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Elementary and Secondary Education: Reconsideration of the Federal Role by the 106th Congress

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Elementary and Secondary Education: Reconsideration of the Federal Role by the 106th Congress

SUMMARY

The authorizations for most programs of federal aid to elementary and secondary education, educational research, statistics, and assessment are scheduled to expire during the 106th Congress. These include the Elementary and Secondary Education Act (ESEA); the Goals 2000: Educate America Act (Goals 2000); the Educational Research, Development, Dissemination, and Improvement Act (ERDDIA); and the National Education Statistics Act (NESA).

Legislation which would amend and extend, or repeal, the ESEA and Goals 2000 has been reported by the House Committee on Education and the Workforce and the Senate Committee on Health, Education, Labor, and Pensions. The Senate has begun floor consideration of S. 2, which would amend the ESEA and repeal Goals 2000 while renewing the goals. House floor consideration may occur shortly with respect to H.R. 4141, to amend ESEA programs regarding Education Technology, Safe and Drug-Free Schools and Communities, the Education Block Grant, and 21st Century Community Learning Centers; and H.R. 3222, to amend the Even Start program. The House has passed 4 bills dealing with major portions of the ESEA – H.R. 2, H.R. 1995, H.R. 2300, and H.R. 3616.

The programs authorized by the ESEA, Goals 2000, ERDDIA, and NESA 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 currently authorizing these programs embodies a strategy emphasizing curriculum content standards; assessments tied to these; performance standards with sanctions and rewards based thereupon; expanded technical assistance; increased flexibility; and greater targeting on high poverty schools and LEAs. This strategy has been implemented only partially thus far. Curriculum standards and assessments are being developed, although slowly. Flexibility has been expanded, but 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 overarching questions concerning the primary purposes of federal aid to elementary and secondary education, its intended beneficiaries and outcomes, and its effectiveness. More specific issues being debated include expansion of school choice options, creation of new authority for state or local flexibility or consolidation of programs into block grants, steps to improve teacher quality and quantity, and support for standards-based reform.

MOST RECENT DEVELOPMENTS

On May 15, 2000, the House passed H.R. 3616, a bill to reauthorize the Impact Aid program under Title VIII, Elementary and Secondary Education Act (ESEA).

On several dates between May 1 and May 9, 2000, the Senate debated on S. 2, the Educational Opportunities Act, which was reported on April 12 by the Committee on Health, Education, Labor, and Pensions. It is not clear when floor debate on S. 2 will resume. This bill would amend and extend the ESEA, and repeal the Goals 2000: Educate America Act while renewing the goals, renaming them America's Education Goals.

On April 13, 2000, the House Committee on Education and the Workforce ordered to be reported H.R. 4141, the Education Opportunities to Protect and Invest in Our Nation's Students (Education OPTIONS) Act. This bill would amend and extend ESEA programs regarding Education Technology (Title III), Safe and Drug-Free Schools and Communities (Title IV), and the Education Block Grant (Title VI). It would also allow states and local educational agencies to transfer funds among many ESEA programs.

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, are scheduled to expire during the 106th Congress. This includes the authorizations for virtually all programs under the Elementary and Secondary Education Act (ESEA); the Goals 2000: Educate America Act (Goals 2000); 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). As a result, the Congress is considering whether, and in what form, to extend most federal aid to elementary-secondary education.

This issue brief provides an overview of legislation to reauthorize the ESEA, Goals 2000, ERDDIA, and NESA. Most of this issue brief will focus on the ESEA and Goals 2000, as very little legislative action has been taken with respect to the ERDDIA or NESA. It 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.

Major Reauthorization Proposals

The major reauthorization proposals introduced to date and acted upon are described below. The Administration's ESEA reauthorization proposal is described at the end of this

section. *Bills are listed in chronological order, based on the date of initial Committee action, with the most recent actions listed first.*

H.R. 4141, the Education Opportunities to Protect and Invest in Our Nation's Students (Education OPTIONS) Act.

Safe and Drug-Free Schools and 21st Century Community Schools. H.R. 4141 would combine the 21st Century Community Learning Centers program of before- and after-school services (ESEA Title X, Part I) and the Safe and Drug-Free Schools and Communities Act (ESEA Title IV) into an expanded ESEA Title IV, entitled the new Supporting Drug and Violence Prevention and Education for Students and Communities Act. The measure would emphasize drug and violence prevention but would eliminate funding for hate crime prevention programs. It would not fund a separate Coordinator Initiative in middle schools, but would authorize LEAs to hire and train such coordinators. Also, the measure would authorize testing students for illegal drug use or conducting locker searches for drugs or drug paraphernalia, and the expansion of school-based mental health services. Under national programs, it would allow demonstrations and scientifically based evaluations of innovative approaches to drug and violence prevention based on SEA and LEA needs. It would incorporate the Gun-Free Schools Act into the ESEA; and would allow states to administer and provide services through grants and contracts with charitable, religious, or private organizations. Most of the activities now supported under the 21st Century Community Learning Centers would be authorized uses of funds under the new program, at state and LEA discretion. Finally, H.R. 4141 would provide that ESEA Title IV-supported instruction may not denigrate the religion of pupils or their parents; and would allow parents to remove their children from any ESEA Title IV-supported services other than classroom instruction.

