget analysts in 30 states predicted their states would face additional budget shortfalls in 2003 and 2004, and analysts in 18 states said that education was vulnerable to additional cuts.

The release of the report by the Democratic staffers is also designed to chide the Administration for proposing only a 2.8 percent increase for FY 2003 noting that the Bush proposed increase is less than inflation and does not make a dent in the required resources to implement many of the new provisions of No Child Left Behind. They even note, "The House Republican budget even cuts \$90 million from the No Child Left Behind Act." One interesting note is that by attempting to increase the amount of Federal funds to a significantly higher level agreed upon by the Senate, the Democrats are implicitly recognizing and even encouraging that Federal funds be used to make up for state and local shortfalls, which over the last 35 years would be a violation of the "supplement not supplant" provisions underlying ESEA. As we have previously reported on several occasions since January, supplanting is occurring, especially in Title I schoolwide programs, as more than Title I funds are being transferred to these

schoolwide programs which do not have to report how the funds are being used. To reinforce what has been said before, for the wrong reasons more money is going into Title I schoolwides, but if one is going where the money is, then one needs to target schoolwide programs.

The projected cuts in this report are much deeper than previous NCSL estimates that were highlighted in the August Washington Update. The primary reasons for estimates of greater cuts can be attributed to the use of adjustments to take into account inflation rates and enrollment increases, as well as some “real cuts.” A summary of the estimates on a state-by-state basis can be found in Table I of the report at <http://workforce.house.gov/democrats/edreport1.pdf>.

As pointed out in Education Week (October 23), the projected inflation and enrollment increases would have resulted in a projected budget of \$212 billion compared to the actual 2001-2002 school year budget of \$200.8 billion. As we indicated in our last TechMIS Report, in most states, a slight increase in K-12 budgets was anticipated for 2003. However, when one takes into account actual K-12 budget increases of \$4.7 billion for 2002-03, the total amount is less than the projected \$212 billion by approximately \$6.8 billion. The Democratic staff report estimates cost increases due to inflation would be about 5.3 percent which is less than the “official” 3.7 percent increase. Using the official inflation rate, the cuts would be approximately \$3.3 billion lower than the otherwise projected budget using the other adjustments for inflation and enrollment.

Influential Progressive Policy Institute (PPI) Recommends New Alternative Ways of Federal Support for School Renovation and Infrastructure Upgrades Calling for Changes of Quality Zone Academy Bonding Clinton Initiative

Very quietly in 1997, the Clinton Administration was able to create the Quality Zone Academy Bond (QZAB) program into which more than \$1.6 billion -- over four years -- of Federally-subsidized no-interest loan funding support has been provided for selected schools. Among other things, funds have been used to upgrade schools' curriculum, including massive purchasing of appropriate technology. The QZAB program was new to many states and in some states conflicted with state and local property and other taxes. In some states, the distribution office was not the SEA but the state treasury office, to whom the initiative, as well as school operations were "foreign." Both the education and finance communities were reluctant to adopt tax credit bond concepts which were complex and unfamiliar. On the other hand, as a Progressive Policy Institute (PPI) report notes, over 82 percent of the bonds have been allocated and QZABs were particularly valuable sources of aid for repairs in rural districts. However, in certain states the amount which remains unissued is significant, including: (a) Delaware -- 80 percent of \$3.1 million; (b) Maine -- 85 percent of \$5.6 million; (c) Massachusetts -- 70 percent of \$28 million; (d) New Jersey -- 70 percent of \$30 million.

The QZAB initiative was spawned as Congress could not agree upon a much larger school construction and renovation bill and was included in the Tax Relief Act of 1997. Unlike traditional school district bonds for which districts must pay interest over the life of the bond, under QZAB the Federal government subsidizes the bond through a tax credit to bond holders for QZAB. Districts still would pay the principal but not the interest, thereby reducing the cost of renovation significantly. During the second year, the allowable uses of QZABs were expanded to allow the "modernization of school curriculum," which could include significant infrastructure renovation and the purchase of software and hardware related to curriculum upgrades. When this modification

occurred, a large number of districts in California and elsewhere requested QZAB bonding authority funds for hardware, software, and infrastructure purposes. The major eligibility criterion were that the buying authority was allowed only for schools with 35 percent or more poverty enrollment. While over 80 percent of QZAB authority has been issued nationally in four states --- Alaska, Hawaii, New Mexico, and Wyoming --- no QZAB bonding authority has been issued.

