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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

On January 8, 2002, the No Child Left Behind Act of 2001, a bill to extend and revise the Elementary and Secondary Education Act, was signed into law as P.L. 107-110. This legislation extensively amends and reauthorizes many of the programs of federal aid to elementary and secondary education. Other legislation authorizing federal support for educational research, statistics, and assessment expired at the end of FY2000 (most continued to be funded). These include the Educational Research, Development, Dissemination, and Improvement Act; and the National Education Statistics Act.

The programs supported by these pieces of legislation can 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*.

Major features of P.L. 107-110 include: (a) states will be required to implement standards-based assessments for pupils in each of grades 3-8 in reading and mathematics by the 2005-2006 school year, and at three grade levels in science by the 2007-2008 school year; (b) grants for assessment development are authorized; (c) all states will be required to participate in National Assessment of Educational Progress tests in 4th and 8th grade reading and mathematics to be administered every 2 years; (d) states must develop adequate yearly progress (AYP) standards, incorporat-

ing a goal of all pupils reaching a proficient or advanced level of achievement within 12 years, and apply them to each public school, LEA, and the state overall; (e) a sequence of consequences, including provision of public school choice and tutorial services options, would apply to schools and LEAs that fail to meet AYP for 2 or more consecutive years; (f) Title I allocation formulas are modified to increase targeting on high poverty states and LEAs and to move Puerto Rico gradually toward parity with the states; (g) within 4 years, LEAs must ensure that all paraprofessionals paid with Title I funds have completed at least 2 years of higher education or met a “rigorous standard of quality”; (h) several new programs aimed at improving reading instruction are authorized; (i) teacher programs are consolidated into a state grant program authorizing a wide range of activities to improve teaching, such as teacher recruitment, professional development, and hiring; (j) states participating in Title I will be required to ensure that all of their teachers meet the bill’s definition of “highly qualified” by the end of the 2005-2006 school year; (k) states and LEAs are authorized to transfer or consolidate funds under selected programs; (l) federal support of public school choice is expanded in several respects; (m) several current programs are consolidated into a state grant program supporting integration of technology into elementary and secondary education; (n) the Bilingual and Emergency Immigrant Education Acts are consolidated into a single formula grant and existing limits on the share of grants for specific instructional approaches are eliminated; and (o) the 21st Century Community Learning Center program is converted into a formula grant with increased focus on after school activities.



MOST RECENT DEVELOPMENTS

On January 8, 2002, the No Child Left Behind Act of 2001, a bill to extend and revise the Elementary and Secondary Education Act, was signed into law as P.L. 107-110. The major elements of this conference agreement are described in the “Action by the 107th Congress” section, below.

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 included 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).

While the 106th Congress extensively considered several bills that 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, were established solely through appropriations legislation. By approving H.R. 1 (P.L. 107-110), the 107th Congress has extensively amended and extended the ESEA, authorizing most federal aid to K-12 education.

This issue brief provides an overview of legislation to reauthorize the ESEA, ERDDIA, and NESA. It focuses primarily on the ESEA since that legislation is much larger in scale and because the House and Senate focused on reauthorization of that legislation during the first session of the 107th 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.

Overview of Current Programs

Programs authorized by the ESEA, ERDDIA, and NESA may be divided into four categories: (1) aid for the education of *disadvantaged* children; (2) grants for *systemwide support* services or curricula in priority subject areas; (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*; and (4) programs that support the development and dissemination of specific educational *innovations, research, technical assistance, and assessments*.

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. 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. P.L. 107-110 continues the emphasis in the ESEA on these major themes from the 1994 legislation.

Action by the 107th Congress

The No Child Left Behind Act of 2001, a bill to extend and revise the ESEA, has been enacted as P.L. 107-110. Significant provisions of this Act are delineated below.

Title I

Pupil Assessment. P.L. 107-110 substantially expands current Title I assessment provisions. All participating states will be required to implement standards-based assessments for pupils in each of grades 3-8 in reading and mathematics by the 2005-2006 school year. States will also have to develop and implement assessments at three grade levels in science by the 2007-2008 school year.

Annual grants for assessment development will be authorized, and the states can delay administration (but not development) of the expanded assessments 1 year for each year that minimum amounts are not appropriated for this purpose (the minimum is \$370 million for FY2002).

