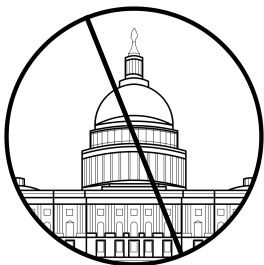


The Senate passed the Every Child Achieves Act of 2015 (ECAA) on July 16, 2016. The ECAA will now go to conference with the House bill, The Student Success Act, which the House passed on July 8.

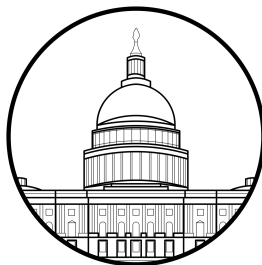
This document dives into the key issues of the ECAA. Each page identifies a key aspect of the law and highlights what the Senate lawmakers have done. For each issue, we provide a trend icon and a brief description of what is going on. For example, the ECAA requires annual testing in much the same way as NCLB requires annual testing. That gets an unmarked Capitol Building (see below). If the lawmakers dumped the requirement altogether, we would give it a scratch-out. If they kept the requirement but made some notable changes or revisions, we would use the refresh icon.

This is a live document that is updated as viewers notice issues or want more clarification. If there are aspects of the law that you would like to learn more about, or if there are implications that you want us to tease out, please do not hesitate to contact david@whiteboardadvisors.com. If you are looking at this on the web and want the PDF, click [here](#).

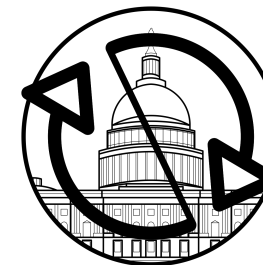
Big changes that
reject the current
federal role



Tweaks here and
there, but it's about
the same



Changes or
something new, but
not a total revolt.