The modification or alternative to QZAB recommended by PPI would be the enactment of a more robust, durable, school construction program focusing on flexible and accessible initiatives such as state infrastructure bonds, which could remedy the core problem of capital access for public schools. The role of the Federal government would be to provide seed money to create these bonds. PPI argues that state policymakers are already familiar with state infrastructure bonds as they would be similar to the clean water state revolving funds and drinking water state revolving funds now operated by many states.

For a copy of the report go to www.ppionline.org.

School and Libraries Division Issues New List of Eligible Services Under E-Rate

On October 18, 2002, the Schools and Libraries Division issued an update of the Eligible Services List from the prior year. This List indicates the specific products and services that may receive discounts under the E-rate program for the coming year. Some of the modifications and clarifications may be important to some TechMIS subscribers.

Under the category of *Telecommunication Services*, basic telephone service -- wireline or wireless -- is eligible for discount as long as it is used for educational purposes at a place of instruction. This would include basic telephone service for teachers, librarians, aides,

principals, and school and district administrators. Conferencing services are also eligible for discount if they are used only for eligible school or library purposes or if the management system can allocate between eligible and ineligible uses. Transmission services are eligible for discount as long as they do not include their own instructional content. Paging services are also eligible for discount if they are used at a place of instruction for instruction or security. Equipment and maintenance costs for pagers are not eligible.

Under *Internet Access*, eligible services may incorporate bundled features that are not eligible by themselves; these include caching services, filtering services, firewall services, and web hosting services. When a funding request provides one price for a bundle of products and services, cost allocation may be used to separate the eligible and ineligible components. A wireless Internet access service is eligible for discount under the same provisions as wireline services as long as the wireless service is the most cost-effective way to get Internet access.

With regard to *Internal Connections*, local area networks, whether wired or wireless, are eligible for discount. However, any network that crosses a public right-of-way is not a LAN and is, therefore, not eligible for discount. Application software -- word processors, spreadsheets, etc. -- that are directly accessed by end-users are not eligible for discounts.

Costs incurred for the configuration or modification of an eligible service are eligible for discount. However, costs for termination of a service are not eligible.

This list is available at www.sl.universalservice.org/data/pdf/EligibleServicesList_10_18_02.pdf.

The Student's Bill of Rights Act of 2002 (S. 2912) Would Require Removal of Disparities Among Schools and Districts in Terms of Resources, Including Access to Similar Levels of Technology Within Twelve Years

The Student's Bill of Rights Act, co-sponsored by Senator Christopher Dodd and Representative Chaka Fattah, would "correct the inequity by ensuring that each and every child's school has the resources to provide them with a decent education, and in turn, an equal opportunity for a successful future." Within twelve years, states would have to ensure that all districts in the state would meet seven "fundamentals" of education including highly-qualified teachers, principals, and academic support personnel; rigorous academic standards; small class size; textbook instructional materials and supplies; library resources; school facilities and computer technology; and quality guidance counseling.

As reported in Education Technology News, the criteria for assessing whether a school or district meets the technology "fundamental" would include: the ratio of computers to students, the quality of computers and software available to students, Internet access, the quality of systems maintenance and technical assistance for computers, and the number of computer labs taught by qualified instructors.

For states that do not become compliant at the end of 12 years, USED could withhold one-third of the states' Federal funds. Perhaps the most important sanction would be that violation of the Act would be considered a civil right and so parents of students could bring civil actions against the state.

Many of the accountability sanctions in NCLB have forced to the surface a new view of inequality of funding among districts -- an inequity in "opportunities to learn." More and more state courts regarding the constitutionality of state finance systems are also moving toward the concept of "opportunity to learn." Representative Fattah introduced the major

provisions of the bill during the March meeting of the Council of Great City Schools and used Philadelphia as an example pointing out the differences in “opportunities to learn” between many of the high-poverty schools and Edison School, Inc. which, at that time, had submitted a proposal to take over many failing Philadelphia schools under a state mandate. In his presentation before the Council membership, he emphasized that the No Child Left Behind legislation and appropriation did not provide enough Federal funding to ensure its implementation, particularly in light of disparities in state funding in many states. As Fattah was quoted in Education Technology News (September 11), “Throwing the President’s concept of No Child Left Behind right at him, the Student Bill of Rights Act of 2002 would require that students get fair and adequate education opportunity despite their income level.” For a copy of the proposed legislation or additional information, contact Senator Dodd’s office, 202/224-2823.