Educational Technology Programs. H.R. 4141 would consolidate several ESEA Title III programs into a State and Local Technology for Success Grants program, with 50% of funds allocated based on Title I, Part A grants and 50% based on population aged 5-17. Within each state, at least 95% of funds would be distributed to LEAs (at least 80% through a state-developed formula targeting high need districts, the remainder through competitive grants). LEAs receiving formula grants must use at least 20% for professional development of teachers in the integration of technology into the curriculum. Other allowable local activities include using technology to increase academic achievement, expanding access, and developing performance measurements. LEAs using funds to purchase computers to access the Internet would be required to have filters to block material deemed harmful to minors. H.R. 4141 would also authorize National Technology Initiatives providing technical assistance, planning, conducting studies, and funding research-based educational technology programs. H.R. 4141 would replace the Telecommunications Demonstration Project for Mathematics (Title III, Part D, "Mathline") with a new Telecommunications Program to improve the teaching of *all* core academic subjects, and would eliminate the Elementary Mathematics and Science Equipment Program (Title III, Part E).

Innovative Education Program Strategies. The authorized uses of funds by LEAs under ESEA Title VI are modified to delete a general reference to school reform activities and to add several new activities, including: professional development and hiring of teachers; single gender schools and classrooms; community service programs; youth entrepreneurship education; consumer, economic, and personal finance education; public school choice

programs; and school-based mental health services. In addition, 100% of all Title VI grants to states in excess of the FY2000 level must be allocated to LEAs.

Transfer Authority. The bill also contains authority for states and LEAs to transfer funds among selected ESEA programs. The programs affected by the authority are the ESEA state-administered formula grant programs, except that funds may only be transferred into, and not away from, ESEA Title I, Part A. States may transfer all of the program funds over which they have authority, except for administrative funds. LEAs may transfer up to 35% of funds they receive without obtaining state permission, and all funds under such programs if their state approves.

Discipline Policies for Pupils with Disabilities. H.R. 4141 was amended in Committee to add provisions requiring LEAs to have in effect a policy under which school personnel may discipline children with disabilities in the same manner as children without disabilities (including expulsion or suspension) if the child possesses a weapon or illegal drugs, or commits an assault at school, on school premises, or at a school function.

Other ESEA Programs. H.R. 4141 would also amend and extend the Fund for the Improvement of Education, or FIE (Title X-A), Public Charter Schools (Title X-C), Civic Education (Title X-F), Ready to Learn Television (Title III-C) and Ellender Fellowships (Title X-G) programs. The Arts Education program (Title X-D) would be amended to emphasize that awards can go to states and LEAs, require coordination and consultation with State and local arts agencies in designing model arts education programs, and eliminate the authority for cultural partnerships for at-risk youth. In addition, the bill would: prohibit the use of FIE funds to develop, test, or administer “any federally sponsored national test...unless specifically and explicitly authorized by law;” would prohibit the use of any funds available to ED to endorse any elementary-secondary school curriculum; and would require parental consent before schools or LEAs can sell marketing information regarding pupils.

S. 2, Educational Opportunities Act.

ESEA Title I. Current Title I provisions regarding *standards, assessments, and corrective action* would be continued and expanded under S. 2. 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.” SEAs and 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. In addition, assessments in reading must be in English for pupils who have attended school in the United States for 3 or more years.

School Choice. LEAs would be required to offer public school choice options to pupils attending Title I schools identified as needing improvement or corrective action, as well as schools where violence has occurred. In addition, up to 10 states, plus up to 20 LEAs, would be authorized to provide Title I aid to pupils in the form of *portable grants*. Title I funds, including additional incentive grants, would be distributed on a per pupil basis. Parents of the pupils would be allowed to choose to procure supplementary educational services at a public school or a tutorial services provider. For details on this concept, see CRS Report RL30372, *ESEA Title I “Portable Grant” Proposals: Background and Issues*.

Allocation Formulas. With respect to the share of Title I, Part A funds to be allocated under each allocation formula, S. 2 provides that an amount equal to the FY2000 appropriation would be allocated under each of the Basic and Concentration Grant formulas, and any increases over the FY2000 appropriation for Part A would be allocated under the Targeted Grant formula. However, S. 2 also provides that 50% of any Part A appropriations in excess of \$8,076,000,000 would be reserved for a separate allocation to the states to be used for program improvement and corrective action with respect to schools or LEAs not meeting state standards of adequate yearly progress. S. 2 also provides that a hold harmless rate of 85-95% of previous year grants would be applied to Concentration Grants to all LEAs. The Education Finance Incentive Grant formula would be retained. As with H.R. 2, the potential impact of these allocation formula changes would be small, and highly dependent on assumptions made about the provisions of future appropriations legislation.

