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Elementary and Secondary Education: Reconsideration of the Federal Role by the 107th Congress

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Elementary and Secondary Education: Reconsideration of the Federal Role by the 107th Congress

SUMMARY

The authorizations for most programs of federal aid to elementary and secondary education, educational research, statistics, and assessment expired at the end of FY2000. These include the Elementary and Secondary Education Act (ESEA); the Educational Research, Development, Dissemination, and Improvement Act (ERDDIA); and the National Education Statistics Act (NESA). In addition, Titles III (state grants) and IV (parental information resource centers) of the Goals 2000: Educate America Act (Goals 2000) were repealed as of the end of FY2000. Nevertheless, with the major exception of Title III of Goals 2000, the Congress has continued to fund these programs while it deliberates the future direction and form of the federal role in elementary and secondary education.

During the 106th Congress, several different ESEA-related bills were passed by the House and/or reported by the Committee on Education and the Workforce, and the Senate Committee on Health, Education, Labor, and Pensions reported a comprehensive ESEA reauthorization bill. However, only Titles I-B (Even Start) and VIII (Impact Aid) of the ESEA were reauthorized during the 106th Congress.

The programs previously authorized by the ESEA, ERDDIA, NESA, and Goals 2000 may be divided into four categories: (1) programs for the education of *disadvantaged* children; (2) programs that help pay the costs of *systemwide support* services or curricula in

priority subject areas; (3) programs that support the development and dissemination of educational *innovations*, research, technical assistance, and assessments; and (4) programs to help pay the costs of educating pupils whose parents live or work on *federal property*.

The legislation which has authorized these programs embodies a strategy emphasizing curriculum content standards; assessments tied to content standards; performance standards with sanctions and rewards based thereupon; expanded technical assistance; increased flexibility; and greater targeting on schools and local educational agencies (LEAs) with high poverty rates. This strategy has been implemented only partially thus far. Curriculum standards and assessments are being developed, although slowly. Flexibility has been expanded, but most allocation formula modifications intended to target funds on high poverty LEAs have not been implemented.

Debate over legislation to reauthorize these programs is focusing on topics including increased state and local flexibility and new strategies for accountability, how much direction the federal government should exercise over the use of federal aid, improving educational opportunities for the disadvantaged, teacher quality and quantity, expansion of school choice options, plus technological and physical infrastructure.

MOST RECENT DEVELOPMENTS

Legislation to reauthorize and revise the Elementary and Secondary Education Act (ESEA) and related statutes is expected to be considered early in the 107th Congress. On January 23, 2001, the Bush Administration released an outline of its forthcoming proposals for revision and reauthorization of the ESEA.

BACKGROUND AND ANALYSIS

Introduction

The authorizations of appropriations for most programs of federal aid to elementary and secondary (grades K-12) education, plus federal support of educational research, development, and assessment activities, expired at the end of FY2000. This includes the authorizations for virtually all programs under the Elementary and Secondary Education Act (ESEA); the Educational Research, Development, Dissemination, and Improvement Act (ERDDIA), which provides for the Office of Educational Research and Improvement (OERI) in the U.S. Department of Education (ED); and the National Education Statistics Act (NESA), which provides for the National Center for Education Statistics (NCES), including the National Assessment of Educational Progress (NAEP). In addition, Titles III (state grants) and IV (parental information resource centers) of the Goals 2000: Educate America Act (Goals 2000) were repealed as of the end of FY2000. Nevertheless, with the exception of Title III of Goals 2000, Congress has continued to fund these programs.

While the 106th Congress extensively considered several bills which would have reauthorized and amended most of these programs, only legislation extending the Impact Aid (ESEA Title VIII) and Even Start Family Literacy (ESEA Title I, Part B) programs was enacted. Selected other programs, such as the Class Size Reduction program, have been established solely through appropriations legislation in recent years. The 107th Congress will again consider whether, and in what form, to extend most federal aid to K-12 education.

This issue brief provides an overview of legislation to reauthorize the ESEA, ERDDIA, and NESA. Most of it will focus on the ESEA, since it is much larger in scale. We include a summary review of relevant legislation acted upon during the 106th Congress. This issue brief will be updated regularly to reflect current legislative activity. Other issue briefs and reports, listed at the end of this brief, provide more detailed information on individual programs or types of proposals and analyses of the issues being debated with respect to them.

Federal Role in Elementary and Secondary Education — Overview of Current Programs. The aggregate federal role in the financing of K-12 education in the Nation is relatively small. In 1997-1998, federal funds under *all* programs constituted only 6.8% of total revenues for public K-12 education. However, such aggregate figures tend to mask the fact that the federal share *varies widely in different types of localities and for varying types of pupils or schools*. The federal share is typically much higher than average in states, local educational agencies (LEAs), or schools with high rates of poverty, relatively

low taxable property wealth, substantial federal facilities or Indian reservations located in the vicinity, or that have been successful in competing for discretionary grant funds.

Programs authorized by the ESEA, ERDDIA, and NESAs may be divided into four categories: (1) aid for the education of *disadvantaged* children (approximately 61% of the \$15.6 billion in FY2000 appropriations for these programs); (2) grants for *systemwide support* services or curricula in priority subject areas (26%); (3) Impact Aid grants to compensate local educational agencies (LEAs) for the costs of educating children whose parents live or work on *federal property*, plus programs for *Indians, Native Alaskans and Hawaiians* (7%); and (4) programs that support the development and dissemination of specific educational *innovations, research, technical assistance, and assessments* (6%). The major federal K-12 program which is *not* considered in this issue brief is the Individuals with Disabilities Education Act (IDEA) — a separate statute which is not on Congress' immediate reauthorization schedule, although portions of it expire at the end of FY2002.