All states will be required to participate in National Assessment of Educational Progress (NAEP) tests in 4th and 8th grade reading and mathematics to be administered every 2 years, with costs to be paid by the federal government. The bill will require pupils who have been in U.S. schools for at least 3 years to be tested (for reading) in English, and require states to annually assess the English language proficiency of their limited English proficient (LEP) pupils.

P.L. 107-110 requires assessments to be of "adequate technical quality for each purpose required under [this] Act," and authorizes grants for the development of enhanced assessments. The Department is to contract with an independent organization for a study of the assessments and accountability policies used by states to meet Title I requirements.

By the 2002-2003 school year, assessment results and certain other data for individual public schools, LEAs, and states overall must be reported to parents and the public through

“report cards.” These report cards are to include information on pupil performance disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged.

Adequate Yearly Progress Requirements. Current requirements for state-developed standards of adequate yearly progress (AYP) are substantially expanded in scope and specificity. Such standards will now have to be applied specifically to economically disadvantaged pupils, LEP pupils, pupils with disabilities, pupils in major racial and ethnic groups, as well as all pupils, in each public school, LEA, and states overall. They will have to incorporate a goal of all pupils reaching a proficient or advanced level of achievement within 12 years.

A “uniform bar” approach will be employed: states are to set a threshold percentage (of pupils at proficient or advanced levels) each year that is applicable to all pupil subgroups. The “uniform bar” must generally be increased once every 3 years, although in the initial period it must be increased after 2 years. The minimum level for the “uniform bar” in the initial period is to be based on the greater of the percentage for the lowest-achieving pupil group in the base period *or* the threshold percentage for the lowest-performing quintile of schools statewide in the base year. Averaging of scores over 2-3 years is allowed. Under a “safe harbor” provision, a school that does not meet the standard AYP requirements may still be deemed to meet AYP if it experiences a 10% reduction in the gap between 100% and base year for pupil groups that fail to meet the “uniform bar.”

Corrective Actions. Schools that fail to meet AYP for 2 consecutive years must be identified as needing improvement; technical assistance is to be provided and public school choice must be offered to their pupils by the next school year (unless prohibited by state law). LEAs are generally required only to offer public school choice options within the same LEA; however, if all public schools in the LEA to which a child might transfer have been identified as needing improvement, then LEAs “shall, to the extent practicable,” establish cooperative agreements with other LEAs to offer expanded public school choice options.

If a school fails to meet the state AYP standard for 3 consecutive years, pupils from low-income families must be offered the opportunity to receive instruction from a supplemental services provider of their choice. States are to identify and provide lists of approved providers of such supplemental instructional services, which might include public or private schools or commercial firms, and monitor the quality of the services they provide. The amount spent per child for supplemental services is to be the lesser of the actual cost of the services or the LEA’s Title I Part A grant per poor and other children counted in the national allocation formula (approximately \$1,000 on average for FY2002). Transportation must be provided to pupils utilizing public school choice options. LEAs are to use up to 20% of their Title I funds for such transportation and supplemental services costs, although the grant to any particular school identified for corrective action or restructuring may not be reduced by more than 15%; LEAs are also authorized to use funds under the Innovative Education Program Strategies program (ESEA Title V, Part A) to pay additional supplemental services costs. States are also authorized to use funds they reserve for program improvement or administration under Title I Part A, or funds available to them under Title V Part A, to pay additional supplemental services costs. If insufficient funds are available to pay the costs of supplemental services for all eligible pupils whose families wish to exercise this option, LEAs may limit services to the lowest-achieving eligible pupils. The requirement to provide

supplemental services may be waived if none of the approved providers offer such services in or near a LEA.

One or more of a specified series of “corrective actions” must be taken with respect to schools that fail to meet AYP for 4 consecutive years. These “corrective actions” include replacing relevant school staff, implementing a new curriculum, decreasing management authority at the school level, appointing an outside expert to advise the school, extending the school day or year, or changing the internal organizational structure of the school.

Schools that fail to meet AYP standards for 5 consecutive years must be “restructured.” Such restructuring must consist of one or more of the following “alternative governance” actions: reopening as a charter school, replacing all or most school staff, state takeover of school operations (if permitted under state law), or other “major restructuring” of school governance.

