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EDUCATION PROVISIONS in the AMERICAN RECOVERY & REINVESTMENT ACT OF 2009

"Pot I" (Title VIII of ARRA) Enhancement through existing channels and funding streams:

- Every major federal education funding stream gets a supplemental appropriation!
- Elementary & Secondary Education Act (ESEA) Title I: + \$13 billion new money over approximately 2 years; \$5 billion through targeted grants (Sec. 1125); \$5 billion through incentive grants (Sec. 1125a) and \$3 billion through school improvement grants (Sec. 1003g)
- Individuals with Disabilities Education Act (IDEA): + \$13 billion new money over 2 years bringing federal contribution from about 17% of APPE (average per pupil expenditure) in FY 08 to about 25% in FY 09 and 26% in FY 10: \$11.3 billion for IDEA Part "B" (Section 611) Grants to states; \$400 million Part "B" Grants for preschool; \$500 million Part "C" Grants for infants and toddlers.
- Education Technology State Grants: + \$650 million to states and LEAs through Title I formula and competitive grants. Requires "the Institute for Education Sciences to conduct a rigorous national evaluation of TIF to assess the impact of performance-based teacher and principal compensation systems".
- Education for Homeless Children & Youth (McKinney-Vento Homeless Act): ESEA Title VII; +70 million
- Impact Aid (ESEA Title VII; Sec. 8007 - construction): + \$100 million over 2 years for schools and local educational agencies (LEAs) in close proximity to federal facilities and military bases
- Higher Education Act: Student Financial Assistance (Title IV, Part C (Work Study): + \$200 million; Part A, Subpart 1 (Pell Grants): +\$15.64 billion, bringing maximum Pell levels to \$5350 in SY 09 - SY 10 and to \$5550 in SY 10 - SY 11.



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- **Vocational Rehabilitation Act: State Grants**; + \$540 million;
Independent Living; + \$140 million
- **Statewide Data Systems**: + \$250 million
- **Teacher Incentive Program**: + \$200 million
- **Higher Education Teacher Quality Enhancement**: + \$100 million.
HEA focuses these funds on teacher residency programs
- **School Construction; School Modernization Tax Credit**: Federal government pays interest through tax credits = \$9.9 billion May be used for new construction, repairs, modernization. Funds must be spent within 3 years of issuance of bond. \$22 billion (\$11 billion for each of 2009 and 2010). 60% allocated to States based on share of Title I funding. 40% allocated directly to “large” LEAs. (100 LEAs with largest number of children from families in poverty). Up to additional 25 LEAs selected by Secretary of Education.
- **School Construction; Qualified Zone Academy Bonds (QZABs)**. \$1.4 billion for 2009 (current amount is \$400 million). \$1.4 billion for 2010. Federal cost = \$1 billion

Notes:

1. *Unless otherwise noted, maintenance of effort (MOE) provisions in underlying statutes (Title I and IDEA) continues to apply to supplemental appropriations -- 'new' monies.*
2. *Administrative fees cannot be taken off of 'new' Title I, IDEA & HEA monies; 1% is allowed for Impact Aid management & oversight.*
3. *Funds must be obligated by September 30, 2010 unless otherwise noted.*
4. *Funds availability is unclear. Department of Education announced February 19, 2009: "Our goal is to get half of the money to the states within 40 days and the second half within six months, conditioned upon receipt of a comprehensive reform plan."*



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5. *ESEA MOE: Maintenance of Effort (MOE) requires that a school district's education expenditures for the prior year must be at least 90% of the 2nd previous year amounts.*
6. *Secretary of Education may waive MOE requirement if there is: an exceptional or uncontrollable circumstance, such as a natural disaster, or there's a precipitous decline in resources in that school district.*
7. *Federal funds may not count toward MOE, except for state stabilization funds.*
8. *Supplement not supplant: A State educational agency or local educational agency shall use Federal funds received under [Title I] only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under [Title I], and not to supplant such funds.*
9. *Spending rules: Does Tydings Amendment and other GEPA provisions regarding 5- year spend down of federal education funds apply? Uncertain.*

"Pot II" (Title XIV of ARRA): State Fiscal Stabilization Fund

\$53.6 billion in new funding, consisting of:

- \$14 million for Administration and Oversight
- \$5 billion for State Incentive Grants: A major new discretionary fund administered by the U.S. Secretary of Education. In order to receive a grant, a Governor must submit an application that describes the state's progress in each of the assurances listed for eligibility for the State Fiscal Stabilization Fund. A portion of this fund (\$650 million) is set-aside as the *Secretary's Innovation Fund*. Awards will be made from the fund to LEAs or partnerships between non-profit organizations and



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local education agencies that have made significant gains in closing the achievement gap.