These federal programs were generally initiated for one or more of the following *primary purposes*: (a) to provide supplementary instructional services to disadvantaged pupils whose needs were not always being fully met by states and LEAs; (b) to support instruction in federal priority subject areas, such as science, mathematics, or anti-drug education; (c) to improve the quality of education through support of professional development for teachers, adoption by the states of curriculum standards and assessments linked to them, implementation of new technologies, or development and dissemination of innovative approaches; (d) to help meet the costs of instructing pupils for whom the federal government has a special responsibility (e.g., Native Americans, recent immigrants, pupils living on federal land, or migrants); or (e) to support educational research, and assessment of aggregate achievement trends for American pupils.

All of the legislation addressed by this brief was either initially enacted or reauthorized in 1994 by the Improving America's Schools Act (IASA, P.L. 103-382) and the Goals 2000: Educate America Act (P.L. 103-227). The major themes of the 1994 legislation included: (1) support for standards-based reform (i.e., reform based on the establishment by states of curriculum content and pupil performance standards, plus assessments linked to these); (2) an emphasis on accountability and increased targeting of funds on high poverty areas under ESEA Title I and other programs for the disadvantaged; (3) greater flexibility for states and LEAs; and (4) support for educational technology and teacher improvement. It is important to emphasize the linkage between the themes of standards-based reform and state/local flexibility. Standards-based reform is intended to focus primary attention, for purposes of establishing accountability, on educational *outcomes*. Thus, increased flexibility to waive many traditional program requirements, which are typically couched in terms of procedures or inputs, is viewed as an important correlate of standards-based reform, to give states, LEAs, and schools the flexibility they may need in order to reach the desired outcomes.

Implementation of this strategy is incomplete. States were required to have their systems of standards and assessments in place by the 2000-2001 school year, but it seems likely that the assessment systems of many states will not be fully approved during this school year. Flexibility has been expanded, but there are questions regarding the extent and purposes for which flexibility authority has been used. Allocation formula modifications intended to target funds on high poverty LEAs have been implemented only partially.

Major Reauthorization Issues

Overarching Issues. Varying responses to four broad questions have provided the foundation for much of the debate over more specific issues discussed below. These are:

- (a) How much direction should the federal government exercise over the use of federal aid?
- (b) How should states and LEAs be held accountable for appropriate and effective use of federal financial assistance?
- (c) What role should school choice, especially options involving private schools, have in strategies to improve educational opportunities for disadvantaged pupils?
- (d) Should the federal government initiate or expand major new programs in such areas as school construction, after-school services, or class size reduction, or should available funds be focused on such existing federal programs as ESEA Title I and the IDEA?

Increased Flexibility and New Strategies for Accountability. Increasing the authority of state and local grantees over the use of federal assistance, possibly in return for increased accountability in terms of program outcomes, has been a major focus of debates over federal K-12 aid programs since the early 1990s. In addition to the Ed-Flex waiver authority, ESEA title I schoolwide programs, and other forms of special flexibility which have been adopted since 1994, three types of proposals have been extensively considered most recently — (1) proposals to consolidate existing programs into a smaller number of block grants that could be used for a much wider range of activities and services, often with no new accountability requirements; (2) proposals to allow federal funds to be used for almost any educational purpose determined by states or LEAs, reducing some forms of accountability (such as targeting of funds or specifying how they may be used) in return for increased accountability in terms of achievement outcomes; and (3) proposals to provide increased flexibility in the use of federal funds specifically for small, rural LEAs.

Block Grants. Education block grants may be defined as aid programs covering an exceptionally wide range of educational activities and types of students, and providing an especially high degree of flexibility to states and LEAs in using the funds. They are typically established through consolidation of programs that are more limited in their purposes or activities. There is currently one ED block grant, authorized by ESEA Title VI. Since it was adopted in 1981, Title VI aid has been used primarily for instructional materials and equipment, and to supplement resources for school reform activities.

Advocates of block grants contend that they would: maximize state and LEA flexibility to target federal aid on state and local priorities; reduce constraints that hinder effective use of federal funds; address duplication and lack of coordination among programs; make the array of federal programs more manageable for state and LEA administrators; reduce administrative costs; and reflect an appropriate federal role in education of providing financial support with minimal policy controls. In contrast, *opponents* of education block grants contend that they would: dilute the impact of federal funding on national education priorities; may lead to budget cuts; combine general support programs with programs that are targeted

on specific needs of disadvantaged populations, then spread the combined funds across all LEAs without regard to need; and eliminate traditional forms of accountability without necessarily providing new ones.

Optional Performance Agreement/Grant Consolidation Proposals. These proposals, which have attracted increasing attention in recent years, combine elements of traditional block grants and of the Ed-Flex program, under which eligible states may currently waive a limited range of federal education programs requirements. Participating states or LEAs could choose to administer programs under a “performance agreement” or “partnership,” committing them to meet state-established student performance goals which must include some degree of increased performance by all pupil groups while reducing achievement gaps among different pupil groups. In return, most program requirements would be eliminated (with exceptions such as those regarding civil rights), and funds could be used for almost any educational purpose. State total grants would be determined under current formulas, but otherwise funds could be allocated largely at state and LEA discretion.

Special Flexibility for Rural LEAs. Major ESEA reauthorization bills considered by the 106th Congress included proposals to provide small and/or high-poverty rural LEAs with increased flexibility in their use of federal aid funds, and additional funds as well. These proposals address concerns that formula-based program allocations to rural LEAs are often so small that they can be of meaningful size and scope only if combined. A limited form of special flexibility for rural LEAs was included in FY2001 ED appropriations legislation.

