



## Office Memorandum

**Date:** September 5, 2019

**To:** Senator Carla Nelson  
Senator Charles Wiger  
Representative Jim Davnie  
Representative Ron Kresha

**Subject:** Elementary and Secondary Education Act

During the 2005 Special Session, language was adopted requiring the Minnesota Department of Education (MDE) to implement the No Child Left Behind Act (NCLB) without interruption (M.S. 127A.095). The statute also required MDE to seek enhanced flexibility through waivers from the federal Department of Education (DOE). If the waivers sought by MDE are not approved by DOE, the Commissioner of Minnesota Management and Budget must certify the amount of federal revenue that would be withheld as a result of the potential state decision to discontinue implementation of the NCLB Act.

The Every Student Succeeds Act (ESSA) was signed into law in 2015, replacing NCLB. Most of the changes took effect in the 2017-18 school year. Both No Child Left Behind and Every Student Succeeds Act are reauthorizations of the Elementary and Secondary Education Act (ESEA) first signed into law in 1965. For clarity in this year's report, we will refer to the federal legislation as the Elementary and Secondary Education Act.

The analysis certifying the amount of federal revenue that would be withheld as a result of the potential state decision to discontinue implementation of the ESEA is complete and the final report is attached. DOE estimates that ESEA funding in Minnesota will be \$472 million in FFY 2018/SFY 2019. From the district perspective, MDE estimates that nonparticipation in ESEA would have a total fiscal impact of \$232.7 million in SFY 2019 for school districts statewide. In addition, MDE would experience a loss of \$7.5 million in SFY 2019 for statewide ESEA costs related to assessment, school-improvement activities, support for new charter schools, and state level activities as allowed under the law.

Minnesota submitted its plan to implement ESSA in September 2017, and it was approved in January 2018. Now that Minnesota has an approved plan to implement the new federal law, and waivers are no longer in effect, I recommend the legislature reassess the requirement of annual reports on this topic.

Sincerely,

A handwritten signature in black ink, appearing to read 'Myron Frans'.

Myron Frans  
Commissioner

cc: Eric Nauman, Senate Lead Fiscal Analyst  
Jenna Hofer, Senate Fiscal Analyst  
Bill Marx, House Chief Fiscal Analyst

Emily Adriaens, House Fiscal Analyst  
Denise Anderson, Department of Education  
Jess Hopeman, Reference Library

# Elementary and Secondary Education Act

Report to the Legislature

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*September 2019*

*As Required by M.S. 127A.095*

## **ESTIMATED COSTS OF PREPARING THIS REPORT**

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This report provides information that Minnesota Management & Budget does not normally collect as part of its business functions. The cost of information reported below is the estimated cost of collecting and organizing the data, determining assumptions, and preparing this report document.

Special funding was not appropriated for the costs of preparing this report.

In accordance with M.S. 3.197, the estimated cost incurred by the Minnesota Management and Budget and the Department of Education in preparing this report is \$2,500.

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## Elementary and Secondary Education Act Overview

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The federal Elementary and Secondary Education Act (ESEA) was signed into law in 1965 and affects every state and public school district in the country. The latest reauthorization of the act, the Every Student Succeeds Act (ESSA), was signed by President Obama on December 10, 2015 and replaced the previous No Child Left Behind (NCLB).

Nearly all of America's school districts receive funding for federal educational and supportive services programs covered by the act. ESEA includes many protections for vulnerable students. It creates tools and opportunities for parents, communities and other advocates to continue to support equity and accountability for all students. Below are some of the main areas of the law:

1. Eliminating disparities and creating opportunities for better student outcomes
2. Academic standards that align with college entrance requirements and prepare students for the working world
3. Annual testing to provide data on how students are performing in school
4. Reporting data to the public on outcomes and opportunities for all students
5. Statewide accountability systems that use multiple indicators to prioritize schools for support based on the performance of all students and specific student groups
6. State strategies to intervene and support low-performing and high-poverty schools
7. Addressing inequitable access to effective, in-field and experienced teachers

## Certification of Federal ESEA Revenue

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In Minnesota, DOE estimates that ESEA funding will be \$472 million in FFY2018/SFY2019, which includes an administrative allowance for statewide ESEA activities. MDE estimates that opting out of ESEA would have a total fiscal impact of \$250 million in SFY2019 for school districts statewide. In addition, MDE would experience a fiscal impact of approximately \$7.5 million in SFY2019 for statewide ESEA costs related to assessment, school-improvement activities, support for new charter schools, and state level activities as allowed for under the law.

The state has the option not to participate in one or more titles of ESEA. If the state opted out of ESEA Title I funds, for example, other competitive grant programs that receive their funding through the Title I formula would also lose funding. Specifically, other competitive grant programs that would be affected by state nonparticipation include 21<sup>st</sup> Century Community Learning Centers, and Student Support and Academic Enrichment Grants because the funding for these programs is based on the Title I formula.