School Selection and Schoolwide Programs. S. 2 would allow LEAs to provide Title I grants to schools which were eligible for, and received grants, in the preceding year, even if they are not eligible in the current year. In addition S. 2 would reduce the eligibility threshold for schoolwide programs from 50% in general to 40%.

Services to Private School Pupils. The Title I, Part A provisions for services to eligible private school pupils would be revised to increase requirements for consultation between public and private school authorities, and to authorize the Secretary of Education to take into consideration the “quality, size, scope, or location” of Title I services provided to private school pupils when deciding whether to institute a “by-pass” to provide these services.

Even Start. S. 2 would: (a) permit Even Start programs to serve children aged 8 or older in collaboration with ESEA Title I, Part A programs; (b) authorize states to use a share of their grants to improve the quality of services provided by local grantees; (c) require the use of instructional methods “based on scientifically based reading research” for children and, if possible, for adults; (d) reserve up to 3% of funds for technical assistance and an independent evaluation; (e) increase the funds reserved for migrants, outlying areas and Indians from 5% to 6%, if appropriations exceed \$250 million; and (f) require each state that wishes to receive an Even Start grant to submit a plan specifying indicators of program quality and the state’s plan for using these indicators to monitor projects.

Other S. 2 Provisions Regarding Title I. The Comprehensive School Reform Program would be authorized as Title I, Part E. Title I provisions for services to prekindergarten age children, including cooperation with Head Start, Even Start, or state preschool programs, would be expanded under S. 2. The Parental Information and Resource Center Program, authorized previously under Title IV of Goals 2000, would be added to Title I as Part D.

Teacher Programs. A revised ESEA Title II would replace the Eisenhower Professional Development program and the Class Size Reduction (CSR) program (*S. 2 antecedent programs*). The broad outlines of this program are similar to the Teacher Empowerment Act in H.R. 1995, though it differs in several substantive ways (see H.R. 1995 description below). The Senate program is a state formula grant with allocation within states by formula to LEAs and by competition to partnerships. States receive the same amount as the FY2000 funds under the *S. 2 antecedent programs*; excess appropriations are distributed by formula. LEAs are not assured continued receipt of any prior level of funding.

LEAs would be required to use unspecified portions of their allocation on professional development for math and science and on professional development in general. Among other activities, funds may be 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*, under which teachers could select their own professional development (failure to meet professional development standards may require districts to provide such payments). Authorized state activities include certification reform; teacher induction; alternative certification; recruitment of highly qualified 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 be required to measure the progress of LEAs and schools with respect to changes in student achievement, the achievement gaps between different groups of students, and improvement of professional development. Each LEA and school receiving funds would have to publicly report progress in the areas cited above; and states would have to hold districts and schools accountable for making progress. States would not be required to have a plan ensuring that all teachers have certain qualifications as of a specific date.

Funded partnerships would support professional development in core subject areas and assist districts and staff. A partnership must include a high need district, an institution preparing teachers, and a higher education school of arts and sciences.

Among other provisions, S. 2 authorizes grants to the NBPTS for FY2001 to complete its system of national certification, support for teacher excellence academies, a new program to improve the skills of school leaders, continuation of the Troops to Teachers program (support for former military personnel entering teaching), and continuation of the Eisenhower Clearinghouse. The bill prohibits use of federal funds for a mandatory teacher test or mandatory certification. It would move the Telecommunications Demonstration Program for Mathematics (ESEA Title III, Part D) to Title II and expand the purposes of the program to include all core curriculum areas. S.2 would also authorize a competitive grant program to develop, produce, and distribute educational and instructional video programming designed for K-12 schools.

Assistance to Address School Dropout Problems. S.2 would establish a national coordination strategy for addressing school dropouts, and authorize a new dropout prevention grant program. Funds would be allocated to states in proportion to ESEA Title I grants; within states, 3-year grants would be made to middle and high schools with high dropout rates and high percentages of pupils from low-income families. The grants would be used for “effective, sustainable, coordinated, and whole school dropout prevention programs,” that are “research-based, sustainable, and widely replicated, strategies for dropout prevention and reentry.” Schools would be eligible to receive a 10% bonus if they create “smaller learning communities.” In addition, a capacity building initiative would support the development and dissemination of model reform strategies for dropout prevention.

Jacob Javits Gifted and Talented Students Education Act. S. 2 would amend ESEA Title X, Part B to provide for a transition to formula grants (based on school-age population) to states (with competitive grants to LEAs) when the appropriation is \$50 million or more.