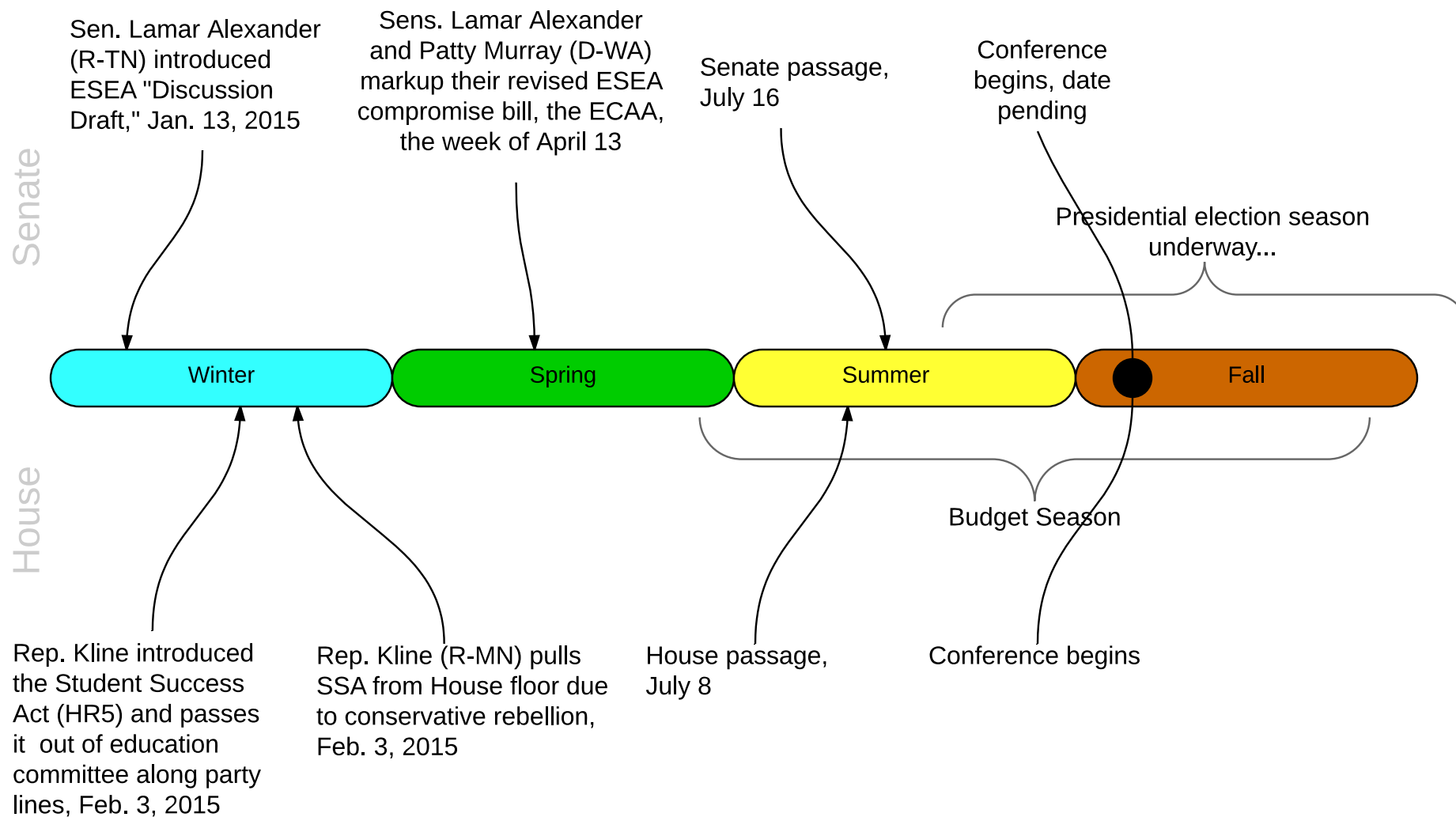


Senate ECAA:

Timing



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Senate ECAA:

Funding

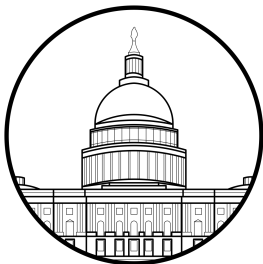


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TOPLINE

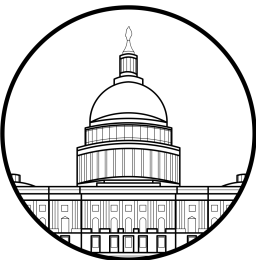
Title I "portability" (funds following the child) is out of the picture (until conference negotiations). There are also more discussions about technical fiscal matters like comparability and supplement not supplant. The big brawl over funding formula changes has been eased with a deal to only apply a new formula for allocations above \$17 billion and only to the funds above that level.

Funding Authorization



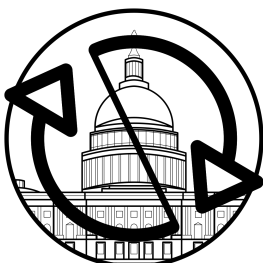
- The Senate bill authorizes sums "as may be necessary" for fiscal years 2016-2021. This backs away from prior versions of the bill that set a relatively flat course for the US Department of Education.

Title I Funding Formula



- The Title I portability amendments failed. The funds will not "follow the child" in the ECAA.
- Sen. Richard Burr (R-NC) was successful in revising the basic Title I funding formula in order to place less weight on population density (sorry NYC). This, however, is only triggered when appropriations reach about \$17 billion and it applies to only those funds above \$17 billion. This issue remains on the horizon. (AASA and Noelle Ellerson have been in the trenches with this issue.)