Procedures analogous to those for schools are to apply to LEAs that fail to meet AYP requirements. In particular, in instances where LEAs fail to meet AYP for four consecutive years, SEAs will be required to take corrective action, which can include offering students attending a school in the LEA the choice to transfer to a higher performing public school in another LEA, with transportation costs provided by the sending LEA. Both an increased state reservation (rising from 0.5% currently to 4% by FY2004) and a separate authorization of funds (\$500 million for FY2002) are provided for school improvement grants.

ED will also establish a peer review process to evaluate whether states overall have met their statewide AYP goals. States that fail to meet their goals are to be listed in an annual report to Congress, and technical assistance is to be provided to states which fail to meet their goals for 2 consecutive years. Provisions for more extensive performance bonuses and sanctions for states, which were contained in the House- and Senate-passed versions of H.R. 1, are not included in the conference version.

Allocation Formula Provisions. In the allocation of Title I Part A funds, P.L. 107-110 provides that an amount equal to the FY2001 appropriation would be allocated under the Basic and Concentration Grant formulas, and any increases would be allocated under an updated version of the Targeted Grant formula, or under a substantially modified version of the Education Finance Incentive Grant (EFIG) formula. A hold harmless rate of 85-95% of previous year grants (the higher a LEA’s child poverty rate, the higher is the hold harmless percentage), now applicable to Basic and Targeted Grants, will now apply to each of the four Part A allocation formulas. The Concentration Grant hold harmless provision will apply to all LEAs, not just those that currently meet the eligibility criteria for this formula, except that if a LEA fails to meet such criteria for 4 successive years, then the hold harmless would no longer apply.

The relative share of funds allocated to Puerto Rico will increase over time as a result of two P.L. 107-110 amendments. First, the minimum expenditure factor for Puerto Rico will be increased in stages to full parity with the minimum applicable to states (it is now approximately 75% of the minimum for states). Second, a cap on Targeted Grants to Puerto Rico is marginally raised.

State minimum grants are increased from up to 0.25% under current law to up to 0.35%, but only with respect to funds above the FY2001 level. P.L. 107-110 provides for the use of population data on school-age children in poor families that is updated annually, rather than every second year currently, although the Census Bureau does not now publish such data.

Finally, major changes are made to the EFIG formula. In the allocation of funds to states, the population factor is changed from total school-age children to the same count of poor and other children used to calculate Basic Grants. Second, a variant of the state expenditure factor used in the other three Part A formulas would be added to the EFIG formula. Third, the EFIG formula will now have a distinct intrastate allocation formula, which is based on the Targeted Grant formula except that the degree of targeting will vary based on a measure of disparities in spending per pupil among each state's LEAs (the greater the disparities, the greater will be the degree of required targeting).

Staff Qualifications. P.L. 107-110 requires LEAs participating in ESEA Title I, Part A to ensure that, beginning next school year, teachers hired with Title I Part A funds are "highly qualified." In addition, participating states must establish plans providing that all public school teachers statewide in core academic subjects meet the bill's definition of "highly qualified" by the end of the 2005-2006 school year. LEAs are to use between 5% and 10% of their Title I-A grants in FY2002-FY2003, and at least 5% of their grants thereafter, for professional development activities.

In addition, each LEA that receives Title I Part A funding must ensure that all paraprofessionals *newly hired* with Title I funds after the date of enactment of P.L. 107-110 *either* must have completed at least 2 years of higher education, *or* must *both* have met a "rigorous standard of quality" and be able to show through a state or local academic assessment that they have knowledge of reading, writing, and math (or reading readiness, writing readiness, and math readiness) and the ability to help with instruction in these subjects. Each LEA must also ensure that, within 4 years of the date of enactment, all *existing* paraprofessionals paid with Title I funds have met those same requirements. Exceptions are provided for paraprofessionals engaged in translation or parental involvement activities. The types of responsibilities to which paraprofessionals paid with Title I Part A funds may be assigned are outlined; these include tutoring of eligible pupils, assistance with classroom management, parental involvement activities, translation, assistance in computer laboratories or library/media centers, or instruction under the direct supervision of a teacher.