Nonparticipation would not impact any programs that receive a formula allocation of federal funds outside of the ESEA formulas, nor would the state lose eligibility to apply for other discretionary funding. For example, state nonparticipation in ESEA does not disqualify it from receiving funds under the Perkins Vocational and Technical Education program or the Adult Education and Family Literacy Act.

In addition to federal funding, nonparticipation in ESEA may require additional state funding to administer carryforward amounts and for test development and other assessment activities. It is assumed that in the event Minnesota opts out of ESEA, carryforward funds identified by districts for competitive grant funds in FFY2019 will not be lost to either districts or MDE. Districts and MDE would continue to be responsible for the administration of the federal program through the period allowed by the Tydings Amendment.<sup>1</sup> If Minnesota opted out in July 2019, districts could encumber any carryforward available to them until September 2020 and disburse this funding through December 2020. While there may be a small amount of administrative carryforward to accomplish administration through that period, state funding may be required to complete the work associated with administering the carryforward funds if remaining ESEA administrative funds were not adequate. Carryforward amounts vary by districts so it is not possible at this time to determine potential state costs related to the administration of ESEA carryforward after Minnesota has discontinued the program.

Assessment funds under ESEA for test development and other assessment activities may also be lost if the state decides to opt out of ESEA. Since these funds support state testing standards as a part of ESEA, additional state funds may be required depending upon the legislature's direction for continued Minnesota standards development and testing. It is uncertain at this time to what extent funds for test development and other assessment activities would be lost if the state decides to opt out of ESEA; therefore, it is not possible at this time to estimate the potential state costs related to assessment.

Following is a list of programs included in ESEA funding along with a brief statement of purpose.

### **Title I Grants to LEAs (Local Education Agencies) (CFDA84.010)**

The purpose of Title I is to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps. Title I of ESEA is the largest of the federal compensatory education programs. Almost every district in the state qualifies for Title I funds.

Minnesota's share of the national appropriation is based on the number of low-income children counted during the census and federally adjusted annually. MDE, in turn, adjusts these entitlements to provide the required set-asides for administration, school support teams and low-performing schools.

### **Migrant Education (CFDA 84.011)**

The specific purposes of the migrant education program are:

- To assist states in supporting high-quality and comprehensive educational programs and services during the school year and, as applicable, during summer or intersession periods that address the unique educational needs of migratory children.
- To ensure that migratory children who move among the states are not penalized in any manner by disparities among the states in curriculum, graduation requirements, and challenging state academic standards.

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<sup>1</sup> Most formulaic allocations provide for local spending decisions that allow the allocation to be obligated over a twenty-seven month period, and disbursed within a thirty month period (Tydings Amendment).

- To ensure that migratory children receive full and appropriate opportunities to meet the same challenging state academic standards that all children are expected to meet.
- To help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to succeed in school.
- To help migratory children benefit from state and local systemic reforms.

### **Neglected and Delinquent (CFDA 84.013)**

The specific purposes of the neglected and delinquent programs include:

- To improve educational services for children and youth in local, tribal, and state institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging state academic standards that all children in the state are expected to meet.
- To provide such children and youth with the services needed to make a successful transition from institutionalization to further schooling or employment.
- To prevent at-risk youth from dropping out of school, and to provide dropouts, and children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education and the involvement of their families and communities.

### **Grants for State Assessments (CFDA 84.369)**

This program supports:

- The development of the additional state assessments and standards required by Section 1111(b) of the federal ESEA; or
- The administration of the assessments required by Section 1111(b) of ESEA; or
- The implementation of other assessment activities.

### **Small, Rural School Achievement (CFDA84.358)**

This program is designed to assist rural school districts in using federal resources more effectively to improve the quality of instruction and student academic achievement.

### **Rural and Low-Income Schools Grant (CFDA 84.358)**

This is a small grant program for small rural school districts with high poverty rates that do not qualify for the Small Rural School Achievement Program.

### **Supporting Effective Instruction (CFDA 84.367)**

The purpose of Title II programs are to:

- Increase student achievement consistent with the challenging state academic standards;
- Improve the quality and effectiveness of teachers, principals, and other school leaders;
- Increase the number of teachers, principals, and other school leaders who are effective in improving student academic achievement in schools;

- Provide low-income and minority students with greater access to effective teachers, principals and other school leaders.