Fiscal Requirements



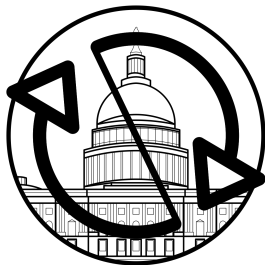
- **Comparability** was hot - then it was not. Sen. Michael Bennet (D-CO) attempted to advance an amendment to revise the comparability loophole, but ultimately withdrew it.
- **Maintenance of effort** is now more sensitive to precipitous drops in state funding.
- **The changes to Title I's "supplement, not supplant" are a big deal.** The rule is now about clarity about the distribution of state and local funds.
- The 40% threshold for schoolwide funding may be waived by the LEA. It's a low bar.
- 100% of Title II may be transferred, up from the previous 50%.

TOPLINE

How significant are the changes to Supplement, No Supplant? **Very.**

Is there now a presumption of compliance? What happens to this presumption when the LEAs can simply waive the 40% poverty threshold requirement for schoolwide?

Fiscal
Requirements



Section 1007. Supplement, Not Supplant.

(1) In General.- [...].

(2) COMPLIANCE.—To demonstrate compliance with paragraph (1), a local educational agency shall demonstrate that the methodology used to allocate State and local funds to each school receiving assistance under this part ensures that such school receives all of the State and local funds it would otherwise receive if it were not receiving assistance under this part.

(3) SPECIAL RULE.—No local educational agency shall be required to
“(A) identify that an individual cost or service supported under this part is supplemental; and

“(B) provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency’s compliance with paragraph (1).

(4) PROHIBITION.—Nothing in this section shall be construed to authorize or permit the Secretary to establish any criterion that specifies, defines, or prescribes the specific methodology a local educational agency uses to allocate State and local funds to each school receiving assistance under this part.

Senate ECAA:

Standards

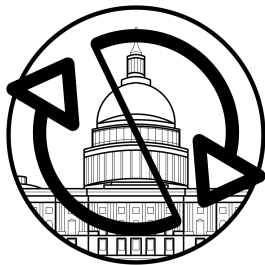


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TOPLINE

While there has been a lot of debate about over testing and intrusive standards, there is actually not a lot of shake up in the requirements for the existence of standards and that testing take place. The Secretary cannot, however, get involved in the decision making process.

Standards



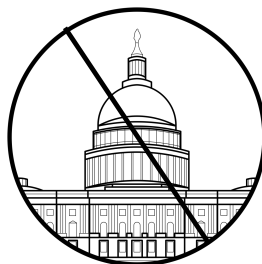
Three levels: State must have adopted challenging academic content standards and aligned academic achievement standards. The achievement standards shall include not less than 3 levels of achievement that will be used to carry out this the state's accountability program.

Alignment: The State shall have such standards in mathematics, reading or language arts, and science, and any other subjects, as determined by the state. The standards must be aligned with higher education entrance requirements (without need for remediation), CTE standards, and early learning standards.

Alternative Standards: The state may adopt alternative academic achievement standards for students with the most significant cognitive disabilities. The state must have adopted English language proficiency standards that are aligned with the state's challenging academic standards.

Keep the Secretary out! The Secretary is prohibited from establishing any criterion that specifies, defines, or prescribes the standards or measures that State or local educational agencies use to establish, implement, or improve standards, assessments, or accountability systems.

Secretary approval of
State plan

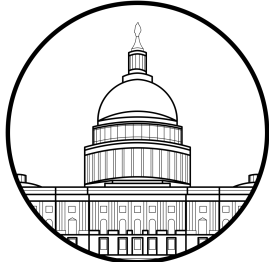
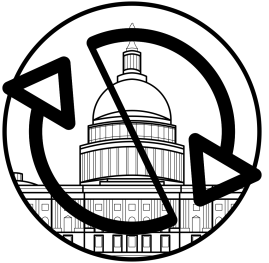


Peer review: The Secretary must establish a peer review process that is made of multi-disciplinary peer review teams. The list of peer reviews who will review State plans must be posted on the USED web site.

Deemed approved: The Secretary will deem a state plan as approved withing 90 days of its submission unless the Secretary presents substantial evidence that clearly demonstrates that such state a plan does not meet the legal requirements. A state plan cannot be disapproved based on factors that would encroach upon state policy-making. Each plan is in place for 7 years. The state can submit revisions or amendments at any time.