The Accountability/Flexibility Nexus. Much of the debate regarding legislative proposals to amend and extend the ESEA during the 106th Congress was focused on the issue of “accountability.” Current accountability provisions in federal K-12 education assistance programs include a broad range of activities, services, or outcomes which aid grantees are expected to provide, perform, or achieve as evidence that program goals are being met. Discussions of accountability regarding ESEA programs sometimes engender confusion because there are multiple aspects of the concept, and some observers place much greater emphasis on some program goals and forms of accountability than others.

The optional performance agreement/grant consolidation proposals were among the most contentious elements of major ESEA reauthorization bills considered by the 106th Congress, mainly because they would replace the current relatively wide range of types of accountability provisions — such as the targeting of funds on high poverty schools or high need pupils, limitations on the kinds of services which may be provided with federal funds, or fiscal requirements that federal grants supplement state and local funds, *along with* a degree of outcome accountability in programs such as ESEA Title I — with a strategy of accountability established *almost totally* on the basis of pupil achievement outcomes. These proposals implicitly place substantial emphasis on adoption and implementation by the states of challenging content standards, pupil performance standards, and assessments linked to these in order to establish a basis for meaningful outcome accountability. However, there are limits on the ability of ED to ensure that state standards and assessments are challenging, and evidence that in several states they currently are not. Supporters of these proposals argue that current accountability requirements are burdensome, inflexible, and detract attention from the goal of increasing academic achievement. In response, opponents of these proposals argue that aspects of accountability *in addition to* those related to outcomes are important federal priorities, many of the non-outcome related accountability requirements may already be

waived if deemed burdensome, and there is no assurance that state-determined performance goals will be challenging.

Improving Educational Opportunities for the Disadvantaged. One of the major themes underlying the IASA in 1994 was that ESEA Title I and other programs for disadvantaged pupils were less effective than they should be, and several IASA amendments were intended to improve their effectiveness. This is likely to be a continued focus of debate during the 107th Congress, in part because only limited data have been available on whether the 1994 amendments have been successful in improving effectiveness.

Targeting of Aid on Schools With the Greatest Levels of Need. The 1994 amendments to ESEA Title I were intended to increase the *targeting* of funds on schools with the greatest need (as measured by concentrations of pupils from low-income families). First, funding increases were to be allocated through a new “targeted grant” formula, under which the level of grants *per poor child* would increase as the number or percentage of poor children in the LEA increased. Second, the targeting of all Title I funds on states and LEAs experiencing the greatest increases in poor children would be improved through use of census population estimates to be updated every 2 years, rather than using only decennial census data, and through the calculation of grants on the basis of LEAs rather than counties. Third, within LEAs, the share of funds targeted on high poverty schools would be increased via several amendments regarding selection of eligible schools and allocation of funds among them.

These amendments have been implemented to only a limited extent. Annual appropriations acts have prevented use of the targeted grant formula to allocate any Title I funds. They have also substantially limited the influence of updated census estimates of poor children on the allocation of Title I funds through very high “hold harmless” provisions requiring a large majority of funds to be allocated in the same manner as in previous years. The school-level targeting provisions constitute the single major exception to this pattern — they have been implemented within most LEAs, leading to a small but significant increase in the targeting of funds *within* LEAs. Nevertheless, funds under the largest ESEA program continue to be spread thinly among LEAs and schools. There is likely to be continued debate over whether Title I and other ESEA program funds for disadvantaged pupils are appropriately targeted on LEAs and schools of greatest current need.

School Choice. Current ESEA programs that support *public* school choice include the Magnet Schools Assistance program (Title V, Part A), intended to support voluntary school desegregation, the Public Charter Schools (PCS) program (Title X, Part C), and ESEA Title I provisions supporting opportunities for pupils attending unsuccessful schools to transfer to other public schools. Efforts to enhance parental opportunities to choose their children’s schools were featured in many 106th Congress proposals to amend the ESEA. Recent proposals to increase federal support for school choice, which are likely to be debated again in the 107th Congress, include: (1) tax benefits (e.g., tuition tax credits or tax-advantaged savings accounts); (2) expanded choice options under existing programs (e.g., proposals to convert the ESEA Title I program into a “portable grant” format in selected states or LEAs); (3) voucher or scholarship programs for pupils attending unsuccessful or unsafe schools; and (4) expanded support for charter schools, especially with respect to facilities.

Choice proposals are intended to increase the range of options under, and the potential effectiveness of, educational programs available to pupils, particularly those in low-income families, and to improve public schools in general via competition. They have been opposed largely due to concern about diversion of attention and resources away from public school system reform efforts. Debate has been especially vigorous over proposals to provide choice options that include private, religiously-affiliated, schools, as under state-funded programs currently operating in Milwaukee, Cleveland, and Florida.

Aid for Pupils With Limited English Language Skills and Recent Immigrants. There has been substantial recent debate over the allocation and authorized uses of ESEA Title VII *Bilingual and Immigrant* education program funds. While many more limited English proficient (LEP) pupils are served under the broader and larger ESEA Title I programs, the Title VII programs are the only federal efforts aimed specifically and solely at meeting the special educational needs of these pupils. Issues include: whether to continue requiring that a share of ESEA Title VII, Part A (Bilingual Education Act) funds be used only for bilingual instruction; whether ESEA Title VII-A aid should be provided via formula grants to states, rather than the current discretionary grants; whether to consolidate all of ESEA Title VII into a single program; whether to establish limits on the amount of time individual pupils may be served under Title VII programs; and whether LEAs should be required to obtain parental consent before placing a LEP child in a special English language instruction program.

Effective Instructional Practices. Attention has been focused on federal efforts to identify effective instructional practices, disseminate information about them, provide technical assistance to states and LEAs attempting to implement them, and provide incentives to adopt them. These activities are directed especially, but not only, to the education of disadvantaged pupils. They are currently supported by a complex system of regional educational laboratories, educational research and development institutes, technical assistance centers, and “program improvement” provisions intended to establish incentives for states and LEAs to become informed about and adopt effective practices.