Safe and Drug-Free Schools and Communities. The Coordinator Initiative in middle schools would become a National Coordinator Program allowing LEAs to hire drug prevention and school safety program coordinators in schools with significant drug and violence problems. Five major factors in S. 2 would differ from current law — (1) accountability through the Principles of Effectiveness would be stressed requiring schools to assess drug and violence problems, set measurable goals, use a researched-based prevention framework for programs, and conduct evaluations; (2) funds for National Programs could not increase unless state grant funding was at least 10% greater than in the previous year; (3) a SDFSC Advisory Committee would be created at the national level to review regulations and standards, and SEAs and Governors (as do LEAs under current law) would be required to consult, when developing SDFSC applications, with advisory councils established at the state and local levels; (4) the Gun-Free Schools Act, ESEA Title XIV-F, would be transferred to the SDFSC requiring states to have laws mandating that LEAs expel from school for 1 year any student who brought a weapon to school; and (5) a tobacco smoke free environment, required in Part C, Title X of Goals 2000, would be transferred to the SDFSC forbidding tobacco use within any indoor facility used for providing education or related services.

Educational Technology Programs. S.2 would amend ESEA Title III to increase emphasis on professional development and parental involvement, and sets as a goal ensuring that every child is computer literate by the end of the 8th grade. S. 2 would require ED to update the national long range plan for technology. The bill would retain the Technology Literacy Challenge Fund and Technology Innovation Challenge Grants, renaming them the Technology Literacy Fund and Technology Innovation Grants, and would require ED to submit an evaluation to Congress on outcomes of these programs. S.2 would eliminate the Product Development and Elementary Mathematics and Science Equipment programs.

Magnet Schools. S. 2 would authorize LEAs to use Magnet Schools Program funds for capacity building, such as professional development, and the provide greater flexibility to serve students in a school who are not in the magnet program in that school. It would continue the authority for the Innovative Program in modified form.

Civic Education. S. 2 would authorize cooperative education exchange programs to support economic and government education programs in Eastern and Central Europe plus Ireland, similar to those currently authorized under Title VI of Goals 2000.

Innovative Education Program Strategies. The authorized uses of funds by LEAs under ESEA Title VI are expanded to include: teaching improvement; parental and community involvement; recruitment and training of certified teachers; same gender schools and classrooms; service learning activities; and school safety programs. School reform and charter schools are no longer included on the list of activities authorized for LEAs.

Rural Education. The Rural Education Initiative under S. 2 would be quite similar to the H.R. 2 initiative, described below. There would be two programs — the first allowing flexible use of formula grant funds and additional funding based on rural districts with enrollments less than 600 students. The second program would focus on rural school districts with poverty rates of at least 20%. A main difference between the S. 2 and H.R. 2 initiatives is the use of different definitions of rural school districts.

Optional Performance Partnership/Grant Consolidation Provisions. S. 2 provides **two different authorities** under which federal education program requirements may be eliminated in return for outcome-based accountability. *First*, the bill includes a “Straight A’s” authority which is essentially the same as that of H.R. 2300, as passed by the House (see below), except that it would be available in up to 15 states (rather than 10). *Second*, S. 2 includes a somewhat less flexible “Educational Performance Partnerships” optional grant consolidation authority, which differs from that under H.R. 2300 (or the first authority in S. 2) in the following major respects: (a) there would be no limit on the number of states which could participate; (b) current ESEA Title I, Part A allocation formulas would continue to be applied in the distribution of these funds to LEAs; (c) the current statutory provisions would generally apply in the allocation of Title I, Part A funds to schools within LEAs; (d) the Safe and Drug-Free Schools program and the Carl D. Perkins Vocational and Applied Technology Education Act would not be subject to consolidation; (e) *all* states would be eligible for bonus awards, for which \$2.5 billion would be authorized, and these awards would go to states where the gap between the average scores of low-income and other students on NAEP tests is reduced to a greater degree than for the nation; (f) all current law provisions for services for pupils and staff of private schools would continue to apply, making it unlikely that funds could be used for private school vouchers; (g) an illustrative list of purposes for which funds may be used is provided, which includes “constructing schools” and “supporting special education;” and (h) participating states would be required to comply with current requirements regarding fiscal accountability and parental involvement.

Bilingual Education Act (BEA). S.2 would consolidate BEA Program Development and Implementation plus Program Enhancement grants into a single Program Enhancement competitive grant program. The Comprehensive School and Systemwide Improvement grants would also be consolidated into a single program, with new requirements that students served be assessed annually to determine their English proficiency, that projects be aligned with state and local reform efforts, and that projects develop or improve accountability systems to monitor the academic progress of English language learners. In addition, S.2 would eliminate the 25% funding cap for special alternative programs under instructional services grants. The bill would give priority to applicants: experiencing dramatic increases in limited English proficient (LEP) students and that have limited or no experience in serving LEP children; serving districts with less than 10,000 students; demonstrating success in assisting LEP students learn English and achieve high standards; proposing programs to provide bilingual proficiency for all project participants; and serving districts with large percentages of LEP enrollment. S. 2 would also increase the minimum funding level for the SEA grant program from \$100,000 to \$200,000.