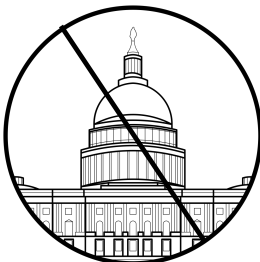
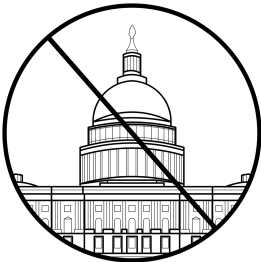
TOPLINE

While there has been a lot of debate about over testing and intrusive standards, there is actually not a lot of shake up in the requirements for the existence of standards and that testing take place. There is a new innovative assessment pilot that deserves a closer look. This is a recognition of the slow drift toward competency-based measures of student learning.

| | |
|-------------------------|--|
| <p>Assessments</p> |  <p>Math, Reading or LA, & Science: The state assessments must include, at a minimum, academic statewide assessments in mathematics, reading or language arts (LA), and science. The assessments must be aligned and provide coherent and timely information about student grade level performance. The assessments must include annual achievement measures, at a minimum, in math and reading and language arts in grades 3 - 8, and at least once in grade 9 - 12.</p> <p>Science: The science assessment must not be less than once in grades 3-5, 6-9, and 10-12. The assessments must involve up-to-date measures of student achievement, including measures that assess higher order thinking skills and understanding.</p> <p>Single or multiple, and multiple measures: The assessments may be administered through a single summative basement of through multiple states wide assessments during the course of the year, if it's proven to be valid and reliable in measuring student achievement or growth. The assessments must involve up to date measures of student achievement, including measures that assess higher order thinking skills and understanding.</p> <p>1% Rule: A state may provide for alternative assessments and alternative academic achievement standards for students with the most significant cognitive disabilities if the state ensures that the total number of students does not exceed 1 percent of the total number of all students in the state who are assessed in such subject.</p> |
| <p>Assessment Pilot</p> |  <p>ECAA includes an "innovate assessment and accountability demonstration authority" that would allow up to 5 states to pilot (1) competency-based assessments, interim assessments, cumulative year-end assessments, or performance-based assessments that combine into an annual summative determination for a student, which may be administered through computer-adaptive assessments; and (2) assessments that validate when students are ready to demonstrate mastery and allow for differentiated student support based on individual learning needs.</p> |

TOPLINE

The ECAA is getting the federal government out of the school improvement and intervention game. The bill just asks the states to ensure that all students graduate from high school prepared for post-secondary education or the workforce without the need for post-secondary remediation. Democrats and civil rights advocates put up a fight, but without success (for now).

| | |
|------------------------------|---|
| <p>School Accountability</p> |  <p>Goals: The State must set annual goals for all students and each of the categories of students in the state for, at a minimum: academic achievement (which may include growth) and high school graduation rates (including the 4 year rate and the extended year adjust cohort rate).</p> <p>Measures: State must annually measures: academic achievement, academic success of elementary schools and secondary schools that are not high schools, graduation rates, English Language proficiency of all ELs, and not less than one other valid and reliable indicator of school quality, success, or students supports that will be applied to all LEAs and schools consistently such as school climate or results from parent and educator surveys.</p> <p>Differentiate: Each State must establish a system of annually identifying and meaningfully differentiating among all public schools in the State based on their accountability measures.</p> <p>The "N" size: The State can determine the "N" size for accountability, but it must clarify how that number was determined through a collaborative process with teachers, principle and other school leaders, parents, and stakeholders.</p> <p>Charters: The accountability provisions under this title shall be overseen for charter schools in accordance with State charter school law.</p> |
| <p>Assurances</p> |  <p>Assurances! The state must provide an assurance that it will perform its duties under the state plan. (This does not comfort those seeking stronger federal oversight).</p> <p>The state also has to clarify how low income and minority children enrolled in schools are not served at disproportionate rate by ineffective, out of field teachers, and inexperience's teachers, principle or other school leaders.</p> |