A basic question is how to improve the coherence, focus, and reliability of federal efforts to help identify and disseminate effective instructional practices, and to increase incentives to adopt them, while assuring state and local primacy in selecting curricula and instructional methods. Issues include: how to balance state and LEA primacy in education policy, and flexibility in administering federal programs, while providing meaningful incentives for states and LEAs to measurably increase pupil achievement outcomes in federal programs; how to balance an active federal role in supporting education research and activities to identify and disseminate effective practices with the goal of minimizing federal direction or intrusion in education policy and practice; how to increase the “scientific rigor” of federally-supported educational research activities so that they might provide more reliable guidance to states and LEAs; how to minimize political influence on the federal education research agenda; how best to coordinate, and possibly consolidate, the numerous federal activities intended to identify and disseminate information about effective practices into a coherent system; whether there should be greater influence or control over these activities by the “consumers” of education research — LEAs and school staff; and how to assure that information on effective practices is effectively made available to teachers.

Teacher Quality and Quantity. Teachers' knowledge and pedagogical skills have emerged as major concerns for policymakers at all levels. At the same time, with rising K-12 enrollment, greater numbers of teachers reaching retirement age, and efforts to reduce class sizes in some areas, teacher recruitment has become increasingly important. General issues include whether funds should be targeted to specific purposes such as class size reduction or should be provided through broader block grants, whether to subsidize state teacher assessment and accountability programs, and whether to require states to provide that all classes are taught by fully qualified teachers. More specific issues are discussed below.

Focuses for the Federal Role. Preparing, recruiting, licensing, hiring, compensating, testing, and structuring the working conditions of the K-12 teaching force are primarily the responsibility of states and LEAs. Nevertheless, the federal government provides an array of support for teachers. Of the programs to be considered by the 107th Congress, this support has focused primarily on *professional development*, as well as the hiring of teachers for class size reduction (see below). Additional issues that may be considered include merit pay, teacher testing and accountability, or teacher tenure.

Class Size Reduction. Efforts to reduce class size are advocated by many as a significant strategy for improving student achievement. Proponents point to research as justification for their enthusiasm about the achievement effects of reducing class sizes, particularly in the early grades. Others have suggested that the research literature on class size reduction offers a more mixed picture of the likely outcomes, particularly if class sizes are only reduced marginally, and that other reform strategies may offer greater achievement gains at lower cost. Beyond the consequences for students, some experts point to experience in areas that have sought to reduce class size substantially as suggesting that such efforts put a serious strain on the supply of qualified teachers, and hiring standards may be lowered in order to staff an increased number of classes.

The 107th Congress will consider whether the class size reduction program, funded in annual appropriations acts since FY1999, should be extended. If it is not extended, LEAs hiring teachers with these funds will be responsible for compensating those teachers in the future, if their employment is to be continued. In considering the program's extension, there is likely to be debate over the impact of class size reduction on student achievement and teacher quality, as well as the appropriateness of direct federal funding for general teacher hiring and compensation, and alternative uses of the funds that would be needed to substantially reduce class sizes nationally.

Effectiveness of Current Programs. An ongoing ED evaluation of the Eisenhower Professional Development Program found that while it is supporting sustained and intensive professional development activities, aligned with state or local education standards, other elements of high quality professional development, such as accountability for outcomes, do not appear as frequently. Despite the 1994 expansion to include additional core subjects, the program remains focused on math and science in general. It appears that certain elements in the authorizing statute are not being implemented — there is little integration between Eisenhower and ESEA Title I activities; Eisenhower activities are not targeting teachers of students from diverse backgrounds; and grantees have not developed performance indicators.

Infrastructure — Technology and Facilities. The application of information technology to K-12 education has become a focus of federal policymaking in recent years. While substantial amounts of technology have flowed into K-12 education and access to the Internet has risen, there is concern that much of the available computer hardware is outdated, access to technology in schools varies markedly, and teachers are not sufficiently trained in effective use of technology.

The federal government currently supports educational technology through a large effort involving many programs and agencies. The ESEA Title III technology programs have grown markedly since 1994. Issues include: whether the acquisition and deployment of technology in schools is an appropriate matter for federal support, or should be the sole responsibility of states and localities; whether current federal support is excessively fragmented and duplicative, and should be restructured and/or consolidated; whether federal education programs devote sufficient resources to other activities that are important to the application of technology in the classroom, such as planning, professional development, and integration of technology into the curriculum; and how to focus on schools, and aspects of educational use of technology, where aid is likely to be most productive.

According to several reports, a large proportion of K-12 school buildings are in substantial need of repair, renovation, or replacement. With respect to the construction and renovation of school buildings, *indirect* aid is provided through federal tax exemptions for state and local school construction bonds, but the current role in providing *direct* assistance is limited. The Taxpayer Relief Act of 1997 authorized tax credits for *qualified zone academy bonds* that support renovation and repair of certain public schools located in low-income areas; and FY2001 appropriations legislation for ED included a new school renovation and repair grant program. In recent years, there has been substantial debate over proposals to increase federal school facilities aid through both direct grants to LEAs, and tax credits, in lieu of interest payments, to holders of school construction bonds. The primary issues are whether to initiate or extend new forms of federal aid in an area of traditional state and LEA responsibility with a high level of estimated need nationwide; if new forms of aid are to be provided, how to allocate that support to states or LEAs in greatest need; and whether to target a share of facilities aid on new types of public schools with special facilities needs, such as charter schools, or to private schools.

