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DEPARTMENT OF EDUCATION

[Docket ID ED–2009–OESE–0007]

RIN 1810–AB04

State Fiscal Stabilization Fund Program

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.394 (Education Stabilization Fund) and 84.397 (Government Services Fund).

AGENCY: Department of Education.

ACTION: Notice of proposed requirements, definitions, and approval criteria.

SUMMARY: The Secretary of Education (Secretary) proposes requirements, definitions, and approval criteria for the State Fiscal Stabilization Fund (Stabilization) program. The Secretary may use one or more of these requirements, definitions, and approval criteria in awarding funds under this program in fiscal year (FY) 2010. The requirements, definitions, and approval criteria proposed in this notice are based on the assurances regarding education reform that grantees are required to provide in exchange for receiving funds under the Stabilization program. We take this action to specify the data and information that grantees must collect and report with respect to those assurances and to help ensure grantees' ability to collect and report the required data and information.

DATES: We must receive your comments on or before August 28, 2009.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. Please submit your comments only one time in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID and the term ''State Fiscal Stabilization Fund'' at the top of your comments.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''How To Use This Site.''
- *Postal Mail, Commercial Delivery, or Hand Delivery.* If you mail or deliver your comments about these proposed requirements, definitions, and approval criteria, address them to Office of Elementary and Secondary Education (Attention: State Fiscal Stabilization Fund Comments), U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E108, Washington, DC 20202–6200.
- *Privacy Note:* The Department's policy for comments received from members of the public (including those comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at *http://www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the Internet.

FOR FURTHER INFORMATION CONTACT: James Butler. Telephone: (202) 260–2274 or by e-mail: *phase2comments@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final requirements, definitions, and approval criteria, we urge you to identify clearly the specific proposed requirements, definitions, and approval criteria that each comment addresses.

We invite you also to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed requirements, definitions, and approval criteria. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of this program.

During and after the comment period, you may inspect all public comments about this notice by accessing Regulations.gov. You may also inspect the public comments in person in Room 3E108, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC, time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Purpose of Program: The State Fiscal Stabilization Fund program provides approximately $48.6 billion in formula grants to States to help stabilize State and local budgets in order to minimize and avoid reductions in education and other essential services, in exchange for a State's commitment to advance essential education reform in key areas.

Program Authority: American Recovery and Reinvestment Act of 2009, Division A, Title XIV—State Fiscal Stabilization Fund, Public Law 111–5.

Proposed Requirements

Note: The proposed requirements are listed following the background for this section.

Background: Section 14005(d) of Division A of the American Recovery and Reinvestment Act of 2009 (ARRA) requires a State receiving funds under the Stabilization program to provide assurances in four key areas of education reform: (a) Achieving equity in teacher distribution, (b) improving collection and use of data, (c) standards and assessments, and (d) supporting struggling schools. For each area of reform, the ARRA prescribes specific action(s) that the State must assure that it will implement. In addition, section 14005(a) of the ARRA requires a State that receives funds under the Stabilization program to submit an application to the Department containing such information as the Secretary may reasonably require. In this notice, we propose specific data and information requirements (the assurance indicators and descriptors) that a State receiving funds under the Stabilization program must meet with respect to the statutory assurances. We also propose specific requirements for a plan that a State must submit (the State plan), as part of its application for the second phase [1] of funding under the Stabilization program, describing its ability to collect and report the required

[1] The Department is awarding Stabilization program funds in two phases. In the first phase, the Department is awarding 67 percent of a State's Education Stabilization Fund allocation, unless the State can demonstrate that additional funds are required to restore fiscal year 2009 State support for education, in which case the Department will award the State up to 90 percent of that allocation. In addition, the Department will award 100 percent of each State's Government Services Fund allocation in Phase I. The Department will award the remainder of a State's Education Stabilization Fund allocation in the second phase. A table listing the allocations to States under the Stabilization program is available at: *http://www.ed.gov/programs/statestabilization/funding.html.*

data and other information. Together, these two sets of proposed requirements aim to provide transparency on the extent to which a State is implementing the actions for which it has provided assurance. Increased access to and focus on this information will better enable States and other stakeholders to identify strengths and weaknesses in education systems and determine where concentrated reform effort is warranted. We also intend to use the data and information that States collect and report in assessing whether a State is qualified to participate in and receive funds under other reform-oriented programs administered by the Department.

As discussed elsewhere in this notice, a proposed assurance indicator or descriptor may relate to data or other information that States currently collect and report to the Department, or to data or other information for which the Department is itself the source. In those cases, we do not propose any new data or information collection requirements for a State; rather, the Department will provide the State with the relevant data or other information that the State would be required to confirm and make publicly available. (In confirming the data or information, the State would not be required to perform any additional analysis or verification.) In the other cases, the proposed requirement would constitute new data or information collection and reporting responsibilities for the State, to the extent the State does not currently collect and report such data or information for other purposes.

Following is a description of the proposed indicators and descriptors in each education reform area and the proposed State plan requirements. The Department recognizes that requests for data and information should reflect an integrated and coordinated approach among the various programs supported with ARRA funds, particularly the Stabilization, Race to the Top, School Improvement Grants, and Statewide Longitudinal Data Systems programs. Accordingly, the Department will continue to evaluate the proposed requirements for this program in context with those other programs.

Achieving Equity in Teacher Distribution

Regarding education reform area (a) (achieving equity in teacher distribution), section 14005(d)(2) of the ARRA requires a State receiving funds under the Stabilization program to assure that it will take actions to improve teacher effectiveness and comply with section 1111(b)(8)(C) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 6311), in order to address inequities in the distribution of highly qualified teachers between high- and low-poverty schools and to ensure that low-income and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers. In order to provide indicators of the extent to which a State is taking such actions, we propose to require that the State provide data and other information on student access to highly qualified teachers in high- and low-poverty schools, on how teacher and principal performance is evaluated, and on the distribution of performance evaluation ratings or levels among teachers and principals.

With respect to student access to highly qualified teachers in high- and low-poverty schools, States are currently required to collect and report data to the Department, through the ED*Facts* system, on the extent to which core academic courses in such schools are taught by highly qualified teachers. Because such data are currently available, we do not propose to require any new data or information collection by a State in this area; rather, the Department would provide the State with the data it most recently submitted, which the State would be required to confirm and make publicly available.