### **English Language Acquisition and Language Enhancement Grants (CFDA 84.365)**

The purposes of this program are:

- To help ensure that English learners, including immigrant children and youth, attain English proficiency and develop high levels of academic achievement in English;
- To assist all English learners, including immigrant children and youth to achieve at high levels in academic subjects so that all English learners can meet the same challenging state academic standards that all children are expected to meet;
- To assist teachers (including preschool teachers), principals and other school leaders, states, districts and schools in establishing, implementing, and sustaining effective language instruction educational programs designed to assist in teaching English learners, including immigrant children and youth;
- To assist teachers (including preschool teachers), principals and other school leaders, states, districts and schools to develop and enhance their capacity to provide effective instructional programs designed to prepare English learners, including immigrant children and youth to enter all-English instructional settings;
- To promote parental, family, and community participation in language instruction educational programs for the parents, families, and communities of English learners.

### **Impact Aid (CFDA 84.041)**

This program, which is administered directly by the federal government, provides funding based on formula to schools where enrollments or availability of revenue are adversely affected due to reduced tax base due to federal ownership of property, where there are significant numbers of children who reside on federal or Indian lands and/or children whose parents are employed on federal properties, or where there is a sudden change in enrollment due to federal activities. The formula includes basic aid, aid for disabled students, and a capital component for qualifying schools.

### **Indian Education Grants to local Educational Agencies (CFDA 84.060)**

This program, which is administered directly by the federal government, provides funding to address (1) the unique educational and culturally related academic needs of Indian students, so that these students can meet the challenging state performance standards expected of all students, (2) to ensure that Indian students gain knowledge and understanding of Native communities, languages, tribal histories, traditions, and cultures; and (3) to ensure that teachers, principals, other school leaders and other staff who serve Indian students have that ability to provide culturally appropriate and effective instruction.

### **Homeless Children and Youth Education (CFDA 84.196)**

This program provides funding to ensure that all homeless children and youth have equal access to the same free, appropriate public education available to other children, providing assistance to States to; (1) establish or designate an Office of Coordinator for Education of Homeless Children and Youths; (2) develop and carry out a



State plan for the education of homeless children; and (3) make subgrants to local educational agencies (LEAs) to support the education of those children.

### **21<sup>st</sup> Century Community Learning Centers (CFDA 84.287)**

The purpose of this program is to provide opportunities for communities to establish or expand activities in community learning centers that:

- Provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend low-performing schools, to meet the challenging state academic standards;
- Offer students a broad array of additional services, programs and activities that are designed to reinforce and complement the regular academic program of participating students;
- Offer families of students served by community learning centers opportunities for active and meaningful engagement in their child's education.

### **Student Support and Academic Enrichment Grant (CFDA 84.424)**

Student Support and Academic Enrichment Grants are new in the latest reauthorization of ESEA, the Every Student Succeeds Act. The purpose of this program is to improve students' academic achievement by increasing the capacity of states, districts, schools and local communities to:

- Provide all students with access to a well-rounded education;
- Improve school conditions for student learning;
- Improve the use of technology in order to improve the academic achievement and digital literacy of all students.

### *Assumptions*

1. Minnesota's eligibility for federal programs and funding amounts as a result of Minnesota's participation in ESEA are taken from DOE's state tables and include the programs funded through ESEA. The report of Minnesota's total allocation and allocation by program is available at the following website and is provided below: <https://rsa.ed.gov/display.cfm?pageid=348>
2. The version used for this report was posted November 02, 2017.
3. Due to differences in fiscal years between DOE and MDE, federal appropriations identified as 2018 fund programs in state fiscal year 2019. Similarly, federal appropriations identified as 2019 fund programs in state fiscal year 2020. District listings of allocations/awards are provided by state fiscal year.
4. It is assumed that in the event Minnesota opts out of ESEA, carryforward funds will not be lost to either districts or MDE.
5. It is assumed that in the event the state determined to opt out of implementation of ESEA, MDE would continue to be responsible for administration of the federal program through the period allowed by the Tydings Amendment.
6. Assessment funds under ESEA for test development and other assessment activities may be lost if the state decides to opt out of ESEA. Since these funds support state testing standards supporting ESEA, additional state funds may be required depending upon the legislature's direction for continued Minnesota standards development and testing.

7. Due to carryforward provisions, total allocations and awards identified here will not equal amounts carried on the statewide accounting or budget system or provided in the Governor's Budget as both of these presentations are based on estimated expenditures.
8. On district runs, organizations such as nonprofits, institutions of higher education, service cooperatives, cities and counties may be included, if the organization is an eligible recipient of the federal funds.
9. On district runs, a district, charter school, or other organization may be listed twice within a competitive grant program as they may receive multiple grants within a year.
10. Many federal programs under ESEA allow for an administrative allowance or set-asides for statewide activities. Also, funding for new charter schools may not be included in district allocations/awards. Funding for those activities is included in the totals by program, and amounts for assessment, administration and statewide activity set-asides are assumed to be the difference between the total appropriations and district allocations or awards. A calculated estimation of the amount currently available for assessment, administration, statewide activity set-asides, and new charter schools, based on federal appropriation amounts and school district allocations/awards is included.