Other Provisions Regarding Title I. P.L. 107-110 reduces the Title I schoolwide program eligibility threshold to 40%. The Act establishes new or expanded requirements for reporting to parents and the public on state, LEA, and school performance and teacher quality in schools. It expands the existing authority to use Title I funds for public school choice programs. It explicitly authorizes the Comprehensive School Reform program within Title I, as Part F, and a new School Dropout Prevention program as Part H.

The appropriations authorization level for Title I Part A is \$13.5 billion for FY2002, increasing to \$25 billion for FY2007. Finally, P.L. 107-110 authorizes most LEAs to transfer up to 50% of their grants among a number of different ESEA programs; under this authority, LEAs could transfer funds *into*, but *not out of*, Title I Part A.

Even Start. The William F. Goodling Even Start Family Literacy Program was reauthorized in the 106th Congress, in The Departments of Labor, Health and Human Services, Education and Related Agencies Appropriations Act for FY2001. In P.L. 107-110, the Even Start program is moved to Subpart 3 of Title I, Part B of the ESEA. P.L. 107-110 authorizes the Even Start program at \$260 million for FY2002, and such sums as may be necessary for the succeeding 5 fiscal years.

Flexibility

Title VI Part A, Subpart 1 of P.L. 107-110 allows most *LEAs* to transfer up to 50% of their grants among four programs — Teachers, Technology, Safe and Drug Free Schools, and the Innovative Programs Block Grant — or into (but not from) ESEA Title I, Part A. *LEAs* which have been identified as failing to meet state AYP requirements will be able to transfer only 30% of their grants under these programs, and only to activities intended to address the failure to meet AYP standards. *States* will be allowed to transfer up to 50% of their state activity funds among the first four of these programs plus the 21st Century Community Learning Centers program. Funds that are transferred must be used in accordance with all of the requirements of the program to which they are transferred.

Under a State and Local Flexibility Demonstration Act (Title VI Part A, Subpart 3), up to seven states, selected on a competitive basis, will be authorized to consolidate all of their state administration and state activity funds under the Title I Part A, Reading First, Even Start, Teachers, Technology, Safe and Drug Free Schools, 21st Century Community Learning Centers, and Innovative Programs Block Grant programs. The consolidated funds can be used for any purpose authorized under any ESEA program. This authority will be granted for a period of 5 years; states will lose the authority if they fail to meet state AYP requirements for 2 consecutive years.

In addition, up to 80 *LEAs* (no more than three per state, at least initially) will be allowed to consolidate all of their funds under the Teachers, Technology, Safe and Drug Free Schools, and the Innovative Programs Block Grant programs, and to use these funds for any purpose authorized under any ESEA program. This authority will be granted for a period of 5 years; *LEAs* will lose the authority if they fail to meet state AYP requirements for 2 consecutive years.

Finally, the current federal effort to increase funding and flexibility for small rural school districts will be continued and expanded to authorize funding for poor rural school districts (see “Rural Education” section, below).

Performance Bonuses and Sanctions

P.L. 107-110 has, as described above, numerous provisions for performance sanctions and bonuses that *LEAs* and states would apply to schools and *LEAs*, particularly under Titles I, II, and III. However, while the House- and Senate-passed versions of H.R. 1 also had several provisions for bonuses and sanctions for states themselves based on aggregate performance measures, most of these were dropped from the conference version of the bill. P.L. 107-110 does provide for the U.S. Secretary of Education to establish a peer review process to determine whether states are meeting their AYP standards, and to report the

results of this review to Congress. ED would provide technical assistance to states that fail to meet their AYP requirements for 2 consecutive years.

Public School Choice

P.L. 107-110 provides for increased opportunities for public school choice in the nation's schools by continuing or amending current grant programs supportive of the *voluntary* provision of school choice (Innovative Programs, the Public Charter Schools Program, and the Magnet Schools Program) and by authorizing discretionary grants under the new Voluntary Public School Choice Programs. P.L. 107-110 also provides for the *mandatory* provision of public school choice in certain instances by requiring the provision of school choice to students attending schools that fail to make AYP in raising the proportion of students proficient on state academic assessments, and to students attending persistently dangerous schools or who become a violent crime victim while at school.