Senate ECAA:

Interventions



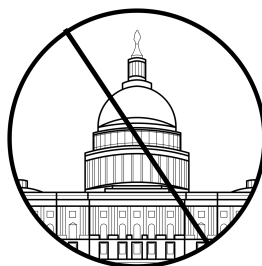
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TOPLINE

The ECAA is getting the federal government out of the school improvement and intervention game. The bill places the burden on districts to create intervention plans, but it does provide SIG-like funding to help support this work.

"Death to SIG! Long live SIG!"

School Interventions



State role: State role is to identify schools in need of intervention and to make sure that they implement an evidence-based strategy, as selected by the LEA, and to monitor the intervention and to take appropriate steps to change interventions that are not working, as necessary.

District Role: LEAs review the causes for their identification status and then develop and implement a appropriate intervention and support strategies that triage their schools and act in a manner that is proportional to the identified needs of the school(s). The comprehensive plan must be available to the public and provided to parents. The parents of the school have to be promptly notified about the school identification.

School Choice: The intervention and support strategy MAY include an intra-district school choice provision.

Parental notification: An LEA agency shall promptly provide to a parent(s) of each student enrolled in a school identified an explanation of the status in an easily and accessible and understandable form, and in a language they can understand.

SIG like funding: The state can apply for grants that they subgrant to LEAs implementing their local interventions and supports. 95% of these funds have to flow to qualifying applicant districts. Supplement, not supplant requirements apply to these funds (as they do to the prior SIG funds).

Senate ECAA:

Teachers

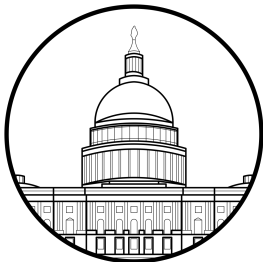


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TOPLINE

HQT is dead. The bill does not require it. The ECAA will also not require teacher evaluations, but the importance of an "effective" teacher & principal remains. Much of the Title II program revolves around the "principles of effectiveness," which the bill describes.

Fund for the
Improvement of
Teaching and
Learning



Funding: The funding is based on 2001 levels of appropriations with ratable reductions, as necessary. Funds above that hold-harmless level go out based on a 20%-80% formula, where the 20% the number of individual's aged 5 through 17 in that state and the 80% is the number of individuals and families with incomes below the poverty line.

State uses: State may use 3% of the funds for its initiatives. These may include certification and licensing improvements, the development of evaluation system(s) based in part on evidence of student achievement, improving equitable access to effective teachers and principals, supporting residency programs, and more.

The residency idea is interesting. The bill defines a "teacher residency program" as one in which a prospective teacher "for not less than 1 academic year, teaches alongside an effective teacher, as determined by a teacher evaluation system [...] (if applicable), who is the teacher of record for the classroom." The bill also defines a "school leader residency program" in a similar manner.

LEA uses: The state distributes funds to LEAs based on a similar 20%-80% formula. LEAs have to conduct a needs assessment. This needs assessment has many parts, but a few stand out. In particular, it should focus on helping the LEA to increase the number of teachers, principals, and other school leaders who are effective in improving student academic achievement. It should ensure that low-income and minority students have access to high- quality instructional programs, *the activities have to "comply" with the principles of effectiveness, as described in the bill (Sec. 2103(c)).*

Once the district secures the funding, it is required to use the funds to develop, implement, and evaluate comprehensive, evidence-based programs and activities to meet the needs identified in its assessment. These programs and activities may be carried out through a grant or contract with a for-profit or nonprofit entity, and/or in partnership with an institution of higher education.