With respect to evaluation of teacher performance, we propose to require that a State provide descriptive information on the teacher performance evaluation systems used in local educational agencies (LEAs) in the State, including an indication of whether any official systems used to evaluate teacher performance include student achievement outcomes as an evaluation criterion. With respect to teacher performance ratings or levels, we propose to require that a State provide data on the distribution of performance ratings or levels in its LEAs as well as an indication of whether such ratings or levels are available to the public by school for each LEA. When properly developed and implemented, local evaluation systems perform a principal role in measuring teacher effectiveness. We also believe that student achievement outcomes are a central factor in evaluation systems that yield fair and reliable assessments of teacher performance. The data and information on teacher performance ratings or levels, together with the descriptive information on teacher performance evaluation systems, will provide greater transparency on the design and usage of teacher evaluation systems and will serve as an important indicator of the extent to which effective teachers are equitably distributed within LEAs and States.[2] Moreover, this information will help States and other stakeholders correct inequities in the distribution of effective teachers as well as shortcomings in the design and usage of teacher performance evaluation systems.

Regarding evaluation of principal performance, we propose requirements similar to those proposed for evaluation of teacher performance, except that we do not propose to require a State to indicate whether principal performance ratings or levels are available to the public by school in each LEA, as such information may be personally identifiable. Although the ARRA does not explicitly mention principals with respect to the assurance in this reform area, we believe that effective school administration is a key factor in effective teaching and learning. Studies show that school leadership is a major contributing factor to what students learn at school. Studies also show that strong teachers are more likely to teach in schools with strong principals.[3] Information on principal performance will provide another useful snapshot of the steps being taken to ensure that effective school personnel are distributed equitably within LEAs and States.

In order to meet the proposed requirements to describe the teacher and principal performance evaluation systems used in LEAs in the State, a State would not be required itself to develop such descriptions; it would be sufficient for the State to maintain a Web site that contains electronic links to descriptions developed by its LEAs.[4] On such a Web site, the State could also include, by LEA, the data and information the State collects in order to meet the other proposed requirements that relate to evaluation of teacher and principal performance (*i.e.,* the requirements to indicate whether official teacher and principal evaluations systems include student achievement outcomes as an evaluation criterion, to provide the number and percentage of teachers and principals rated at each performance rating or level

[2] We note that descriptions of the teacher performance evaluation systems used in LEAs also provide necessary context for data on teacher performance ratings or levels. When viewed in isolation, data on teacher performance ratings or levels are open to interpretation and may ultimately not be meaningful.

[3] *See* Leithwood, K., Louis, K. S., Anderson, S., and Walhstrom, K., (2004). *How leadership influences student learning.* Minneapolis, MN: University of Minnesota.

[4] If, however, the State requires the use of specific teacher and principal evaluation systems by its LEAs, it could directly provide descriptions of those systems in lieu of individual system descriptions by its LEAs.

in official evaluation systems, and to indicate whether the number and percentage of teachers rated at each performance rating or level in official evaluations systems are publicly available for each school). In such a case, however, the State would be responsible for ensuring, through appropriate guidance or technical assistance, that the descriptions of teacher and principal performance evaluation systems maintained by LEAs contain the required information and are provided in an easily understandable format.

To view a summary of the proposed requirements in this education reform area, please visit: *http://www.ed.gov/programs/statestabilization/applicant.html.*

Improving Collection and Use of Data

Regarding education reform area (b) (improving collection and use of data), section 14005(d)(3) of the ARRA requires a State receiving funds under the Stabilization program to provide an assurance that it will establish a statewide longitudinal data system that includes the elements described in section 6401(e)(2)(D) of the America COMPETES Act (20 U.S.C. 9871). To provide indicators of the extent to which a State is meeting that requirement, we propose that the State provide information on the elements of its statewide longitudinal data system and on whether the State provides teachers with data on student performance that include estimates of individual teacher impact on student achievement in a manner that is timely and informs instruction.

With respect to the elements of statewide longitudinal data systems, we propose to require, consistent with the ARRA, that a State indicate whether its data system contains each of the 12 elements described in section 6401(e)(2)(D) of the America COMPETES Act [5]. For pre-school through postsecondary education, these elements include: (1) A unique statewide student identifier that does not permit a student to be individually identified by users of the system; (2) student-level enrollment, demographic, and program participation information; (3) student-level information about the points at which students exit, transfer in, transfer out, drop out, or complete P–16 education programs; (4) the capacity to communicate with higher education data systems; and (5) an audit system assessing data quality, validity, and reliability. For preschool through grade 12 education, these elements include: (6) yearly State assessment records of individual students; (7) information on students not tested, by grade and subject; (8) a teacher identifier system with the ability to match teachers to students; (9) student-level transcript information, including on courses completed and grades earned; and (10) student-level college readiness test scores. Finally, for postsecondary education, the elements include: (11) information regarding the extent to which students transition successfully from secondary school to postsecondary education, including whether students enroll in remedial coursework; and (12) other information determined necessary to address alignment and adequate preparation for success in postsecondary education. These elements constitute the minimum requirements of a modern statewide longitudinal data system. To measure the progress of students and schools effectively and efficiently, it is imperative that the State's data system contains these elements.

With respect to teachers' receipt of data on student performance that include estimates of individual teacher impact on student achievement, we propose to require a State to indicate whether it provides such data to teachers in grades in which the State administers reading/language arts and mathematics assessments. We believe that teachers' receipt of these data should be a natural product of a statewide longitudinal data system that includes elements (1), (6), and (8) referenced in the preceding paragraph. Moreover, we believe that this is a key example of how reliable, high-quality data from the State's system can drive education reform in general and improvements in the classroom in particular.

To view a summary of the proposed requirements in this education reform area, please visit: *http://www.ed.gov/programs/statestabilization/applicant.html.*

Standards and Assessments

Regarding education reform area (c) (standards and assessments), section 14005(d)(4) of the ARRA requires a State receiving funds under the Stabilization program to assure that it will: (A) Enhance the quality of the academic assessments it administers pursuant to section 1111(b)(3) of the ESEA (20 U.S.C. 6311) through activities such as those described in section 6112(a) of the ESEA (20 U.S.C. 7301a); (B) comply with the requirements of paragraphs (3)(C)(ix) and (6) of section 1111(b) of the ESEA (20 U.S.C. 6311) and section 612(a)(16) of the Individuals with Disabilities Education Act (20 U.S.C. 1412) related to the inclusion of children with disabilities and limited English proficient students in State assessments, the development of valid and reliable assessments for those students, and the provision of accommodations that enable their participation in State assessments; and (C) take steps to improve State academic content standards and student academic achievement standards for secondary schools consistent with section 6401(e)(1)(A)(ii) of the America COMPETES Act (20 U.S.C. 9871). To provide indicators of the extent to which a State is taking these actions, we propose that the State provide data and other information in the following areas:

- Whether students are provided high-quality State assessments.
- Whether the State is engaged in activities to enhance its assessments (with respect to paragraph (A) of the statutory assurance).
- Whether students with disabilities and limited English proficient students are included in State assessment systems (with respect to paragraph (B) of the statutory assurance).
- Whether the State makes available information regarding student academic performance compared to student academic performance in other States.
- The extent to which students graduate from high school in four years with a regular high school diploma and continue on to pursue a college education or technical training (with respect to paragraph (C) of the statutory assurance).