Impact Aid. The provisions of S. 2 regarding ESEA Title VIII, Impact Aid, are similar to those of H.R. 3616 (see below). In addition, S. 2 would modify the formula for payments under Section 8003 to increase weights given to certain groups of federally connected children.

Native American Programs. S. 2 would reauthorize all existing programs of the Indian Education Act (IEA) except appropriations for federal administration, and authorizes a new demonstration program allowing each entity receiving an IEA formula grant (including BIA-funded schools) to consolidate all its federal Indian education assistance funds into a single coordinated program. The current ESEA Native Hawaiian and Alaska Native programs

would be consolidated into single authorizations that allow funding for all the existing programs plus family literacy services and research and evaluation activities.

General Provisions. S. 2 would include eight *America's Education Goals*, the same as the National Education Goals originally included in the Goals 2000: Educate America Act, which would be repealed, although the renamed goals would not set a date by which they are to be achieved. The bill would also continue the authority for the National Education Goals Panel, renaming it *America's Education Goals Panel*.

Additional Provisions. In addition to those described above, S. 2 would authorize new programs of grants for violence prevention and to increase the availability of Advanced Placement courses in high poverty and/or rural high schools. It would establish mechanism for parents to complain to ED about the content of textbooks purchased with federal aid funds. Several additional current ESEA and related programs would be reauthorized under S. 2 without major amendments; these include the National Writing Project, 21st Century Community Learning Center, Migrant Education, Neglected & Delinquent, Inexpensive Book Distribution, Public Charter Schools, Women's Educational Equity, Fund for the Improvement of Education, Allen H. Ellender Fellowship, Star Schools, Ready to Learn Television, Regional Technical Support for Professional Development, Arts in Education, Tobacco Free Schools, Emergency Immigrant Education, Foreign Language Assistance, and McKinney homeless children and youth programs.

Senate Floor Amendments to S. 2 (thus far). During Senate floor debate on S. 2 between May 1 and 9, four amendments were adopted. Two of these amendments relate specifically to teachers. One adds tenure reform, merit pay for teachers, and teacher testing to allowable uses of funds in the teacher programs authority. The other strengthens the local accountability provisions in the teacher programs authority (ties local funding in the 4th year to achievement of specific objectives), creates a new program for individuals entering teaching through alternative certification routes, and provides liability protection for teachers undertaking reasonable actions to maintain order and discipline. The other two amendments to S. 2 would amend the "Straight A's" performance agreement authority to exclude the Perkins Act from that authority, require participating states to reduce achievement gaps between the highest and lowest scoring pupil population groups by at least 10% and to use funds to serve "disadvantaged schools and school districts," and to minimize the possibility that funds could be used for private school choice programs.

H.R. 3222, the Literacy Involves Families Together Act. H.R. 3222 would authorize \$500 million in funding for Even Start (ESEA Title I-B) for FY2001, and would: (a) require more stringent qualifications for staff paid from Even Start funds; (b) permit Even Start programs to serve children aged 8 or older in collaboration with ESEA Title I, Part A programs; (c) authorize states to use a share of their grants to improve the quality of services provided by local grantees and provide technical assistance on funding sources; (d) require use of instructional methods "based on scientifically based reading research" for children and, if possible, for adults; (e) reserve up to 3% of funds for technical assistance and an independent evaluation; (f) increase the funds reserved for migrants, outlying areas and Indians from 5% to 6%, if appropriations exceed \$200 million; (g) provide for a one-time coordination grant for eligible states; (h) reserve the lesser of \$12 million or 50% of the increase in total Even Start appropriations each year for the National Institute for Literacy to conduct "scientifically based reading research" on adult literacy and helping parents support

the literacy development of their children; (i) reauthorize the Inexpensive Book Distribution program; and (j) specify that religious organizations are eligible for subgrants.

H.R. 3616, the Impact Aid Reauthorization Act of 2000. H.R. 3616 would amend and reauthorize the Impact Aid program (ESEA Title VIII), which compensates LEAs for taxes lost as a result of federal acquisition of land and for the costs of educating “federally connected” children (e.g., children of parents in the military and children living on Indian lands). The bill would revamp Section 8002 (payments in lieu of taxes for certain lands acquired by the federal government after 1938), expedite payments to “heavily impacted” LEAs (with high percentages of “federally connected” children), and authorize facilities modernization grants for certain LEAs that are unable to issue bonds for capital expenditures. H.R. 3616 would modify how Section 8002 payments are made 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.