Voluntary School Choice Programs. As means of achieving education reform through school choice, states may use *Innovative Programs* funding for the planning, design, and implementation of charter schools. LEAs may use Innovative Programs funding to support school choice by using it for magnet schools; for the planning, design, and implementation of charter schools; for school improvement activities; to promote, implement, or expand public school choice; and for supplemental educational services. Grant funding received under the *Public Charter Schools Program* may be used for the planning, design, and implementation of charter schools; and additional funding is authorized specifically for charter school facilities. Grant funding received under the *Magnet Schools Program* may be used in support of school choice by offering students the opportunity to attend a public school with a special curriculum designed to attract substantial numbers of students from differing racial backgrounds. Funding awarded under the new *Voluntary Public School Choice Programs* may be used to provide transportation services in support of public school choice, for tuition transfer payments, for school enhancement in schools receiving transfer students, and for public education campaigns about public school choice.

Mandatory School Choice Provisions. For mandatory school choice provisions involved ESEA Title I, see "Corrective Actions" subsection under "Title I" section, above. In addition, as a general provision, each state receiving ESEA funding will be required to allow pupils who attend chronically unsafe schools and those who are victimized on the grounds of an elementary or secondary school to transfer to a safe public school. During floor debate, both the House and Senate considered and rejected the authorization of private school tuition vouchers.

Reading Initiatives

P.L. 107-110 authorizes an aggregate of \$975 million for the Reading First and Early Reading First programs and such sums as may be necessary for the subsequent 5 fiscal years. These programs were created to broaden and expand existing reading programs, and to try and reach children at younger ages. The Reading First program (in contrast to its predecessor, the Reading Excellence Act, a one-time-only competitive grant to states) includes both formula grants and targeted assistance grants to states. For the first 2 years, 100% of funds, after national reservations, will be allocated to states as formula grants in proportion to the number of children, aged 5-17, within each state who are from families with

incomes below the poverty line. Beginning in FY2004, 10% of funds in excess of the FY2003 appropriation or \$90 million, whichever is less, is reserved for targeted assistance state grants.

The Early Reading First Program is a competitive grant program intended to provide preschool age children with greater opportunities for exposure to high-quality language and literature-rich environments, to build pre-reading skills, and to support professional training. Local Educational Agencies and community-based organizations serving preschool age children, or combinations or one or more of the above, may apply for these grants.

School Library Program

Improving Literacy Through School Libraries is a new program that would award formula grants to states (in proportion to Title I Part A grants for the preceding fiscal year) and competitive grants to LEAs. This program is intended to provide students with access to up to date and technologically advanced school library media resources, and well-trained, professionally certified school library media specialists. This program is authorized at \$250 million for FY2002, and such sums as may be necessary for the succeeding 5 fiscal years.

Teachers

Highly Qualified Requirement. As noted above in the description of Title I provisions, the legislation requires that each SEA receiving Title I Part A funds must have a plan to ensure that all public teachers teaching core academic subject with the state meet the legislation's definition of *highly qualified* teacher no later than the end of the 2005-2006 school year. (The definition of *highly qualified* is delineated in CRS Report RL30834.)

Teacher and Principal Training and Recruiting Fund. ESEA Title II, Part A replaces the Eisenhower Professional Development program and the Class Size Reduction program with a new state formula grant program authorizing a broad array of teacher-related activities for states and local school districts. The FY2002 authorization of appropriations is for \$3.175 billion with such sums as may be necessary for the 5 following fiscal years. States receive a base guarantee of the amount of funds they received for FY2001 under the Eisenhower and Class Size Reduction programs; any excess appropriation is allocated by formula. At the state level, 95% of the grant is awarded to LEAs by formula (a base guarantee of FY2001 Eisenhower and Class Size Reduction funding with any excess allocated by formula). An additional 2.5% is for local partnerships (not to exceed a total of \$125 million) with the remainder for state activities.

Among the activities for which LEAs can use their grants are assistance to schools in recruiting and retaining highly qualified teachers, principals, and, under some conditions, pupil services personnel; reduction of class size; professional development for teachers and school leaders; training to integrate technology into instruction; tenure reform; merit pay; and teacher testing. Partnerships may use their funds for professional development for teachers, paraprofessionals, and principals. States may use their funds for such activities as certification reform; mentoring and professional development for teachers and principals; assistance for recruitment and retention of teachers, principals, and, under some conditions, pupil services personnel; tenure reform; teacher testing; and training to integrate technology into instruction.