As States prepare to significantly improve the rigor and effectiveness of their standards and assessment systems, we believe this information will, in general, provide stakeholders with vital transparency on the current status of those systems and on the efforts to improve them that are currently underway.

For two of the areas described above, namely, whether students are provided high-quality State assessments and whether students with disabilities and limited English proficient students are included in State assessment systems, States are currently required to collect and report data or other information to the Department. For instance, regarding whether students with disabilities and

[5] The Department is developing guidance to assist States in developing and implementing statewide longitudinal data systems that are consistent with the provisions of the America COMPETES Act and that comply with applicable student privacy requirements, including applicable requirements of the Family Educational Rights and Privacy Act. We expect to issue preliminary guidance in this area in the near future. During the time this guidance is being developed, we expect that States will continue to work toward fully developing and implementing statewide longitudinal data systems.

limited English proficient students are included in State assessment systems, States are currently required to report, through the ED*Facts* system (for the annual ESEA Consolidated State Performance Report), the number and percentage of such students who are included in State reading/language arts and mathematics assessments. Similarly, regarding whether students are provided high-quality State assessments, a State must currently submit information to the Department on its assessment system, which the Department reviews for compliance with the requirements of the ESEA and on the basis of which the Department issues an approval status. We propose to use these and other data and information currently available to the Department [6] as indicators of a State's progress in these two areas; in these cases, the Department would provide the State with the data it most recently submitted, or the most recent determinations of the Department, which the State would be required to confirm and publicly report.

Regarding the extent to which the State is engaged in activities to enhance its assessments, we propose to require, consistent with the statutory assurance, that a State indicate whether it is pursuing any of the activities described in section 6112(a) of the ESEA.[7] These activities include: (1) Working in collaboration or consortia with other States or organizations to improve the quality, validity, and reliability of State academic assessments; (2) measuring student academic achievement using multiple measures of academic achievement from multiple sources; (3) charting student progress over time; and (4) evaluating student academic achievement using comprehensive instruments, such as performance and technology-based assessments. If a State indicates that it is engaged in any such activities, it would be required to briefly describe the nature of that activity.

As a supplement to the data and information currently available to the Department regarding whether students with disabilities and limited English proficient students are included in State assessment systems (as discussed above), we propose to require a State to indicate whether it has completed, within the last two years, an analysis of the appropriateness and effectiveness of the accommodations it provides students with disabilities and limited English proficient students to ensure their meaningful participation in State assessments. This additional information will help provide a comprehensive picture of the effort a State is making to include these students in a valid and reliable assessment system consistent with the statutory assurance. Moreover, we note that States conducting such analyses can use results from those analyses to target resources and identify areas where improvements in the services provided to these students are needed.

Regarding whether the State makes available information on student performance compared to performance of students in other States, Federal regulations require States to include in the annual State report cards required under section 1111(h)(1)(A) of the ESEA (20 U.S.C. 6311), beginning with report cards issued for the 2009–2010 school year, the most recent available student achievement results for the State from the National Assessment of Educational Progress (NAEP) administered by the Department (34 CFR 200.11(c)). Because of this regulatory requirement, we do not propose to require any new data collection by a State in this area; rather, in this case, the State would be required to confirm that its annual State report card contains this information. We believe that, when compared with student achievement results from State assessments (which a State is required by statute also to include in its annual State report card), student achievement results from NAEP provide a perspective on the extent to which a State has developed and is implementing high-quality academic content and student achievement standards.

Regarding the extent to which students graduate from high school and continue on to pursue a college education or technical training, we propose to require that a State provide data on the following topics: The number and percentage of students, by subgroup, who graduate from high school using a four-year adjusted cohort graduation rate as required by 34 CFR 200.19(b)(1)(i); the number of high school graduates (by subgroup) [8] who subsequently enroll in institutions of higher education (IHEs) as defined in section 101(a) of the Higher Education Act of 1965, as amended (HEA); and, of the high school graduates who enroll in public IHEs, the number (by subgroup) who complete at least one year's worth of college credit applicable to a degree. These data will act as key indicators of the extent to which a State has developed and is implementing secondary school academic content and achievement standards that contribute effectively to student preparation for college without the need for remediation.

To view a summary of the proposed requirements in this education reform area, please visit: *http://www.ed.gov/programs/statestabilization/applicant.html.*

Supporting Struggling Schools

Regarding education reform area (d) (supporting struggling schools), section 14005(d)(5) of the ARRA requires a State receiving funds under the Stabilization program to provide an assurance that it will ensure compliance with the requirements of section 1116(b)(7)(C)(iv) and section 1116(b)(8)(B) of the ESEA (20 U.S.C. 6316) with respect to Title I schools identified for corrective action and restructuring. In order to provide indicators of the extent to which a State is implementing the statutory assurance, we propose that the State provide data on the extent to which dramatic reforms to improve student academic achievement are implemented in Title I schools in improvement under section 1116(b)(1)(A) of the ESEA,[9] in corrective action, or in restructuring, and on the extent to which charter schools are operating in the State.

With respect to reforms implemented in Title I schools in improvement, corrective action, or restructuring, we propose to require that a State provide data on the academic progress of such schools as well as on certain kinds of reform actions taken regarding those schools. We believe that these data, a supplement to existing data and information on Title I schools in improvement, corrective action, or restructuring, will serve as useful indicators of the extent to which

[6] See below for the proposed requirements in these areas regarding standards and assessments that use other data and information currently available to the Department; these include Indicators (c)(3), (c)(4), and (c)(8).

[7] These activities are supported by the Grants for Enhanced Assessment Instruments program. See *http://www.ed.gov/programs/eag/index.html* for more information on this program.

[8] States must disaggregate these data by student subgroup consistent with the requirements of section 1111(b)(2)(C)(v)(II) of the ESEA. The student subgroups discussed in that section include: economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency.

[9] Although the statutory assurance concerns only Title I schools in corrective action and restructuring, we propose to require that States include Title I schools in improvement as well when providing data on the extent to which dramatic reforms to improve student academic achievement are being implemented. Making this addition would be consistent with the school reform strategies that States are implementing using funds available under section 1003(g) of the ESEA (School Improvement Grants), which are intended to be applied to schools in improvement as well as to schools in corrective action or restructuring.

effective reforms are being implemented in these schools consistent with the intent of the ESEA and ARRA.

Regarding the operation of charter schools in the State, we propose to require that a State provide data and other information on the number of charter schools that are permitted to operate in the State, the number that are currently operating, the number and identity of charter schools that have closed within the last five years, and the reason(s) (including financial, enrollment, academic, or other reasons) for the closure of any such school.