Reauthorization Proposals in the 107th Congress

On January 23, 2001, the Bush Administration released an outline of its forthcoming proposals for revision and reauthorization of the ESEA. Complete details and bill text are not currently available. As described in the document, “No Child Left Behind” (which may be found on the Internet at [<http://www.ed.gov/inits/nclb/index.html>]), the Administration proposal will include the following major features:

- ! **Consolidation of ESEA programs** into 6 Titles focused on: disadvantaged pupils, teacher quality, limited English proficient pupils, school choice and innovation, safe schools and educational technology (incorporating the E-rate telecommunications discounts for schools), and Impact Aid;

- ! **Expansion of pupil achievement and other outcome accountability requirements**, including state assessments in reading and mathematics of all pupils each year in grades 3-8, a new requirement that states also develop standards and assessments in history and science, annual administration of National Assessment of Educational Progress (NAEP) 4th and 8th grade reading and mathematics tests in every state, provision of options to attend other public or private schools (or obtain supplementary educational services from a provider of their choice) for pupils attending schools which consistently fail to meet ESEA Title I adequate yearly progress (AYP) standards or which are unsafe, bonus payments to especially successful states and schools, new or expanded requirements for reporting to parents and the public on school performance and teacher quality, a requirement that AYP standards apply specifically to the disadvantaged pupils in each school receiving Title I funds, and addition of new accountability requirements to teacher quality, school safety, and LEP pupil programs;
- ! **Extension of flexibility** through program consolidation, establishment of a “charter” status for states or LEAs, allowing program requirements to be waived in return for 5-year performance agreements, expanded eligibility for ESEA Title I schoolwide programs, and elimination of the requirement that most ESEA Title VII-A funds be used to support bilingual instructional techniques; and
- ! **Establishment of new or expanded programs** to enhance reading and reading readiness instruction in preschool and early elementary grades, mathematics and science education partnerships between K-12 schools and institutions of higher education, construction of schools for pupils from Native American and military families, and character education.

Reauthorization Proposals Considered by the 106th Congress

During the 106th Congress, numerous ESEA-related bills were passed by the House and/or reported by the Committee on Education and the Workforce, and the Senate Committee on Health, Education, Labor, and Pensions reported a comprehensive ESEA reauthorization bill. However, only Titles VIII (Impact Aid) and I-B (Even Start Family Literacy) of the ESEA were reauthorized, while the state grant and parental information resource center programs (Titles III and IV) of the related Goals 2000: Educate America Act were repealed (although funding continues to be provided for Title IV). Selected other programs, such as the Class Size Reduction program, have been established solely through appropriations legislation in recent years. Selected highlights of these 106th Congress bills are summarized briefly below.

Proposals Which Were Enacted During the 106th Congress

P.L. 106-554, FY2001 Appropriations for ED. In addition to providing FY2001 appropriations for the programs discussed in this Issue Brief, P.L. 106-554 extends for an additional year funding for the Class Size Reduction program; provides a new form of

flexibility under which small (under 600 enrollment), rural LEAs may consolidate funds under ESEA Titles II, IV, and VI and use them for a variety of purposes; appropriates \$1.2 billion for a new school renovation and repair program; requires schools and libraries receiving federal assistance to block access to certain obscene or pornographic material on Internet web sites; and continues, for all except the smallest (in population) states a requirement initiated in FY2000 appropriations legislation for LEAs to offer to pupils attending public schools determined to be in need of improvement (under ESEA Title I-A) the option to enroll in different public schools within the same LEA (unless it is not possible, consistent with state and local law, to offer such choice options to all eligible pupils).

In addition, P.L. 106-554 incorporates the Literacy Involves Families Together Act, which extends the authorization for and amends ESEA Title I-B as the William F. Goodling Even Start Family Literacy Programs. This legislation: (a) requires more stringent qualifications for Even Start staff; (b) permits programs to serve children aged 8 or older in collaboration with Title I-A programs; (c) authorizes states to use a share of their grants to improve the quality of services and to provide technical assistance on funding sources; (d) requires use of instructional methods “based on scientifically based reading research” for children and adults, “to the extent such research is available;” (e) reserves up to 3% of funds for technical assistance and an independent evaluation; (f) increases the funds reserved for migrants, outlying areas and Indians to 6%, if appropriations exceed \$200 million; (g) provides for a one-time coordination grant for eligible states; (h) if total Even Start appropriations increase over the previous year, reserves the lesser of \$2 million or 50% of the increase each year for the National Institute for Literacy to conduct “scientifically based reading research” on adult literacy; (i) increases the share of allocations which may be reserved for state administration and technical assistance to 6%; and (j) requires states to submit their quality indicators for Even Start programs to be eligible for continued funding.

Impact Aid Reauthorization Act of 2000 (Title XVIII of P.L. 106-398). On May 15, 2000, the House passed H.R. 3616, a bill to extend and amend the Impact Aid program (ESEA Title VIII). Subsequently, H.R. 4205 was enacted (P.L. 106-398), with provisions in Title XVIII similar to those of H.R. 3616. P.L. 106-398 amends and reauthorizes the Impact Aid program through FY2003, and revamps Sec. 8002 (payments in lieu of taxes for certain lands acquired by the federal government after 1938) by combining the methodology for assessing land value that was in effect prior to the last Impact Aid reauthorization and the methodology under current law; increases the weight in the Section 8003 funding formula given to children of military personnel living off base; includes, as part of the main Section 8003 formula, additional payments to “heavily impacted” LEAs; and authorizes facilities modernization grants for certain LEAs that are unable to issue bonds for capital expenditures.

P.L. 106-25, Education Flexibility Partnership Act of 1999. This Act removed a previous 12 state limit on participation in the Ed-Flex program, under which ED may delegate to SEAs the authority to waive a variety of requirements regarding the state-administered, formula grant programs authorized by the ESEA and related legislation, as long as the underlying purposes of the statutory requirements of each program or Act for which a waiver is granted continue to be met.

Other 106th Congress Legislation Considered by the Senate

S. 2, the Educational Opportunities Act. S. 2 was reported by the HELP Committee, and was debated for several days on the Senate floor.