P.L. 106-113, FY2000 Appropriations for ED. In addition to providing FY2000 appropriations for the programs discussed in this Issue Brief, P.L. 106-113 extends for an additional year funding for the Class Size Reduction program; it repeals (at the end of FY2000) the state grant and parental assistance programs under Titles III and IV of the Goals 2000: Educate America Act; and it requires LEAs to offer to pupils attending public schools determined to be in need of improvement (under ESEA Title I, Part 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).

H.R. 2, Student Results Act.

ESEA Title I. Title I provisions regarding *standards, assessments, and corrective action* would be expanded under H.R. 2. LEAs would be required to offer public school choice options to pupils attending schools in need of improvement or who have been victims of violent crime at school, and the publication of state and LEA “report cards” would be required. H.R. 2 would require pupils who have been enrolled in U.S. schools for 3 years to be assessed in the English language. States would be permitted to reserve up to 30% of future increases in their 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 mathematics.

Use of Title I Funds to Hire Teacher Aides. The requirements regarding use of Title I funds to hire teacher aides would be modified to: (1) place a “freeze” on the number of aides which LEAs could hire with Title I funds; (2) require aides to have completed at least 2 years of higher education, or to “have met a rigorous standard of quality that demonstrates, through a formal assessment, knowledge of, and the ability to assist in instructing, reading, writing, and math;” and (3) specify the instructional and other services which aides hired with Title I funds may provide. H.R. 2 would also require states to develop plans under which all public school teachers must be “fully qualified” by December 31, 2003.

Allocation Formulas. H.R. 2 provides 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. A hold harmless of 85% of previous year grants would

be applied to Concentration Grants for all LEAs. The expenditure factor used in all formulas would be increased for Puerto Rico to 85% of the minimum expenditure factor for the states. H.R. 2 would delete provisions for the Education Finance Incentive Grant formula.

School Selection. In the selection of Title I schools, H.R. 2 would authorize LEAs to place priority on elementary schools, even among schools in the highest poverty category. The enrollment size threshold for the current exemption from Title I requirements regarding school selection would be increased from the current 1,000 pupils to 1,500 pupils. The poverty threshold for establishing schoolwide programs would be lowered from 50% to 40%.

Services to Private School Pupils. Increased consultation would be required between public and private school authorities over issues including the selection of third party contractors. H.R. 2 would clarify rules for determining the share of LEA funds to be used to serve private school pupils, and authorize private schools to request from the Secretary of Education a “by-pass” of the LEA if pupils in the private school who are served by Title I fail to make “satisfactory progress.”

Other H.R. 2 Provisions Regarding Title I. H.R. 2 would authorize the Comprehensive School Reform Program as Part E of Title I. H.R. 2 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). The bill would place a limit (4%) on the share of Title I grants which LEAs could use to pay administrative costs, and would provide that any increases in Title I funds for state administration over the FY1999 level must be provided through specific appropriations.

Bilingual and Immigrant Education. H.R. 2 would modify the ESEA Title VII, Part A Bilingual Education Act, renaming it as the “English Language Proficiency and Academic Achievement Act.” The bill would consolidate bilingual education instructional services grants and provide for a transition to allocation of aid via formula grants to states (with discretionary grants within states), rather than the current discretionary grants by ED, when annual appropriations reach \$220 million. After this transition, previous recipients of discretionary grants would be guaranteed 1 year of funding from the state. Under the formula grant program, states would be required to discontinue funding to LEAs where the majority of students are not attaining English language fluency and reaching state standards after 3 years. LEP students who have attended U.S. schools for 3 consecutive years must be tested in English for reading or language arts, unless a LEA provides a waiver (of up to 1 year) to have the student tested in another language. The requirement that only 25% of funding may be used for special alternative instruction (non-bilingual) programs would be eliminated. The bill would require that LEAs obtain parental consent prior to placement of a limited English proficient child in an English language instruction program. Bilingual education professional development grants would be consolidated into a single program; and the authorization for the Emergency Immigrant Education Program would be increased. The bill would eliminate the Title VII, Part B, the Foreign Language Assistance Program; and it would create a new Office of Educational Services for Limited English Proficient Children.

Magnet Schools Assistance Program/Public School Choice. H.R. 2 would amend the Magnet Schools Assistance program to repeal of the Innovative Programs authority; require instruction in funded courses to be provided by “fully qualified” teachers; provide that only “fully qualified” teachers may be employed in aided schools; and expand allowable uses of

funds to include capacity building activities, such as professional development. H.R. 2 would also authorize a Public School Choice Act of 1999, a competitive grant program for SEAs and LEAs to support innovative approaches to public school choice.

Women's Educational Equity. While the Committee-reported version of H.R. 2 would not have reauthorized the Women's Educational Equity Act (WEEA — ESEA Title V, Part B), a provision to do so was added in House floor consideration of the bill.