Under section 1116(b)(8)(B) of the ESEA, LEAs must select and implement an alternative governance arrangement for a school in restructuring, and one allowable alternative is reopening the school as a charter school. Possessing greater autonomy in exchange for greater accountability, charter schools can become engines of innovation and serve as models for school reform. We believe these data will be useful in determining the extent to which opening charter schools is a viable reform option for LEAs with schools in restructuring and other struggling schools, and the extent to which charter schools are held accountable for their performance so that only high-performing options remain available.

With respect to the number of charter schools that are currently operating, States are currently required to collect and report data on this topic to the Department through the ED*Facts* system. Because these data are currently available, we do not propose to require a new data collection by a State; rather, in this case, the Department would provide the State with the data it most recently submitted, which the State would be required to confirm and make publicly available.

To view a summary of the proposed requirements in this education reform area, please visit: *http://www.ed.gov/programs/statestabilization/applicant.html.*

State Plans

In addition to the specific data and information requirements relating to the four ARRA education reform assurances discussed above, we also propose requirements for a plan that a State must submit to the Department. In general, the State plan must describe the State's current ability to collect the data or other information needed for the proposed assurance indicators and descriptors as well as the State's current ability to make the data or information easily available to the public. If the State is currently able to fully collect and report the required data or other information, the State must provide the most recent data or information with its plan. If a State is not currently able to collect or report the data or other information, the plan must describe the State's process and timeline for developing and implementing the means to do so as soon as possible but no later than September 30, 2011, the date by which funds received under the Stabilization program must be obligated. The State plan must describe the State's collection and reporting abilities with respect to each individual indicator or descriptor.

As discussed above, the data or information needed for an assurance indicator or descriptor is in some cases already reported to the Department by the State, or is provided by the Department. In those cases, it is understood that the State is currently able to collect the data or information; the State's plan need only address the State's ability to publicly report the data or information, and the State need not include the data or information with its plan.

The proposed State plan requirements apply generally across the education reform areas discussed above with the exception of education reform area (b) (improving collection and use of data), for which we propose to apply slightly different plan requirements. Specifically, we propose to require that the State describe in the State plan whether the State's data system includes the required elements of a statewide longitudinal data system and, if the data system does not, the State's process and timeline for developing and implementing a system that meets all requirements as soon as possible but no later than September 30, 2011. As this indicator relates to a State's ability to collect and report data, however, these requirements do not in effect differ substantially from the generally applicable State plan requirements (*i.e.,* the requirements that the State describe its abilities to collect and report data or other information for a given indicator or descriptor). Moreover, the development and implementation of such a statewide longitudinal data system is intrinsic to a State's ability to collect and report the data required by certain other indicators (*e.g.,* the indicators on student enrollment and credit completion in institutions of higher education after graduation from high school). Such a statewide longitudinal data system can also produce and manage other data that States may use in developing and improving programs; targeting services; developing better linkages between preschool, elementary and secondary, and postsecondary systems, agencies, and institutions; and holding schools, LEAs, and institutions accountable for their performance. Most importantly, we believe these State plan requirements are supported by the statutory assurance for this education reform area which, as stated above, requires the State to assure that it will develop such a system.

Similarly, regarding teachers' receipt of data on student performance that includes estimates of individual teacher impact on student achievement, we propose to require that the State describe in the State plan whether the State provides teachers with such data and, if the State does not, the State's process and timeline for developing and implementing the means to do so as soon as possible but no later than September 30, 2011. We believe this requirement is likewise supported by the statutory assurance insofar as it provides an illustration of the ways in which data from the State's statewide longitudinal data system can be used to drive education reform. School and LEA leaders can use these data, in particular, in developing and providing professional development opportunities, assigning teachers, and implementing compensation and other human capital policies.

In addition to requirements relating to a State's ability to collect and report data or other information for the respective assurance indicators and descriptors, we propose other general requirements for the State plan relating to the State's institutional infrastructure and capacity, the nature of any technical assistance or other support provided, the plan budget, and the processes the State employs for data and information quality assurance purposes.

Our experience with data collections has shown that the development of a plan by the agency responsible for a collection is highly beneficial to all parties. For the Department and the public, a plan provides transparency on the agency's abilities to collect and report the data and other information, as well as a framework for holding the agency accountable for meeting the respective collection and reporting requirements. For the agency (in this case, the State), the plan presents an opportunity to assess its capacity and resources with respect to the requirements and to develop and implement any processes needed in order to comply with those requirements.

In developing a plan as proposed in this notice, the State is encouraged to consult with key stakeholders such as superintendents, educators, and parents as well as teacher union, business,

community, and civil rights leaders. Such consultation would ensure that these stakeholders are aware of the State's current ability to meet the proposed requirements, can provide input on the means the State will develop to comply with the requirements, and can prepare to assist the State in implementing those means.

Proposed Requirements

The Secretary proposes the following requirements for the Stabilization program. We may apply these requirements in any year in which this program is in effect.

I. *Assurance Indicators and Descriptors:* A State must collect and report data and other information for the following indicators and descriptors regarding the assurances that the State has provided in order to receive funds under the Stabilization program.

(a) *Achieving equity in teacher distribution.* A State must collect and report data and other information on the extent to which students in high- and low-poverty schools in the State have access to highly qualified teachers, on how teacher and principal performance is evaluated, and on the distribution of performance evaluation ratings or levels among teachers and principals. Specifically, a State must—

Indicator (a)(1). Confirm, for the State and for each LEA in the State, the number and percentage (including numerator and denominator) of core academic courses taught, in the highest-poverty and lowest-poverty schools, by teachers who are highly qualified consistent with section 9101(23) of the ESEA;

Descriptor (a)(1). Describe, for each LEA in the State, the systems used to evaluate the performance of teachers;

Indicator (a)(2). Indicate, for each LEA in the State, whether the systems used to evaluate the performance of teachers include student achievement outcomes as an evaluation criterion;

Indicator (a)(3). Provide, for each LEA in the State whose teachers receive performance ratings or levels through an evaluation system, the number and percentage (including numerator and denominator) of teachers rated at each performance rating or level;

Indicator (a)(4). Indicate, for each LEA in the State whose teachers receive performance ratings or levels through an evaluation system, whether the number and percentage (including numerator and denominator) of teachers rated at each performance rating or level are available for each school in the LEA in a manner easily accessible and a format easily understandable by the public;

Descriptor (a)(2). Describe, for each LEA in the State, the systems used to evaluate the performance of principals;

Indicator (a)(5). Indicate, for each LEA in the State, whether the systems used to evaluate the performance of principals include student achievement outcomes as an evaluation criterion; and

Indicator (a)(6). Provide, for each LEA in the State whose principals receive performance ratings or levels through an evaluation system, the number and percentage (including numerator and denominator) of principals rated at each performance rating or level.