Senate ECAA:

Teachers

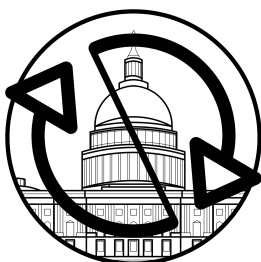


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TOPLINE

The ECAA creates four grants to support teacher and leaders programs and particular initiatives. We see a long-standing interest in STEM and there is a renewed focus on evidence based literacy programming that was lost when NCLB's Reading First fell to "scandal" many years ago.

Teacher Support
Programs



The Teacher and School Leaders Incentive Program. These are 3 year grants to assist States, LEAs, and nonprofit organizations to develop, implement, or expand performance based compensation systems or human capital management systems, with a focus on high needs schools. The program would enshrine the current Teacher Incentive Fund. It would require a 50% match in cash or in-kind.

American History & Civics Education. These are grants for not more than 5 years to improve the quality of American history, civics, and government education by educating students about the history and principles of the Constitution of the United States and the quality of teaching American history, civics, and government. 85% of the funds are for the Teaching of Traditional American History program.

Literacy Education For All, Result for the Nation. This is federal support to states to improve achievement in reading and writing by developing, revising, or updating their comprehensive literacy instruction plans from early education through grade 12. States would provide competitive sub-grants to early childhood education programs and LEAs and their public or private partners. This competitive sub-grant has three segments: Not less than 15% for **birth-kindergarten grants**, not less than 40% for **K-5 grants**, and not less than 40% for grades **6-12 grants**. The competitive priority goes to eligible entities that serve children birth-5 who are from low income families or LEAs serving a high number of high need schools. The awards would be available for not more than 5 years.

Improving Science, Technology, Engineering, and Mathematics Instruction and Student Achievement. This program would be competitive but distributed by formula to the states for the purpose of increasing access for students throughout grade 12 who are members of groups underrepresented in STEM, implementing evidence based programs for students based on high quality standards, and providing professional development and other comprehensive systems of supports (including recruitment) for teachers and school leaders. The program requires a commitment from 1 or more outside partners to match using non-federal funds, in an amount determined by the state.

Senate ECAA:

English Learners

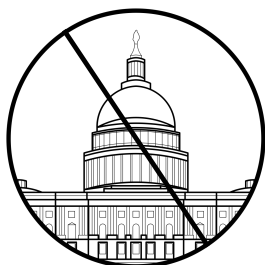


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TOPLINE

Title III is dramatically revised. It no longer will districts be held accountable for making annual measurable achievement objectives (AMAOs). Rather, the states will have to come up with their own measures of progress toward language proficiency. Note that current appropriations for Title III do not provide any boost for this growing student population.

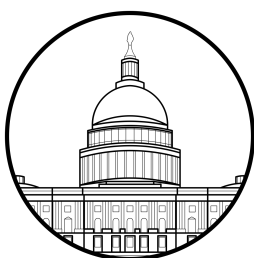
English Learners



Eliminates AMAOs: ECAA eliminates the current Title III AMAO structure. Rather, it would require states to measure progress toward language proficiency, and it clarifies the state responsibility to establish statewide entry and exit procedures.

Funding: It provides funding "as necessary."

EL Supplement not
Supplant



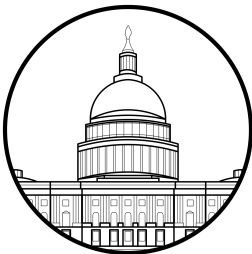
Broad policy goals and narrow funding rules: The bill authorizes subgrants to eligible entities to improve the education of English learners by investing in "new language instruction education programs and academic content instruction programs for EL and immigrant children and youth, including early childhood programs, elementary school programs and secondary school programs; ... and implementing, within the entire jurisdiction of an LEA, agency wide programs for restructuring, reforming, and upgrading all relevant programs."

Yet, as with the prior Title III program, "Federal funds made available under this subpart shall be used so as to supplement the level of Federal, State and local funds, that in the absence of such availability, would have been expended for programs for English learners and immigrant children and youth." This will continue to present challenges for program administrators and Congress is not signaling an increase investment in Title III to make the juice worth the squeeze.