ESEA Title I. Provisions regarding “school performance profiles” would be expanded through requirements for annual performance reports on each school and LEA receiving funds under Part A. Schools or LEAs identified as needing improvement would be required to institute “research based instructional strategies,” and SEAs or LEAs would be required to take at least one of a series of corrective actions with respect to schools or LEAs which do not improve after being identified as failing to meet adequate yearly progress standards. LEAs would be required to offer public school choice options to pupils attending Title I schools identified as needing improvement or corrective action or where violence has occurred. Up to 10 states and 20 LEAs would be authorized to provide Title I aid to pupils through *portable grants* — parents of the pupils could choose to procure supplementary educational services at a public school or a tutorial services provider. S. 2 would require assessments in reading to be in English for pupils who have attended school in the United States for 3 or more years.

In the allocation of Title I-A funds, S. 2 provided that an amount equal to the FY2000 appropriation would be allocated under the Basic and Concentration Grant formulas, and any increases would be allocated under the Targeted Grant formula. However, S. 2 also provided that 50% of any Part A appropriations in excess of \$8.076 billion would be reserved for a separate program improvement and corrective action allocation. S. 2 would also have reduced the eligibility threshold for schoolwide programs from 50% in general to 40%; expanded Title I provisions for services to prekindergarten age children; and required each state receiving Even Start grants to specify indicators of program quality. The Comprehensive School Reform Program would be authorized as Title I-E, and the Parental Information and Resource Center Program, as Title I-D.

Teacher Programs. A revised ESEA Title II would have replaced the Eisenhower Professional Development program and the Class Size Reduction (CSR) program. This program would have been similar to that under H.R. 1995 (see below). It would have been a state formula grant with allocation within states by formula to LEAs and by competition to partnerships for professional development. LEAs would be required to use unspecified portions of their allocation on professional development overall and specifically in math and science. Funds might also have been used for teacher hiring to reduce class size; hiring of special education teachers; recruitment of highly qualified teachers; activities to retain teachers and principals; and *teacher opportunity payments*, to be used for professional development activities selected by teachers. Authorized state activities would include certification reform; teacher induction; alternative certification; recruitment of teachers and principals; assistance for delivery of intensive professional development; and support for teachers seeking National Board for Professional Teaching Standards (NBPTS) certification. Funded states would have been required to measure the progress of LEAs and schools with respect to student achievement and improvement of professional development, and to hold LEAs and schools accountable for making progress. S. 2 would authorize grants to the NBPTS, support for teacher excellence academies, a new program to improve the skills of school leaders, plus continuation of the Troops to Teachers program and the Eisenhower Clearinghouse. Floor amendments added tenure reform, merit pay for teachers, and teacher

testing to allowable uses of funds; created a new program for individuals entering teaching through alternative certification routes; and provided liability protection for teachers undertaking reasonable actions to maintain order and discipline. The Secretary could not use federal funds for a mandatory national teacher test or certification.

Safe and Drug-Free Schools and Communities. S. 2 would amend ESEA Title IV to authorize aid for hiring drug prevention and school safety program coordinators in schools; require participating schools to assess drug and violence problems, set measurable goals, use a researched-based prevention framework for programs, and conduct evaluations; and it would incorporate into Title IV requirements that states have laws mandating expulsion from school for 1 year for any student bringing a weapon to school, and forbidding tobacco use within any indoor facility used for providing education or related services.

Optional Performance Partnership/Grant Consolidation Provisions. S. 2 included *two different authorities* under which federal education program requirements may be eliminated in return for outcome-based accountability. *First*, the bill included a “Straight A’s” authority essentially the same as that of H.R. 2300 (see below), except that it would be available in up to 15 states, which would be required to use funds to serve disadvantaged schools and pupils and to reduce achievement gaps between the highest and lowest scoring pupil population groups by at least 10%. *Second*, S. 2 included a less flexible “Educational Performance Partnerships” optional grant consolidation authority under which: there would be no limit on the number of participating states; ESEA Title I-A allocation formulas would continue to apply in the distribution of funds to LEAs and schools; the Safe and Drug-Free Schools and Carl D. Perkins Vocational and Applied Technology Education programs would not be subject to consolidation; *all* states would be eligible for bonus awards for reducing gaps between the scores of low-income and other students on NAEP tests; and current fiscal accountability and parental involvement requirements would apply.

Bilingual Education Act (BEA). S.2 would: consolidate several BEA programs; require the English proficiency of students served to be assessed annually; and eliminate the 25% funding cap for non-bilingual programs under instructional services grants. S. 2 would give priority to applicants: experiencing dramatic increases in LEP students and having limited experience in serving them; in LEAs with fewer than 10,000 pupils; demonstrating success in assisting LEP students learn English; proposing to provide bilingual proficiency for all project participants; and serving LEAs with large percentages of LEP enrollment.

Additional S. 2 Provisions. In addition, S. 2 would establish: a rural education initiative similar to that of H.R. 2 (described below); a national strategy for addressing school dropouts and a dropout prevention grant program; and *America’s Education Goals*, similar to the National Education Goals in the Goals 2000: Educate America Act.

Other 106th Congress Legislation Considered by the House

With two exceptions, each of the following bills was passed by the House. H.R. 4141 was reported by the House Committee on Education and the Workforce, and H.R. 4875 was reported by a subcommittee to that Committee.

H.R. 2, Student Results Act. H.R. 2 would have reauthorized and amended ESEA Titles I (except Part B), V, VII, and IX, among other provisions.