(b) *Improving collection and use of data.* A State must collect and report information on the elements of its statewide longitudinal data system and on whether teachers receive data on student performance in a manner that is timely and informs instruction. Specifically, a State must—

Indicator (b)(1). Indicate which of the 12 elements described in section 6401(e)(2)(D) of the America COMPETES Act are included in the State's statewide longitudinal data system; and

Indicator (b)(2). Indicate whether the State provides teachers of reading/language arts and mathematics in grades in which the State administers assessments in those subjects with data on the performance of their students on those assessments that include estimates of individual teacher impact on student achievement, in a manner that is timely and informs instruction.

(c) *Standards and assessments.* A State must collect and report data and other information on whether students are provided high-quality State assessments, on whether the State is engaged in activities to enhance its assessments, on whether students with disabilities and limited English proficient students are included in State assessment systems, on whether the State makes information available regarding student academic performance in the State compared to the academic performance of students in other States, and on the extent to which students graduate from high school in four years with a regular high school diploma and continue on to pursue a college education or technical training. Specifically, a State must—

Indicator (c)(1). Confirm the approval status, as determined by the Department, of the State's assessment system under section 1111(b)(3) of the ESEA with respect to reading/language arts, mathematics, and science assessments;

Indicator (c)(2). Indicate whether the State is engaged in activities consistent with section 6112(a) of the ESEA to enhance the quality of its academic assessments;

Descriptor (c)(1). Briefly describe the nature of any activities indicated in Indicator (c)(2);

Indicator (c)(3). Confirm whether the State has developed and implemented valid and reliable alternate assessments for students with disabilities that are approved by the Department;

Indicator (c)(4). Confirm whether the State's alternate assessments for students with disabilities, if approved by the Department, are based on grade-level, modified, or alternate academic achievement standards;

Indicator (c)(5). Indicate whether the State has completed, within the last two years, an analysis of the appropriateness and effectiveness of the accommodations it provides students with disabilities to ensure their meaningful participation in State assessments;

Indicator (c)(6). Confirm the number and percentage (including numerator and denominator) of students with disabilities who are included in State reading/language arts and mathematics assessments;

Indicator (c)(7). Indicate whether the State has completed, within the last two years, an analysis of the appropriateness and effectiveness of the accommodations it provides limited English proficient students to ensure their meaningful participation in State assessments;

Indicator (c)(8). Confirm whether the State provides native language versions of State assessments for limited English proficient students that are approved by the Department;

Indicator (c)(9). Confirm the number and percentage (including numerator and denominator) of limited English proficient students who are included in State reading/language arts and mathematics assessments;

Indicator (c)(10). Confirm that the State's annual State Report Card (under ESEA section 1111(h)(1)) contains the most recent available State reading and mathematics NAEP results as required by 34 CFR 200.11(c);

Indicator (c)(11). Provide, for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), the number and percentage (including numerator and denominator) of students who graduate from high school using a four-year adjusted cohort graduation rate as required by 34 CFR 200.19(b)(1)(i);

Indicator (c)(12). Provide, for the State, for each LEA in the State, for each

high school in the State and, at each of these levels, by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), of the students who graduate from high school consistent with 34 CFR 200.19(b)(1)(i), the number who enroll in an IHE as defined in section 101(a) of the HEA; and

Indicator (c)(13). Provide, for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), of the students who graduate from high school consistent with 34 CFR 200.19(b)(1)(i) who enroll in a public IHE, the number who complete at least one year's worth of college credit (applicable to a degree) within two years.

(d) *Supporting struggling schools.* A State must collect and report data and other information on the extent to which reforms to improve student academic achievement are implemented in the State's Title I schools in improvement, corrective action, or restructuring under section 1116(b) of the ESEA, and on the extent to which charter schools are operating in the State. Specifically, a State must—

Indicator (d)(1). Provide, for the State and for each LEA in the State, the number and percentage (including numerator and denominator) of schools in improvement, corrective action, or restructuring that have made progress on State assessments in reading/language arts in the last year;

Indicator (d)(2). Provide, for the State and for each LEA in the State, the number and percentage (including numerator and denominator) of schools in improvement, corrective action, or restructuring that have made progress on State assessments in mathematics in the last year;

Indicator (d)(3). Provide, for the State and for each LEA in the State, the number and percentage (including numerator and denominator) of schools in improvement, corrective action, or restructuring that have been turned around, consolidated, or closed in the last year;

Indicator (d)(4). Provide, for the State, of the schools in improvement, corrective action, or restructuring, the number and identity of schools in the lowest-achieving five percent that have been turned around, consolidated, or closed in the last year;

Indicator (d)(5). Provide, for the State, of the schools in the lowest-achieving five percent of schools in improvement, corrective action, or restructuring that have been turned around, consolidated, or closed in the last year, the number that are secondary schools;

Indicator (d)(6). Provide, for the State and, if applicable, for each LEA in the State, the number of charter schools that are currently permitted to operate;

Indicator (d)(7). Confirm, for the State and for each LEA in the State that operates charter schools, the number of charter schools currently operating;

Indicator (d)(8). Provide, for the State and for each LEA in the State that operates charter schools, the number and identity of charter schools that have closed (including schools that were not reauthorized to operate) within the last five years; and

Indicator (d)(9). Indicate, for each charter school that has closed within the last five years, whether the closure of the school was for financial, enrollment, academic, or other reasons.

II. *State Plans:* A State receiving funds under the Stabilization program must develop and submit to the Department a comprehensive plan that includes the following information.

(a) *Indicator and descriptor requirements.* Except as discussed in paragraph (c) of this section, the State must be able to collect and report the data or other information required by an assurance indicator or descriptor. To this end, the State must describe, for each assurance indicator or descriptor—

(1) The State's current ability to fully collect the required data or other information at least annually;

(2) The State's ability to fully report the required data or other information, at least annually through September 30, 2011, in a manner easily accessible and a format easily understandable by the public;

(3) If the State is not currently able to fully collect, at least annually, the data or other information required by the indicator or descriptor—

(A) The State's process and timeline for developing and implementing, as soon as possible but no later than September 30, 2011, the means to fully collect the data or information, including—

(i) The milestones that the State establishes toward developing and implementing those means;

(ii) The date by which the State expects to reach each milestone; and

(iii) Any obstacles that may prevent the State from developing and implementing those means by September 30, 2011, including but not limited to requirements and prohibitions of State law and policy;

(B) The nature and frequency of reports that the State will provide to the public regarding its progress in developing and implementing those means; and

(C) The amount of funds the State is using or will use to develop and implement those means, and whether the funds are or will be Federal, State, or local funds;

(4) If the State is not able to fully report, at least annually through September 30, 2011, in a manner easily accessible and a format easily understandable by the public, the data or other information required by the indicator or descriptor—

(A) The State's process and timeline for developing and implementing, as soon as possible but no later than September 30, 2011, the means to fully report the data or information, including—

(i) The milestones that the State establishes toward developing and implementing those means;

(ii) The date by which the State expects to reach each milestone; and

(iii) Any obstacles that may prevent the State from developing and implementing those means by September 30, 2011, including but not limited to requirements and prohibitions of State law and policy;

(B) The nature and frequency of reports that the State will provide to the public regarding its progress in developing and implementing those means; and

(C) The amount of funds the State is using or will use to develop and implement those means, and whether the funds are or will be Federal, State, or local funds.