TOPLINE

There has long been talk about creating fiscal flexibility in exchange for more transparency around the distribution of funding, so long as that funding focuses on at-risk students. The ECAA's Title VI, Innovation and Flexibility, Weighted Student Funding Flexibility Pilot Program is a big move in that direction.

Weighted
Funding
Formula Pilot



The ECAA creates a Weighted Student Funding Flexibility Pilot Program.

The purpose of the pilot program under this section is to provide local educational agencies with flexibility to consolidate Federal, State, and local funding in order to create a single school funding system based on weighted per pupil allocations for low-income and otherwise disadvantaged students.

The Secretary may enter into local flexibility demonstration agreements with not more than 25 local educational agencies, reflecting the size and geographic diversity of all such agencies nationwide to the maximum extent feasible.

Senate Tracker • Amendments



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TOPLINE

"In the committee, we adopted 29 amendments. On the floor, 178 amendments were filed, 78 were considered, and 65 amendments were adopted--10 of those through rollcall votes, 28 through voice votes, and 27 by unanimous consent through two managers' packages. Nearly 100 amendments were adopted to the bipartisan draft that Senator Murray and I presented to our education committee earlier this year." - Lamar Alexander (R-TN), July 16, 2015. This summary identifies the key ones.

Fail

(only listed because of
importance)

Title I Portability

Scott amend #2132 (To expand opportunity by allowing Title I funds to follow low-income children). Under a Unanimous Consent agreement, the amendment must reach a 60-year threshold for passage. Yeas and nays ordered. The amendment was **not agreed to** by a vote of 45-51.

Accountability

Murphy amend #2241 (to amend the accountability provisions). Subject to an affirmative 60-vote threshold. Yeas and nays ordered. The amendment was not agreed to by a vote of 43-54.

Pass

Subgroups

Booker amend #2169 (To require a State's report card to include information on the graduation rates of homeless children and children in foster care). Yeas and nays ordered. The amendment was agreed to by a vote of 56-40.

Assessments / Opt Out

Isakson amend #2194 (To require local educational agencies to inform parents of any state or local educational agency policy, procedure, or parental right regarding student participation in any mandated assessments for that school year). Yeas and nays ordered. The amendment was agreed to by a vote of 97-0

Assessments

Bennet amend #2210 (To require states to establish a limit on the aggregate amount of time spent on assignments). Agreed to by voice vote.

Senate Tracker • Amendments



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Advisors

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Key Approved Amendments

| | |
|------------------------|---|
| Privacy | Hatch amend #2080 (Establish a committee on student privacy policy). Agreed to by a vote of 89-0. |
| College & Career Ready | Kaine amend #2118 (Amend the State accountability system under section 1113(b)(3) regarding the measures used to ensure that students are ready to enter postsecondary education or the workforce without the need for postsecondary remediation). Agreed to by voice vote |
| Sex Offenders | Toomey amend #2094 (Protect our children from convicted pedophiles, child molesters, and other sex offenders infiltrating our schools and from schools "passing the trash"— helping pedophiles obtain jobs at other schools), as modified. Yeas and nays ordered. The amendment is agreed to by a vote of 98-0. |
| Core Academic Subject | Kaine amend #2096 (Add career and technical education as a core academic subject). Yeas and nays ordered. Agreed to by Voice Vote. |
| Teachers | McCaskill amend #2092 (Enabling States, as a consortium, to use certain grant funds to voluntarily develop a process that allows teachers who are licensed or certified in a participating State to teach in other participating States). Agreed to by unanimous consent. |
| STEM | Gillibrand amend #2108 (Amend the program under part E of title II to ensure increased access to science, technology, engineering, and mathematics subject fields for underrepresented students). Agreed to by unanimous consent. |