There is an authorization for national activities (such sums as may be necessary for 6 fiscal years) under which funds can be used for activities such as a national teacher recruitment campaign, a national principal recruitment campaign, support for advanced certification, which may include grants to the National Board for Professional Teaching Standards or the National Council on Teacher Quality, professional development for early childhood educators, and a national panel to study teacher mobility.

Mathematics and Science Partnerships. Eligible partnerships that include state educational agencies (SEAs), engineering, math, or science departments of higher education institutions, and high need LEAs receive funds for various activities, among them, professional development to improve math and science teachers' subject knowledge; math and science summer workshops; recruitment of math, science, or engineering majors into teaching; development of math and science curricula; and distance learning programs for math and science teachers. The annual authorization is \$450 million for FY2002 and such sums as may be necessary for the 5 following fiscal years.

Other Selected Teacher Provisions. Among the other teacher-related provisions in P.L. 107-110 are the following: the Troops-to-Teachers program to recruit military retirees to teaching; the Transition to Teaching program to recruit midcareer professionals, paraprofessionals, and recent college graduates to teaching; and the Preparing Tomorrow's Teachers to Use Technology program (transferred to the Higher Education Act) to train prospective teachers in the application of technology to instruction. Also, the bill includes the Paul D. Coverdell Teacher Protection Act of 2001, which provides liability protection to teachers acting to control, discipline, expel, or suspend a student or to maintain order in the classroom or school.

Technology

The Enhancing Education Through Technology Act of 2001 (ESEA Title II, Part D) consolidates several technology programs authorized under prior law, including the Technology Innovation Challenge Grants and the Technology Literacy Challenge Fund. This new authority awards funds by formula to states and, in turn, to LEAs and eligible local entities (half of these funds are to be awarded to LEAs by formula and half competitively). Eligible local entities are high need LEAs or partnerships involving high need LEAs and LEAs successfully integrating technology into teaching. Participating states and LEAs must have new or updated long-range technology plans. At least 25% of an LEA's funding must be used for professional development in the integration of advanced technologies into curricula and instruction. Other authorized activities for LEAs include increasing access to technology, particularly the access of high need schools to technology; using technology to connect schools and teachers with parents and students; preparing teachers to serve as technology leaders in their schools; and acquiring, expanding, implementing, repairing, and maintaining technology. States may use funds for such activities as supporting innovative strategies to deliver courses and curricula through technology including distance learning; supporting public-private initiatives for technology acquisition by high need LEAs and students in those districts; and developing performance measurements to determine effectiveness of educational technology programs. The authorization of appropriations is \$1 billion for FY2002 and such sums as may be necessary for the 5 following fiscal years.

Among the other technology provisions in the legislation are the following: continuation of the Ready-to-Learn Television (authorization of such sums as may be necessary for 6 fiscal years); inclusion of the Star Schools program, Ready to Teach program (formerly Mathline) and the Community Technology Centers in the Fund for the Improvement of Education (no separate authorization of funds for these three programs); and transfer of the Preparing Tomorrow's Teachers to Use Technology to the Higher Education Act.

Education for Limited English Proficient and Recent Immigrant Pupils

P.L. 107-110 consolidates the Bilingual Education Act (BEA), Foreign Language Assistance Program, and Emergency Immigrant Education Program into a single formula grant program when appropriations reach or exceed \$650 million. Grants will be distributed to states based on enrollment of limited English proficient (80%) and immigrant (20%) students and continuation awards would be provided to recipients of BEA instructional services and professional development grants (Title VII Part A, Subparts 1 and 3). No state can receive a grant less than \$500,000 and the grant to Puerto Rico cannot exceed 0.5% of the total available for state allotments. Within-state distribution would be based on the enrollment of limited English proficient students; however, states could reserve up to 15% for grants to LEAs experiencing large influxes of recent immigrant students.