(b) *Data or other information.* If the State is currently able to fully collect and report the data or other information required by the indicator or descriptor, the State must provide the most recent data or information with its plan.

(c) *Requirements for indicators in reform area (b) (improving collection and use of data).*

(1) With respect to Indicator (b)(1), the State must develop and implement a statewide longitudinal data system that includes each of the 12 elements described in section 6401(e)(2)(D) of the America COMPETES Act. To this end, the State must, in its plan—

(A) Indicate which of the 12 elements are currently included in the State's statewide longitudinal data system;

(B) If the State's statewide longitudinal data system does not currently include all 12 elements, describe—

(i) The State's process and timeline for developing and implementing, as soon as possible but no later than September 30, 2011, a statewide longitudinal data system that fully

includes all 12 elements, including the milestones that the State establishes toward developing and implementing such a system, the date by which the State expects to reach each milestone, and any obstacles that may prevent the State from developing and implementing such a system by September 30, 2011 (including but not limited to requirements and prohibitions of State law and policy);

(ii) The nature and frequency of reports that the State will provide to the public regarding its progress in developing and implementing such a system; and

(iii) The amount of funds the State is using or will use to develop and implement such a system, and whether the funds are or will be Federal, State, or local funds.

(2) With respect to Indicator (b)(2), the State must provide teachers with data on the performance of their students that include estimates of individual teacher impact on student achievement consistent with the indicator. To this end, the State must—

(A) Indicate whether the State provides teachers with such data;

(B) If the State does not provide teachers with such data, describe—

(i) The State's process and timeline for developing and implementing, as soon as possible but no later than September 30, 2011, the means to provide teachers with such data, including the milestones that the State establishes toward developing and implementing those means, the date by which the State expects to reach each milestone, and any obstacles that may prevent the State from developing and implementing those means by September 30, 2011 (including but not limited to requirements and prohibitions of State law and policy);

(ii) The nature and frequency of reports that the State will provide to the public regarding its progress in developing and implementing those means; and

(iii) The amount of funds the State is using or will use to develop and implement those means, and whether the funds are or will be Federal, State, or local funds.

(d) *General requirements.* The State must describe—

(1) The agency or agencies in the State responsible for the development, execution, and oversight of the plan, including the institutional infrastructure and capacity of the agency or agencies as they relate to each of those tasks;

(2) The agency or agencies, institutions, or organizations, if any, providing technical assistance or other support in the development, execution, and oversight of the plan, and the nature of such technical assistance or other support;

(3) The overall budget for the development, execution, and oversight of the plan;

(4) The processes the State employs to review and verify the required data and other information; and

(5) The processes the State employs to ensure that, consistent with 34 CFR 99.31(b), the required data and other information are not made publicly available in a manner that personally identifies students, where applicable.

Proposed Definitions

Background

The ARRA contains definitions for several key terms applicable to the Stabilization program. The ARRA does not, however, define all terms relevant to the assurances that States must provide in order to receive funds under the program. In this notice, we propose definitions of key terms not defined in the ARRA (or, by reference, in the ESEA or the HEA) to prevent confusion regarding the assurance indicators and descriptors and to ensure that grantees develop plans that are consistent with the purposes of the ARRA and the Department's requirements and intentions for the program.

Proposed Definitions

The Secretary proposes the following definitions for Stabilization program terms not defined in the ARRA (or, by reference, in the ESEA or the HEA). We may apply these definitions in any year in which this program is in effect.

With respect to the requirement that a State collect and report on the extent to which students in high- and low-poverty schools in the State have access to highly qualified teachers, *highest-poverty school* means, consistent with section 1111(h)(1)(C)(viii) of the ESEA, a school in the highest quartile of schools (at the State and LEA levels, respectively) using a measure of poverty determined by the State. Similarly, *lowest-poverty school* means, consistent with section 1111(h)(1)(C)(viii) of the ESEA, a school in the lowest quartile of schools (at the State and LEA levels, respectively) using a measure of poverty determined by the State.

With respect to the requirements that a State indicate whether the official systems used to evaluate the performance of teachers and principals include student achievement outcomes as an evaluation criterion, *student achievement outcomes* means outcomes including, at a minimum, one of the following: student performance on summative assessments, or on assessments predictive of student performance on summative assessments, in terms of absolute performance, gains, or growth; student grades; and rates at which students are on track to graduate from high school.

With respect to the requirement that a State collect and report the number of high school graduates who enrolled in a public IHE who complete at least one year's worth of college credit (applicable to a degree) within two years, *college credit (applicable to a degree)* is used as that term is defined by the IHE granting such credit.

With respect to the requirements that a State collect and report the numbers of Title I schools in improvement, corrective action, or restructuring that have made progress on State assessments in reading/language arts and in mathematics in the last year, *school that has made progress* means a school whose gains on the assessment, in the ''all students'' category (as under section 1111(b)(2)(C)(v)(I) of the ESEA), are equal to or greater than the average gains of schools in the State on that assessment.

With respect to the requirements that a State collect and report the number of Title I schools in improvement, corrective action, or restructuring that have been turned around, consolidated, or closed in the last year, *school that has been turned around* means a school that has had a governance change (which must include a change in the school's principal and other school leadership changes), implemented a new instructional focus, and replaced at least 50 percent of its staff as part of a planned intervention; *school that has been consolidated* means a school that has merged with another school so that students from both schools are educated together; and *school that has been closed* includes but is not limited to a school that has been closed and reopened under the management of a charter management organization or an educational management organization.

With respect to the requirement that a State collect and report, of the Title I schools in improvement, corrective action, or restructuring, the number and identity of schools in the lowest-achieving five percent that have been turned around, consolidated, or closed in the last year, *lowest-achieving five percent* is used as that term is defined by the State, except that in defining the term the State must consider both the absolute performance of schools on State assessments in reading/language arts and mathematics and whether schools have made progress on those assessments (see definition of *school*

that has made progress above), and except that, if a State has fewer than 100 schools in improvement, corrective action, or restructuring, the State must include at least five such schools.