Rural Education Assistance. The Rural Education Initiative Act of 1999 would benefit two groups of rural LEAs: those 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 districts include a flexibility authority that permits them to consolidate and use the funds they receive under various formula grant programs, such as the Eisenhower Professional Development program, Class Size Reduction program, and Innovative Education Program Strategies program, for activities they identify that support local or state education reform efforts to improve academic achievement or instruction. In addition, these districts receive funding based on their enrollment for these same uses. The latter group of rural districts, which cannot include districts eligible to be in the first group, receives funds for several specified uses, such as educational technology, professional development, and academic enrichment. Funds for these districts are allocated among states by formula based on the enrollment in all eligible districts. Substate allocations may be either competitive or by formula based on enrollment in the state's eligible districts.

Homeless Children and Youth. H.R. 2 would amend McKinney Homeless Children and Youth program to prohibit segregation of pupils solely on the basis of their homeless status (with an exception for separate schools for the homeless initiated earlier); require schools to immediately enroll homeless pupils in most cases; and require LEAs seeking funds to conduct an assessment of the educational and related needs of homeless pupils.

Native American Education Programs. The ESEA includes in Title IX various programs for Native Americans (American Indians, Alaska Natives, and Native Hawaiians), including supplemental elementary and secondary, pre-school, and post-secondary programs. The House Committee's bill reauthorizes the largest Title IX program (formula grants to LEAs), deletes several Indian programs that have not been funded since FY1996, deletes Native Hawaiian programs in Title IX, and consolidates the Alaska Native programs into a single authorization. The bill also reauthorizes two major acts covering Bureau of Indian Affairs (BIA) education programs, while providing for increased tribal control, more choice among BIA-funded schools, and more information on education funding needs.

Gifted and Talented. H.R. 2 would amend the Jacob K. Javits Gifted and Talented Students Education Act of 1994 (ESEA Title X, Part B) to authorize a state formula grant program for teacher preparation and other services for the gifted to be initiated when the annual appropriation first equals or exceeds \$50 million.

Migrant Education. H.R. 2 amends the funding formula for migrant education. For each year, states must receive at least what they received (or would have received) in FY2000, but any additional funding must be distributed by formula. The formula for Puerto Rico would be changed to increase the expenditure factor. In addition, H.R. 2 calls on the Secretary of Education to: help states develop an effective method of transferring migrant

student records and determining the number of migrant children in each state; develop minimum data elements that are to be maintained and transferred when migrant students move; and encourage states to use electronic student records transfer systems.

H.R. 2300, Academic Achievement for All Act (Straight A's Act). On October 21, 1999, the House passed H.R. 2300, the Academic Achievement for All Act (Straight A's Act). This proposal, sometimes referred to as "Super Ed-Flex," combines elements of traditional block grants and the Ed-Flex program, under which SEAs may waive many requirements under several federal education programs. Under H.R. 2300, *up to 10 states or individual LEAs in non-participating states (if the state does not object)* may choose to administer one or more specified federal education programs under a *performance agreement*, whereby program requirements would no longer apply, except those related to civil rights, participation of private school pupils and teachers, and certain fiscal accountability and ESEA Title I, Part A requirements regarding curriculum content and pupil performance standards plus assessments linked to these standards. *Funds could be used for any educational purpose authorized under state law.*

Performance agreements under H.R. 2300 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 allocation formulas, but funds could be allocated within states as determined by the state, except that if ESEA Title I, Part A is included, LEAs may not experience a reduction in grants under that program. Requirements regarding allocation of funds to schools within LEAs, such as the ESEA Title I requirements to target funds on each LEA's highest poverty schools, would no longer apply. States would be allowed to use up to 3% of total grants for administrative purposes (1% of the total if ESEA Title I, Part A is included). States and LEAs substantially meeting their performance goals would be eligible for extension of their performance agreement; states failing to meet at least 50% of their goals would be subject to a 50% reduction in their federal administrative funds. States which succeed in reducing by 25% or more the gaps between their highest and lowest scoring population groups in the percentage of pupils at the "proficient" level over the 5-year span of the performance agreement would be eligible for bonus funds.

H.R. 1995, Teacher Empowerment Act. H.R. 1995 would amend ESEA Title II as a replacement for three programs — Eisenhower Professional Development, Goals 2000 state grants, and the CSR program (*H.R. 1995 antecedent programs*). Each state would receive the same amount as its FY1999 antecedent program funding, with any excess distributed by formula. A portion of substate funds would be allocated to LEAs by formula and a portion would be distributed competitively to LEAs and partnerships. LEAs' formula allocations could not be less than their FY1999 Eisenhower and CSR funding.

LEAs would have to use unspecified portions of these funds for professional development in general and for reducing class size. A specific portion would have to support math and science professional development. Funds may also be used for teacher recruitment, retention and improvement. Funds may also support *teacher opportunity payments* (failure to meet professional development standards may require such payments).