ESEA Title I. H.R. 2 would require LEAs to offer public school choice options to pupils attending schools in need of improvement or who have been victims of violent crime at school. It would require the publication of state and LEA “report cards” with information on pupil achievement and related matters; and require pupils who have been enrolled in U.S. schools for 3 years to be tested in the English language, and would require LEAs to obtain parental consent to the instructional methods used to teach English to LEP pupils in Title I programs (unless such instruction is “exclusively or almost exclusively” in English). States would be permitted to reserve up to 30% of future increases in Title I grants for performance bonuses to especially effective Title I schools and teachers. Further, states would be required to adopt standards and assessments in science, in addition to reading and math.

A “freeze” would be placed on the number of teacher aides which LEAs could hire with Title I funds; such aides would have to have completed at least 2 years of higher education, or to “have met a rigorous standard of quality;” and the bill specified the instructional and other services which aides hired with Title I funds may provide. H.R. 2 also required states to develop plans for all public school teachers to be “fully qualified” by Dec. 31, 2003.

H.R. 2 provided that an amount equal to the FY1999 appropriation plus 50% of future increases would be allocated under the Basic and Concentration Grant formulas, and the other 50% of future increases would be allocated under the Targeted Grant formula. It deleted provisions for the Education Finance Incentive Grant formula. The poverty threshold for establishing schoolwide programs would be lowered from 50% to 40%. H.R. 2 would authorize the Comprehensive School Reform Program as Part E of Title I; and place a limit (4%) on the share of Title I grants which LEAs could use to pay administrative costs.

Bilingual and Immigrant Education. H.R. 2 would consolidate bilingual education instructional services grants and provide for allocation of aid via formula grants to states (with discretionary grants to LEAs) when appropriations reach \$220 million. Under the formula grant program, states would be required to discontinue funding to LEAs where the majority of students do not become proficient in English after 3 years. It would generally require LEP students who have attended U.S. schools for 3 consecutive years to be tested in English for reading or language arts. The 25% limit on funding for non-bilingual programs would be eliminated; and LEAs would be required to obtain parental consent before placing a LEP child in an English language instruction program.

Rural Education Assistance. The Rural Education Initiative Act would have benefitted rural LEAs with small enrollments (less than 600), and those with larger enrollments but school age poverty rates of at least 20%. Benefits for the first group of LEAs included a flexibility authority permitting them to consolidate funds received under various formula grant programs, plus eligibility for additional grants, to be used at LEA discretion. The latter group of rural districts would be eligible to receive funds for specified uses such as educational technology and professional development.

Additional H.R. 2 Provisions. H.R. 2 would authorize a competitive grant for SEAs and LEAs to support innovative approaches to public school choice. It would delete

Native Hawaiian programs in ESEA Title IX, while consolidating the Alaska Native programs.

H.R. 1995, Teacher Empowerment Act. H.R. 1995 would amend ESEA Title II as a replacement for the Eisenhower Professional Development, Goals 2000 state grant, and CSR programs. A portion of substate funds would be allocated to LEAs by formula and a portion would be distributed competitively to LEAs and partnerships to support professional development. LEAs would be required to use unspecified portions of these funds for professional development in general and reducing class size. A specific portion would have to support math and science professional development. Funds might also be used for teacher recruitment, retention and improvement, plus *teacher opportunity payments* (see discussion under S. 2). State activities would include support for certification reform, alternative certification, recruitment, tenure reform, procedures for expeditious removal of incompetent teachers, and professional development. States would be required to disseminate information on such matters as the achievement gap between different groups of students; districts and schools would be held accountable for progress toward performance indicators they develop regarding student achievement and classes taught by fully qualified teachers; states would also have to ensure that by Dec. 31, 2003, all teachers are fully qualified. The Secretary of Education would also be required to fund projects that provide professional development for principals, and could support such activities as teacher excellence academies, the Troops to Teachers program, and the Eisenhower Clearinghouse. The Secretary could not use federal funds for a mandatory national teacher test or certification.

H.R. 4141, the Education Opportunities to Protect and Invest in Our Nation's Students (Education OPTIONS) Act. H.R. 4141 would have amended and reauthorized ESEA Titles III, IV, VI, and X, among other provisions.

Safe and Drug-Free Schools Program and 21st Century Community Schools Program. H.R. 4141 would consolidate these two programs into an expanded ESEA Title IV, under which most activities now authorized could be conducted at state or LEA discretion. Title IV funding for hate crime prevention would be eliminated. H.R. 4141 would authorize the use of Title IV funds to test students for illegal drug use, conduct locker searches, and expand mental health services. The Gun-Free Schools Act would be incorporated into Title IV. States would be allowed to provide Title IV services through charitable, religious, or private organizations. H.R. 4141 provided that Title IV-supported instruction may not denigrate the religion of pupils or parents; and would allow parents to remove pupils from most Title IV-supported services.

Educational Technology Programs. H.R. 4141 would consolidate ESEA Title III programs into a single state formula grant. Within states, at least 95% of funds would be distributed to LEAs (at least 80% through a state-developed formula, the remainder via competition). LEAs would be required to use at least 20% of grants for professional development. LEAs using funds to purchase computers to access the Internet would be required to have filters to block material deemed harmful to minors.

Additional H.R. 4141 Provisions. H.R. 4141 would: authorize states and LEAs to transfer at least a portion of grants among the ESEA state-administered formula grant programs, except that funds could only be transferred *into* ESEA Title I-A; prohibit the use of Fund for the Improvement of Education grants to develop, test, or administer “any

federally sponsored national test ... unless specifically and explicitly authorized by law;” prohibit the use of ED funds to endorse any K-12 school curriculum; require parental consent before schools or LEAs could sell marketing information regarding pupils; require states to allocate 100% of Title VI grants in excess of the FY2000 level to LEAs; and require LEAs to adopt policies under which pupils with disabilities may be disciplined in the same manner as other children if the child possesses a weapon or illegal drugs, or commits an assault at school, on school premises, or at a school function.