Proposed Approval Criteria

Background

Our experience with administering grant competitions and with reviewing proposals from States regarding their compliance with certain requirements of the ESEA (particularly the requirements in Title I of the ESEA relating to standards, assessments, and accountability) recommends the use of explicit criteria for approving the plans we propose to require of States receiving funds under this program. In addition to specifying the areas of focus in the review of these plans, such criteria also usefully indicate to States the qualities in a plan that make it approvable.

In this notice we propose approval criteria relating to the quality and adequacy of the State plans. We intend to make determinations regarding the approval of a State's plan based on the recommendations of a peer review using these criteria. We will issue guidance to peer reviewers providing more specific information on the final criteria as they relate to the respective final requirements.

As noted above, a State must submit its plan as part of its application for the second phase of funding under the Stabilization program, through which the Department will award the remaining portion of a State's total Stabilization allocation. A State that submits a plan that is determined to be sufficiently responsive to each requirement will immediately receive 75 percent of the remainder of its total allocation of funds under the program. A State will receive the remaining 25 percent of its remainder of funds only after its plan is approved in its entirety.

Proposed Approval Criteria

The Secretary proposes the following criteria for approving the plan of a State receiving funds under the Stabilization program. We may apply one or more of these criteria in any year in which this program is in effect.

(a) *Quality of the State plan.* Except as described in paragraph (b), in determining the quality of the plan submitted by a State, we consider the following:

(1) Whether the plan clearly and accurately describes the State's abilities to collect and to report the data or other information required by an assurance indicator and descriptor; and

(2) If the State is not currently able to fully collect and report the data or information required by an indicator or descriptor—

(i) Whether the timeline and process for developing and implementing the means to fully collect and report the data or information are reasonable and sufficient to comply with the requirement;

(ii) Whether any obstacles identified by the State as preventing it from developing and implementing the means to fully collect and report the data or information by September 30, 2011 are sufficient to justify a delay in complying with the requirement; and

(iii) Whether the reports that the State will provide to the public will be appropriately accessible and will sufficiently indicate the State's progress in developing and implementing the means to comply with the requirement.

(b) *Quality of the State plan with respect to indicators in reform area (b) (improving collection and use of data).* In determining the quality of the plan submitted by a State as it relates to the indicators in reform area (b), we consider the following:

(1) Whether the plan clearly and accurately describes the State's ability to meet the plan requirement for the indicator (*i.e.,* in the case of Indicator (b)(1), the requirement to develop and implement a statewide longitudinal data system that includes each of the 12 elements described in section 6401(e)(2)(D) of the America COMPETES Act; and in the case of Indicator (b)(2), the requirement to provide teachers with data on the performance of their students that include estimates of individual teacher impact on student achievement); and

(2) If the State does not currently meet the plan requirement for the indicator—

(i) Whether the timeline and process for developing and implementing the means to meet the requirement are reasonable and sufficient to comply with the requirement;

(ii) Whether any obstacles identified by the State as preventing it from developing and implementing the means to meet the requirement by September 30, 2011 are sufficient to justify a delay in complying with the requirement; and

(iii) Whether the reports that the State will provide to the public will be appropriately accessible and will sufficiently indicate the State's progress in developing and implementing the means to comply with the requirement.

(c) *Adequacy of the State plan.* In determining the adequacy of the plan submitted by a State, we consider the following:

(1) Whether the institutional infrastructure and capacity of the agency or agencies responsible for the development, implementation, and oversight of the plan, together with any technical assistance or other support provided by other agencies, institutions, or organizations, are adequate to comply with the indicator and descriptor requirements individually and as a whole;

(2) Whether the funds the State is using or will use are adequate to comply with the indicator and descriptor requirements both individually and as a whole;

(3) Whether the processes the State employs to review and verify the required data and information are adequate to ensure that the data and information are accurate and of high quality; and

(4) Whether the processes the State employs are adequate to ensure that, where applicable, the required data and other information are not made publicly available in a manner that personally identifies students.

Final Requirements, Definitions, and Approval Criteria

We will announce the final requirements, definitions, and approval criteria for the Stabilization program in a notice in the **Federal Register**. We will determine the final requirements, definitions, and approval criteria after considering any comments submitted in response to this notice and other information available to the Department. This notice does not preclude us from proposing additional requirements, definitions, and approval criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these requirements, definitions, and approval criteria, we invite applications through a notice in the **Federal Register**.

Executive Order 12866

The proposed costs have been reviewed in accordance with Executive Order 12866. Under the terms of the order, the Department has assessed the costs and benefits of this regulatory action.

In assessing the potential costs and benefits—both quantitative and qualitative—of these proposed requirements, the Department has determined that the benefits of the proposed requirements exceed the costs. The Department also has determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

To assist the Department in complying with the requirements of Executive Order 12866, the Secretary invites comments on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed requirements without impeding the effective and efficient administration of the Stabilization program.

Need for Federal Regulatory Action

These proposed requirements, definitions, and approval criteria are needed to implement the State Fiscal Stabilization Fund program in a manner that the Secretary believes will best enable the program to achieve its objectives of supporting meaningful education reforms in the States while helping to stabilize State and local budgets and minimize reductions in education and other essential services. In particular, the proposals included in this notice are necessary to advance the four key educational reforms listed in the ARRA, particularly by ensuring better reporting and more public availability of information on the progress of implementation in each of the four reform areas. The proposed requirement for each State to establish a longitudinal data system that includes the elements specified in the America COMPETES Act will have an especially significant impact on the availability of data that can be used in developing and improving programs; targeting services; developing better linkages between preschool, elementary and secondary schools, and postsecondary systems, agencies, and institutions; and holding schools, LEAs, and institutions accountable for their performance. Establishment of such a system by each participating State is also required under the ARRA.

Further, the proposed requirement for each State to commit to developing procedures for providing teachers of reading/language arts and mathematics with data on the performance of their students that includes estimates of individual teacher impact reflects a need to ensure that teachers have better data on how well they are educating their students and that school and LEA leaders have valuable information that they can use in developing and providing professional development opportunities, assigning teachers, and implementing compensation and other human capital policies.

The proposed definitions included in this notice are necessary to give clearer meaning to some of the terms used in the descriptions of the requirements and approval criteria. The proposed approval criteria themselves are needed in order to provide for a clear and objective set of standards that the Secretary would use in ensuring that each State, before receiving the remainder of its Stabilization program allocation, has in place a plan for collecting and reporting the required data and meeting the other requirements proposed in this notice.