Senate Tracker • Amendments



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TOPLINE

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Key Approved Amendments

| | |
|-------------------|--|
| Fiscal | Warner amend #2086 (Enable the use of certain State and local administrative funds for fiscal support teams). The amendment was agreed to by voice vote. |
| Fiscal | Burr Amend. 2219, Consolidates four different Title I funding formulas into one formula that would preserve number-weighting, but use national per-pupil expenditures; 36 states would gain funding, but New York could lose over \$300 million, and Pennsylvania nearly \$130 million. PENDING. |
| Higher Ed Savings | Coons amend #2243 (to authorize the establishment of American Dream Accounts). Subject to an affirmative 60-vote threshold. Yeas and nays ordered. The amendment was agreed to by a vote of 68-30. |
| Community | Brown amend #2100 (to amend title V of the Elementary and Secondary Education Act of 1965 to establish a full-service community schools grant program). Yeas and nays ordered. The amendment was agreed to by a vote of 53-44. |
| Community | Murphy amend #2186 (to establish the Promise Neighborhoods program). Agreed to by voice vote. |
| Early Learning | Casey amend #2242 (to establish a Federal-State partnership to provide access to high-quality public prekindergarten programs from low-income and moderate-income families to ensure that they enter kindergarten prepared for success, and for other purposes). Subject to an affirmative 60-vote threshold. Yeas and nays ordered. The amendment was not agreed to by a vote of 45-52. |

Senate Tracker • Amendments



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TOPLINE

"In the committee, we adopted 29 amendments. On the floor, 178 amendments were filed, 78 were considered, and 65 amendments were adopted--10 of those through rollcall votes, 28 through voice votes, and 27 by unanimous consent through two managers' packages. Nearly 100 amendments were adopted to the bipartisan draft that Senator Murray and I presented to our education committee earlier this year." - Lamar Alexander (R-TN), July 16, 2015. This summary identifies the key ones.

Key Approved Amendments

| | |
|----------------|---|
| Early Learning | Hatch amend #2082 (to amend the Elementary and Secondary Education Act of 1965 relating to early learning). Agreed to by voice vote |
| Literacy | Warren amend #2106 (to amend title II of the Elementary and Secondary Education Act of 1965 to include specialized instructional support personnel in the literacy development of children). Agreed to by voice vote. |
| Accountability | Capito amend #2156 (to amend the State report card under section 1111 of the Elementary and Secondary Education Act on 1965 to include the rates of enrollment in postsecondary education, and remediation rates, for high schools). Agreed to by voice vote. |
| Accountability | Warren amend #2249 to amend section 1111(c) of the ESEA to require States to provide an assurance regarding cross-tabulation of student data). Agreed to by voice vote. |
| Fiscal | Burr amend #2247 (to amend the allocation of funds under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965) as modified. Yeas and nays ordered. The amendment was agreed to by a vote of 59-39. |

Senate ECAA: Improvement & Innovation



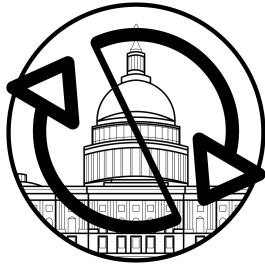
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TOPLINE

The ECAA is getting the federal government out of the school improvement and intervention game. Democrats and civil rights advocates put up a fight, but without success (for now).

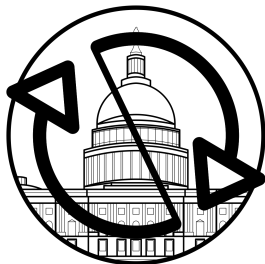
Meanwhile, Congress remains interested in supporting technology innovation in our schools, but how they should regulate the student privacy part of that is being hashed out.

Technology & Innovation



The bill includes the the Innovative Technology Expands Children's Horizons ("I-TECH") amendment, from Senators Orrin Hatch (R-UT) and Tammy Baldwin (D-WI). The amendment establishes competitive grant funding for ed tech initiatives, and details what states and LEAs need to do to secure it.

Data Privacy



Senators Markey (D-MA) and Hatch introduced an amendment that would create a commission to report to Congress on student data privacy issues. It passed.