Safe and Drug-Free Schools and Communities

The Safe and Drug-Free Schools and Communities (SDFSC) Act, as amended, is Part A of Title IV. Funds are authorized to states at \$650 million for FY2002, and such sums as necessary for each succeeding fiscal year through FY2007. State and local grants are funded for programs to prevent student violence in and around schools and the illegal use of alcohol, tobacco, and drugs. Funds are distributed from the federal to the state level by a formula of 50% based on school-age population and 50% based on Title I concentration grants. National programs are authorized through FY2007, with such sums (as necessary) to continue the National Coordinator Program for LEAs to recruit, hire, and train persons to serve as SDFSC program coordinators in schools with notable drug and violence problems. Funding for several new programs is allowed under national programs such as: permitting states to require expelled or suspended students to perform community services during their time away from school; assisting LEAs to improve school security by creating a school security center; establishing a national center for school safety to be jointly supported by ED and the Department of Justice for emergency responses, school hotlines, consultations, and other school safety activities; providing competitive grants, in consultation with the Substance Abuse and Mental Health Services Administration; enabling LEAs to develop and implement programs to reduce alcohol abuse in secondary schools; and awarding grants to eligible entities to assist in creating and supporting mentoring programs for children with greatest need. The Gun Free Schools Act under prior law is incorporated into the SDFSC Act requiring states to have a law to expel for 1 year any student bringing a weapon to school.

21st Century Community Learning Centers

The 21st Century Community Learning Centers program (21st CCLC) would be reauthorized at \$1.25 billion for FY2002, rising in stages to \$2.5 billion by FY2007. The reauthorized program, in contrast to its predecessor, is structured as a formula grant to states.

Grants will be awarded to states in proportion to their share of Title I Part A grants for the preceding fiscal year. Eligible local entities (including LEAs, community-based organizations, and other public or private entities) will be awarded grants competitively. The authorized uses of funds under the program will be limited to after school-hours activities for students and their families, in contrast to the broader array of authorized uses of funds permitted under the original 21st CCLC program.

Rural Education

P.L. 107-110 authorizes the Rural Education Achievement program, which encompasses two separate programs. Under the Small, Rural School Achievement program, eligible school districts are granted flexibility in the use of formula grant funds they receive from ESEA programs for teachers, technology, safe and drug-free schools, and for the innovative programs. Grants are also authorized for these school districts. Eligible districts under this program must have small enrollments (fewer than 600 students) or population sparsity, and must be located in a rural area. The Rural and Low-Income School program authorizes funding to states for award to a different group of school districts (any district eligible for the first program is ineligible for this one). These districts must have school-aged poverty rates of 20% or more and be located in rural areas or small towns. The legislation authorizes an appropriation of \$300 million for FY2002 and such sums as may be necessary for the 5 following fiscal years, divided equally between the two programs.

Native American Education

Major federal programs for Native American education are reauthorized in two places in P.L. 107-110. Title VII of ESEA, entitled “Indian, Native Hawaiian, and Alaska Native Education,” reauthorizes several ED programs for Native American students in public schools, including the Indian Education Act. Title X, Part D, entitled “Native American Education Improvement,” amends two acts establishing specific programs and requirements for the Bureau of Indian Affairs (BIA) school system in the Interior Department. Title VII creates a new demonstration program allowing recipient school districts to integrate Indian Education Act funds with other federal funds they receive for Indian children. It also reauthorizes and consolidates several Indian and Native Hawaiian programs that the House had initially voted to repeal. Title X, Part D creates a new accountability requirement for BIA schools, directing that each school be accredited (or a candidate for accreditation) within 2 years, and setting various corrective actions the Secretary of the Interior may take for schools still unaccredited after that time.

Other Selected Provisions

P.L. 107-110 includes the Boy Scouts of America Equal Access Act, which provides that no public elementary or secondary school, LEA, or SEA with a designated open forum or a limited public forum that receives funds from the U.S. Department of Education can deny access or an opportunity to meet, or can discriminate against any group affiliated with the Boy Scouts of America.

P.L. 107-110 does *not* include the Senate bill’s provision for mandatory funding of the Individuals with Disabilities Education Act at specified levels.