- \$48.586 billion allocated to States:
 - \$39.743 billion (81.8%) for the Education Fund.
 - \$8.842 billion (18.2%) for Other Government Services (Flex Fund).

- The U.S. Department of Education's stated goal "is to get half of the money to the states within 40 days and the second half within six months, conditioned upon receipt of a comprehensive reform plan." But no further details or specific information has been released.

- All funds appropriated under H.R. 1 including the State Fiscal Stabilization Fund, remain available for obligation until September 30, 2010 (Title XVI General Provisions, Section 1603).

- Requirements for state eligibility for any of the \$53.6 billion in the State Fiscal Stabilization Fund: The conference agreement requires that Governors shall submit applications in order to receive Stabilization funds, which shall include certain assurances, provide baseline data regarding each of the areas described in such assurances, and describe how States intend to use their allocations. Such assurances shall include that the State will: in each of fiscal years 2009, 2010, and 2011, maintain State support for elementary, secondary, and public postsecondary education at least at the levels in fiscal year 2006, and address 4 key areas:
 - (1) achieve equity in teacher distribution,
 - (2) establish a longitudinal data system that includes the elements described in the America COMPETES Act,
 - (3) enhance the quality of academic assessments relating to English language learners and students with disabilities, and improve State academic content standards and student academic achievement standards, and



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(4) ensure compliance with corrective actions required for low-performing schools.

Remaining \$48.586 billion:

- 61% allocated to States based on school aged population (ages 5-24)
- 39% allocated to States based on total relative population
- Governor must submit an application to the Secretary of Education within 45 days of enactment (April 1, 2009) to receive an allocation
- The State Legislature may certify the state's intention to use any funds not accepted for use by the Governor (Title XVI General Provisions, Section 1607)
- 81.8% of a State's allocation shall be used for general education fiscal relief
- 18.2% of a State's allocation shall be used for "other government services"

Education Fund \$39.743 billion (81.8%):

- Funds must first be distributed through existing state funding formulas to restore K-12 and postsecondary education budgets in each of the fiscal years 2009, 2010 and 2011 to the level of State support in the greater FY 2008 or FY 2009 and,
- Allow for any existing State formula increases in fiscal years 2010 and 2011 to be implemented, and funding for phasing in State equity and adequacy adjustments, if such increases were enacted by State law prior to October 1, 2008.
- Any remaining funds shall be distributed to local education agencies based on the Title I formula.
- Shortfall: If the Governor determines that the amount of funds available is insufficient to support in each of the fiscal years 2009, 2010 and 2011 public elementary, secondary and postsecondary education at the levels described above. The Governor shall allocate funds in proportion to the relative shortfall in State support for the areas described above.



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Other Government Services (Flexible fund) \$8.842 billion (18.2%):

- The Governor shall use 18.2 percent of State allocations for public safety and other government services, which may include education services. These funds may also be used for elementary, secondary, and

higher education modernization, renovation and repair activities that are consistent with State laws.

State Reports:

- Any State receiving stabilization funds shall submit an annual report to the Secretary describing the uses of funds provided within the State; the distribution of funds received; the number of jobs saved or created; tax increases averted; the State's progress in reducing inequities in the distribution of highly-qualified teachers, developing a longitudinal data system, and implementing valid assessments; actions taken to limit tuition and fee increases at public institutions of higher education; and the extent to which public institutions of higher education maintained, increased, or decreased enrollments of in-State students.

Fiscal Relief:

- The Secretary of Education may waive or modify any requirement of this title relating to maintenance of effort, for States and school districts that have experienced a precipitous decline in financial resources.
- Upon prior approval from the Secretary, a State or local education agency that receives funds under this title, may treat any portion of such funds that is used for elementary, secondary or postsecondary education as non-Federal funds for the purpose of any requirement to maintain fiscal effort under any other program, including part C of IDEA.

Prohibitions:

- No recipient of funds under this title shall use such funds to provide financial assistance to students to attend private elementary or secondary schools.



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- **Funds received under the stabilization fund cannot be used to increase higher education endowments or for the modernization, renovation or repair of building used primarily as religious or athletic facilities.**