Funded partnerships would support professional development in core subjects and assist districts and staff. A partnership must include an institution that prepares teachers, a high

need district, and a higher education school of arts and sciences. State activities would include support for certification reform, induction improvement, alternative certification, recruitment, tenure reform, procedures for the expeditious removal of incompetent teachers, and assistance with professional development. States would be required to disseminate widely 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 have a plan to ensure that, by December 31, 2003, all teachers are fully qualified.

The Secretary of Education would 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.

Clinton Administration's ESEA Reauthorization Proposal. The proposed "Educational Excellence for All Children Act of 1999" (EEACA, H.R. 1960 and S. 1180) would require participating states and LEAs to "end social promotion"; take corrective action regarding low-performing schools; require at least 95% of public school teachers to be fully certified; publish school, LEA, and state report cards; and adopt certain discipline policies.

For ESEA Title I, the EEACA would support continued implementation of the 1994 amendments regarding standards, assessments, and program improvement. In addition, it would: (a) provide that at least 20% of Part A funds must be allocated under the Targeted Grant formula; (b) require newly-hired Title I teachers to be fully certified within 3 years, prohibit teacher aides with less than 2 years of postsecondary education from providing instruction, require a minimum share of Title I grants to be reserved for professional development, and expand comparability requirements to consider staff qualifications and school conditions; (c) increase the authorized reservation of funds for program improvement to 3.5%; (d) encourage increased use of comprehensive school reform and extended learning time strategies; (e) require reading assessments to be in English for pupils who have been in the United States for 3 years; and (f) extend the Reading Excellence Act in Title I.

A new ESEA Title II, Teaching to High Standards, would support professional development services for teachers, with a continued priority on mathematics and science. Assistance could also be used for recruiting teachers and improving the induction process for new teachers, plus development of curriculum content and performance standards and alignment of those standards with professional development and assessments. A modified system of technical assistance would be authorized. The EEACA would authorize the continuation and expansion of the Class Size Reduction program.

The Administration's proposal would revise the Safe and Drug-Free Schools program to encourage use of techniques which have been found to be effective and to better target aid on high-need areas in the states; and authorization of a new School Emergency Response to Violence (SERV) program of rapid assistance to schools affected by violence.

The EEACA would increase support for the Public Charter School and Magnet School programs, and authorize a new program of aid to expand public school choice options. The bill would consolidate several ESEA educational technology programs into a discretionary

Next Generation Grants program, and establish new Preparing Tomorrow's Teachers to Use Technology and Community Technology Centers grant programs. A new BEA program of Academic Excellence Awards would be authorized to reward LEAs which effectively help LEP students learn English and achieve academically; in addition, BEA grant recipients would be required to submit data on student performance as a condition of continued funding. The Emergency Immigrant Education Act would be revised to remove the 20% limit on the share of funds which states may distribute on a competitive basis.

The EEACA would reaffirm the 8 National Education Goals, renaming them "America's Education Goals," and extend the authorization for the Goals Panel. It would authorize expansion of the 21st Century Community Learning Center program; limit payments under the Impact Aid program to children of parents in the military who live on the base and children residing on Indian lands; authorize increased support for foreign language instruction; simplify the method of counting eligible children and youth under the Migrant Education Program; authorize a new program supporting model high school reform strategies; and would consolidate a number of programs for Native Hawaiians and Alaska Natives into two authorizations, one for each group.

LEGISLATION

P.L. 106-113, H.R. 3194 (Istook, *et al.*)

Consolidated Appropriations Act for FY2000. Signed into law November 29, 1999.

P.L. 106-25, H.R. 800 (Castle, *et al.*)

Education Flexibility Partnership Act of 1999. Signed into law April 29, 1999.

H.R. 2 (Goodling, *et al.*)

Student Results Act. Passed by House October 21, 1999.

H.R. 1995 (McKeon, *et al.*)

Teacher Empowerment Act. Passed by House July 20, 1999.

H.R. 2300 (Goodling, *et al.*)

Academic Achievement for All Act (Straight A's Act). Passed by House Oct. 21, 1999.

H.R. 3616 (Hayes, *et al.*)

Impact Aid Reauthorization Act of 2000. Passed by House on May 15, 2000.

H.R. 3222 (Goodling)

Literacy Involves Families Together Act. Reported by Committee on Education and the Workforce February 29, 2000.

H.R. 4141 (Goodling, *et al.*)

Education Opportunities to Protect and Invest in Our Nation's Students (Education OPTIONS) Act. Reported by Committee on Education and the Workforce on May 4, 2000.

S. 2 (Jeffords, *et al.*)

Educational Opportunities Act. Reported by Committee on Health, Education, Labor, and Pensions April 12, 2000.

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- CRS Report RS20143, *Arts in Education: Background and Reauthorization Issues*, by Susan Boren.
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