Authorizations and Appropriations

As amended by P.L. 107-110, the ESEA includes 45 authorizations of appropriations. Of these, 16 are authorized for such sums as may be necessary, and the remaining 29 are authorized for a total of \$26.3 billion for FY2002. All ESEA activities are authorized from FY2002 through FY2007; all but four authorizations are for unspecified amounts (“such sums as may be necessary”) for the years FY2003 through FY2007. The four exceptions that have specific amounts authorized for each year are: (1) Title I Part A Grants to LEAs; (2) Title IV Part B 21st Century Community Learning Centers; (3) Title V Part A Innovative Programs; and (4) the Fund for the Improvement of Education (FIE).

With regard to appropriations, the total for ESEA programs was \$18.6 billion in FY2001. The Labor, Health and Human Services, and Education Appropriations Act, 2002 (P.L. 107-116), provides \$21.9 billion in FY2002 appropriations for the ESEA, as amended by P.L. 107-110. The number of appropriations is sometimes counted in terms of line items. For FY2001, there were 57 line items in appropriations for ESEA programs; for FY2002, the number is 45. The counts of authorizations and appropriations do not necessarily correspond to the number of programs; other definitions may bring other results.

For K-12 activities outside of ESEA — such as the Education for Homeless Children and Youth program or certain Indian education activities administered by the Bureau of Indian Affairs (BIA) — P.L. 107-110 includes an additional six authorizations of appropriations. Five of these authorized activities are funded in FY2002, for a total appropriation of \$225.8 million.

LEGISLATION

P.L. 107-110 (H.R. 1, Boehner, *et al.*)

No Child Left Behind Act of 2001. Signed into law on January 8, 2002.

S. 1 (Jeffords, *et al.*)

Better Education for Students and Teachers (BEST) Act. H.R. 1 passed *in lieu* on June 14, 2001.

FOR ADDITIONAL READING

CRS Report RL31240, *21st Century Community Learning Centers: Background and Funding*, by Gail McCallion.

CRS Report RS21094, *Adequate Yearly Progress Under ESEA Title I: Estimates for Three States Based on Specifications in H.R. 1 Conference Agreement*, by David P. Smole and Wayne C. Riddle.

CRS Report RS20979, *Adequate Yearly Progress Under ESEA Title I: Possible Impact of H.R. 1 and Alternative Provisions in Three States*, by Wayne Riddle, Richard Apling, and David Smole.

CRS Report RL31035, *Adequate Yearly Progress Under the ESEA: Provisions, Issues, and Options Regarding House and Senate Versions of H.R. 1*, by Wayne Riddle.

- CRS Report RS20143, *Arts in Education: Background and Reauthorization Issues*, by Susan Boren.
- 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 RL31256, *Education Finance Incentive Grants Under ESEA Title I*, by David P. Smole.
- 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 Report RL30835, *Elementary and Secondary Education: Accountability and Flexibility in Federal Aid Proposals*, by Wayne Clifton Riddle.
- 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 RL30921, *ESEA Reauthorization Proposals: Comparison of Major Features of the House and Senate Versions of H.R. 1*, by Wayne Riddle, et al.
- CRS Report RL30448, *Even Start Family Literacy Programs: Background and Reauthorization Issues*, by Gail McCallion and 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 RL31128, *Funding for Public Charter School Facilities: Current Federal Policy and H.R. 1*, by David P. Smole.
- 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 RL30845, *K-12 Education: Comparison of Selected ESEA Reauthorization Proposals*, by Wayne Riddle.
- CRS Report RL31244, *K-12 Education Funding: Authorizations and Appropriations for FY2002*, by Paul Irwin.
- CRS Report RL30834, *K-12 Teacher Quality: Issues and Legislative Action*, by James B. Stedman.
- CRS Report RL31184, *Public Charter School Accountability*, by David P. Smole.
- CRS Report RL30663, *The Reading Excellence Act: Implementation Status and Issues*, by Gail McCallion.
- CRS Report RL31241, *Reading First and Early Reading First: Background and Funding*, by Gail McCallion.
- 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 98-969, *Technology Challenge Programs in the Elementary and Secondary Education Act*, by Patricia Osorio-O'Dea.
- CRS Report RL30782, *Where the Money Goes in Department of Education K-12 Programs*, by Wayne Riddle and Patricia Osorio-O'Dea.
- CRS Report RL30306, *21st Century Community Learning Centers: An Overview of the Program and Analysis of Reauthorization Issues*, by Gail McCallion.