H.R. 2300, Academic Achievement for All Act (Straight A’s Act). Up to 10 states, or individual LEAs in non-participating states, would be authorized to administer one or more federal education programs under a *performance agreement*, whereby current program requirements would no longer apply, with specified exceptions such as those related to civil rights, participation of private school pupils and teachers, and ESEA Title I, Part A requirements regarding standards and assessments. Program funds could be used for any educational purpose authorized under state law. Performance agreements would cover a 5-year period, and would include state-established student performance goals incorporating increased performance by all pupil groups while reducing achievement gaps among pupils of different groups. State total grants would be determined under current formulas, but funds could be allocated within states largely at state and LEA discretion. Participating states which reduce achievement gaps to a specified degree would be eligible for bonus funds.

LEGISLATION

Note: Only relevant legislation which is formally acted upon during the 107th Congress by the House or Senate, or a committee thereof, will be included in this section.

FOR ADDITIONAL READING

- CRS Report RL30393, *Academic Achievement for All Act (Straight A’s Act) — Background and Analysis*, by Wayne Riddle.
- CRS Report RS20143, *Arts in Education: Background and Reauthorization Issues*, by Susan Boren.
- CRS Report RL30621, *Aspects of Accountability in ESEA Title I and Other Education Proposals in the 106th Congress*, by Wayne Riddle.
- CRS Report 98-501, *Bilingual Education: An Overview*, by Patricia Osorio-O’Dea.
- CRS Report RS20447, *Class Size Reduction Program: Background and Status*, by James B. Stedman.
- CRS Report RS20311, *Comprehensive School Reform Program: Background and Issues*, by Wayne Riddle.
- CRS Report RL30491, *Education for the Disadvantaged: ESEA Title I Allocation Formula Provisions*, by Wayne Riddle.
- CRS Report RL30492, *Education for the Disadvantaged: Allocation Formula Issues in ESEA Title I Reauthorization Legislation*, by Wayne Riddle.
- CRS Issue Brief IB10029, *Education for the Disadvantaged: ESEA Title I Reauthorization Issues*, by Wayne Riddle.
- CRS Issue Brief IB98013, *Elementary and Secondary Education Block Grant Proposals in the 106th Congress*, by Wayne Riddle and Paul Irwin.

- CRS Report RS20156, *Elementary and Secondary School Teachers: Action by the 106th Congress*, by James Stedman.
- CRS Report RL30128, *Elementary and Secondary School Teachers: Selected Federal Programs and Issues*, by James Stedman.
- CRS Report RL30372, *ESEA Title I “Portable Grant” Proposals: Background and Issues*, by Wayne Riddle.
- CRS Report 98-824, *Even Start: Background and Issues*, by Gail McCallion.
- CRS Report 98-676, *Federal Elementary and Secondary Education Programs: Ed-Flex and Other Forms of Flexibility*, by Wayne Riddle.
- CRS Report RS20042, *The Federal Emergency Immigrant Education Program*, by Patricia Osorio-O’Dea.
- CRS Report 98-945, *The Federal Migrant Education Program: An Overview*, by Patricia Osorio-O’Dea.
- CRS Report 95-344, *Federal Support of School Choice: Background and Options*, by Wayne Riddle and James Stedman.
- CRS Report RL30568, *Goals 2000: Implementation, Impact, and Action by the 106th Congress*, by James Stedman.
- CRS Report RL30134, *High School Dropouts: Current Federal Programs*, by Patricia Osorio-O’Dea.
- CRS Report RL30075, *Impact Aid: Overview and Reauthorization Issues*, by Richard Apling.
- CRS Report 94-872, *Improving America’s Schools Act: An Overview of P.L. 103-382*, by James Stedman, *et al.*
- CRS Report 96-178, *Information Technology and Elementary and Secondary Education: Current Status and Federal Support*, by James Stedman.
- CRS Report 98-909, *The Javits Gifted and Talented Students Education Program: Background and Funding*, by Susan Boren.
- CRS Report 98-455, *Magnet Schools Assistance Program: Overview and Status*, by Carol Glover.
- CRS Report 98-348, *National Assessment of Educational Progress: Background and Reauthorization Issues*, by Wayne Riddle.
- CRS Report 97-519, *Public Charter Schools: State Developments and Federal Policy Options*, by Wayne Riddle and James Stedman.
- CRS Report 97-972, *Reading Excellence Act: Administration Proposal and Response by the 105th Congress*, by Wayne Riddle.
- CRS Report RS20375, *Rural Education: Legislative Initiatives in the 106th Congress*, by James B. Stedman and Richard N. Apling.
- CRS Report RS20532, *The Safe and Drug-Free Schools and Communities Act: Reauthorization and Appropriations*, by Edith Fairman Cooper.
- CRS Report RL30482, *The Safe and Drug-Free Schools and Communities Program: Background and Context*, by Edith Fairman Cooper.
- CRS Issue Brief IB98035, *School Choice: Current Legislation*, by Wayne Riddle and James Stedman.
- CRS Report RS20171, *School Facilities Infrastructure: Background and Legislative Proposals in the 106th Congress*, by Susan Boren.
- CRS Report RL30402, *State Governance of Elementary and Secondary Education*, by Richard N. Apling.
- CRS Report RS20434, *“Student Results Act” (H.R. 2): Provisions for Limited-English Proficient Students*, by Patricia Osorio-O’Dea.

CRS Report 98-969, *Technology Challenge Programs in the Elementary and Secondary Education Act*, by Patricia Osorio-O'Dea.

CRS Report 96-380, *Title I, Elementary and Secondary Education Act: Funding and Implementation Issues, 1995-1999*, by Wayne Riddle.

CRS Report RL30306, *21st Century Community Learning Centers: An Overview of the Program and Analysis of Reauthorization Issues*, by Gail McCallion.