Table 1. ESEA Federal Funding

| <b>Table I. ESEA Federal Funding</b>                   |                    |                    |                    |
|--|--------------------|--------------------|--------------------|
| Program  | <b>FFY2017</b>     | <b>FFY2018</b>     | <b>FFY2019</b>     |
| Grants to Local Educational Agencies                   | 163,656,420        | 169,611,933        | 171,428,244        |
| School Improvement Programs                            | 0                  | 0                  | 0                  |
| State Agency Program--Migrant                          | 1,841,567          | 2,044,441          | 1,977,410          |
| State Agency Program--Neglected and Delinquent         | 408,935            | 404,071            | 409,658            |
| <b>Subtotal: Education for the Disadvantaged</b>       | <b>165,906,922</b> | <b>172,060,445</b> | <b>173,815,312</b> |
|  |                    |                    |                    |
| Impact Aid Basic Support Payments                      | 21,322,101         | 24,531,466         | 25,271,152         |
| Impact Aid Payments for Children with Disabilities     | 1,055,314          | 1,160,214          | 1,160,214          |
| Impact Aid Construction                                | 0                  | 216,299            | 0                  |
| <b>Subtotal: Impact Aid</b>                            | <b>22,377,415</b>  | <b>25,907,979</b>  | <b>26,431,366</b>  |
|  |                    |                    |                    |
| Supporting Effective Instruction State Grants          | 27,846,559         | 27,325,603         | 26,556,392         |
| Mathematics and Science Partnerships                   | 0                  | 0                  | 0                  |
| 21st Century Community Learning Centers                | 12,778,241         | 12,327,766         | 12,714,968         |
| State Assessments                                      | 6,612,395          | 6,643,350          | 6,643,350          |
| Rural and Low-income Schools Program                   | 348,804            | 157,798            | 157,798            |
| Small, Rural School Achievement Program                | 3,657,447          | 3,527,745          | 3,527,745          |
| Student Support and Academic Enrichment State Grants   | 4,342,608          | 11,272,132         | 12,250,413         |
| Indian Education--Grants to Local Educational Agencies | 4,009,497          | 4,347,851          | 4,347,851          |
| English Language Acquisition                           | 9,433,542          | 9,551,472          | 9,560,075          |

|  |                    |                    |                    |
|--|--------------------|--------------------|--------------------|
| Homeless Children and Youth Education                        | 797,462            | 902,554            | 992,590            |
| <b>Subtotal: Other Programs</b>                              | <b>258,110,892</b> | <b>274,024,695</b> | <b>276,997,860</b> |
|  |                    |                    |                    |
| <b>Total: All of the Above Programs that constitute ESEA</b> | <b>446,395,229</b> | <b>471,993,119</b> | <b>477,244,538</b> |

Amounts identified by district for Title formulaic programs are the amounts allocated or awarded for the year and do not include carryforward from previous years. In addition, amounts identified by districts for competitive grant funds may include carryforward amounts from previous years' allocations. For this reason, actual spending in any given year at both the state and local level may be higher or lower due to these carryforward provisions and local budget decisions, which will cause district level totals not to match federal funding totals.

Table 2. ESEA District Level Totals

| <b>Table 2. ESEA District Level Totals</b>  |                    |                    |                    |
|---|--------------------|--------------------|--------------------|
|   | <b>SFY2018</b>     | <b>SFY2019</b>     | <b>SFY2020</b>     |
| Title Program Grants  | 173,297,318        | 191,528,351        | 221,049,347        |
| ESEA Competitive Grants   | 22,252,141         | 24,461,022         | 17,540,169         |
| Impact Aid (Basic Support/Children with Disabilities)*  | 22,377,415         | 25,907,979         | 26,431,366         |
| Small, Rural School Achievement Program*  | 3,657,447          | 3,527,745          | 3,527,745          |
| Rural and Low Income  | 306,037            | 254,318            | 211,600            |
| Indian Education Grants*  | 4,009,497          | 4,347,851          | 4,347,851          |
| <b>District ESEA Total</b>  | <b>225,899,855</b> | <b>250,027,266</b> | <b>273,108,078</b> |
|   |                    |                    |                    |
|   |                    |                    |                    |
| Statewide allowance for admin, school improve activities, support for new charter schools and state level activities as allowed for under the law | <b>7,123,214</b>   | <b>7,453,027</b>   | <b>8,097,095</b>   |
|   |                    |                    |                    |
|   |                    |                    |                    |
| <i>*District data not available</i>   |                    |                    |                    |

## **APPENDIX A. Minnesota’s Transition to the Every Student Succeeds Act**

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Information about Minnesota’s transition to the Every Student Succeeds Act (ESSA) can be found here:

<http://education.state.mn.us/MDE/dse/essa/>