Regulatory Alternatives Considered

A likely alternative to promulgation of the types of requirements, definitions, and approval criteria proposed in this notice would be for the Secretary to release the remaining Stabilization program funds without establishing specific reporting or other requirements. Under such a scenario, participating States would still be required to meet the statutory requirements (that is, to take actions to improve teacher effectiveness and the equitable distribution of highly qualified teachers, to establish longitudinal data systems that include the elements specified in the America COMPETES Act, to enhance the quality of their standards and assessments, to ensure the inclusion of students with disabilities and limited English proficient students in their assessments, and to take steps to improve consistently low-performing schools), but there would be no assurance of consistent and complete reporting of States' progress and no uniform mechanism for measuring and comparing States' performance. Additionally, the need for teachers to obtain better information on their students' educational progress would likely be unfulfilled. While the Department is interested in public comment on the feasibility and advisability of the various requirements proposed herein, the Secretary regards disbursement of the remaining Stabilization program funds without implementation of the reporting and other proposed requirements as a missed opportunity for bringing about needed educational reforms at a critical time.

Summary of Costs and Benefits

The Department has analyzed the costs of complying with the proposed requirements. Some of the costs will be very minimal and others more significant. As an example of a requirement that will result in minimal burden and cost, States are currently required to report annually, through ED*Facts* (the Department's centralized data collection and warehousing system), for the State as a whole and for each LEA, the number and percentage of core academic courses taught, in the highest-poverty and lowest-poverty schools, by teachers who are highly qualified. Proposed indicator (a)(1) would require that they confirm the data they have reported, which should not be a time-consuming responsibility. As a second example, the proposed requirement to confirm the approval status of the State's assessment system under section 1111(b)(3) of the ESEA, as determined by the Department, should also require minimal effort.

Other proposed requirements will impose significant new costs, but the Department believes that the benefits resulting from the requirements will exceed those costs. The major benefit of these requirements, taken in their totality, is better and more publicly available information on the status of activities related to the reform areas identified in the authorizing statute for the Stabilization program. As described in detail below, research indicates or suggests that progress on each of the reforms will contribute to improved student outcomes. The provision of better information (on teacher qualifications, teacher and principal evaluation systems, State student longitudinal data systems, State standards and assessment systems, student success in high school and postsecondary education, efforts to turn around low-performing schools, and charter school reforms) to policymakers, educators, parents, and other stakeholders will assist in their efforts to further the reforms. In addition, State reporting of these data will help the Department determine the impact of the unprecedented level of funding made available by the ARRA. Further, the data and plans that States submit will inform Federal education policy, including the upcoming reauthorization of the ESEA.

States will be able to draw on Federal resources in meeting some of the requirements. The proposed requirements that would result in the most significant costs are related to the implementation of a State data system that can track individual student transitions from high school to college. To support these efforts, States may receive Federal funds from the Statewide Longitudinal Data Systems program, through which the Department has made over $187 million available since fiscal year 2005. The ARRA provided an additional $250 million for that program, and the Administration's budget request for fiscal year 2010 includes an additional $65 million. In addition, it is important to note that States may use funds available through the Stabilization program's Government Services Fund (over $8.8 billion) to develop and implement the systems

necessary to report on these performance indicators.

The following is a detailed analysis of the estimated costs of implementing the specific proposed requirements, followed by a discussion of the anticipated benefits. The costs of implementing specific paperwork-related requirements are also shown in the tables in the Paperwork Reduction Act of 1995 section of this notice.

Distribution of Highly Qualified Teachers

Section 14005(d)(2) of the ARRA requires a State receiving funds under the Stabilization program to assure, in the Stabilization program application, that it will address inequities in the distribution of highly qualified teachers. In response to this requirement, the Department is proposing to require States to confirm, for the State and for each LEA in the State, the number and percentage of core academic courses taught, in the highest-poverty and lowest-poverty schools, by teachers who are highly qualified. Because States will have previously submitted this information to the Department through the ED*Facts* system, we anticipate that the costs of complying with this requirement would be minimal. A State likely would need only to ensure that it had correctly aggregated and reported data received from its LEAs. The Department expects that each State would require one hour of staff time to complete this effort, at a cost of $30 per hour. For the 50 States, the District of Columbia, and Puerto Rico, the total estimated level of effort would be 52 hours at a cost of $1,560.

Teacher and Principal Evaluation Systems

Section 14005(d)(2) also requires States to take actions to improve teacher effectiveness. To accomplish that goal, States must first have a means of assessing teacher success. A limited number of States have implemented statewide teacher and principal evaluation systems, while in the other States the responsibility for evaluating teachers and principals rests with the LEAs or schools. Little is known about the design of these systems across the Nation, but the collection and reporting of additional information would create a resource that additional States and LEAs can draw on in building their own systems. The Department, therefore, proposes to require States to collect and publicly report information about these evaluation systems.

Specifically, the Department is proposing to require that States describe, for each LEA in the State, the systems used to evaluate the performance of teachers and principals. Further, the Department proposes to require States to indicate, for each LEA in the State, whether the systems used to evaluate the performance of teachers and principals include student achievement outcomes as an evaluation criterion.

The level of effort required to respond to these proposed requirements would likely vary depending on the types of teacher and principal evaluation systems in place in a given State or LEA. The Department believes that, if a system is in place at the State level, the response burden would be low, because the State will have the required information readily available. According to the National Council on Teacher Quality, 12 States require LEAs to use a State-developed instrument to evaluate teachers or to develop an equivalent instrument that must be approved by the State.[10] For these 12 States, the Department estimates that a total of 72 hours (6 hours per State) would be required to respond to these proposed requirements, for a total cost, at $30 per hour, of $2,160. The 2,632 LEAs located in these States would not be involved in the response to these proposed requirements.

In the 40 States that do not have statewide teacher and principal evaluation systems in place, the level of effort required would likely be significantly higher. For each of these States, the Department estimates that 360 hours would be required at the State level to develop and administer a survey of LEAs (including designing the survey instrument, disseminating it, providing training or other technical assistance to LEAs on completing the survey, collecting the data and other information, checking accuracy, and public reporting), which would amount to a total of 14,400 hours and a total estimated State cost of $432,000 (assuming, again, a cost per hour of $30). The 12,368 LEAs located in these States would bear the cost of collecting and reporting the data to their States. For the purpose of the burden estimates in this section, the Department estimates that 75 percent of these LEAs (9,276) have official teacher and principal evaluation systems in place. For those LEAs, we estimate that 3 hours would be required to respond to these proposed requirements. For the estimated 3,092 LEAs that do not have an official evaluation system in place, we estimate that 2 hours would be required. The Department, thus, estimates that LEAs would need to spend a total of 34,012 hours to respond to these proposed requirements at a total cost of $850,300. This estimate is speculative because the Department was unable to find information about the prevalence of teacher and principal evaluation systems in LEAs. We invite comments that provide information on the prevalence of these systems in LEAs (so that we may further refine our estimates) and on the potential costs of meeting the requirements for LEAs that have or do not have such a system.

The Department is also proposing to require States to provide, for each LEA in the State whose teachers and principals receive performance ratings or levels through an evaluation system, the number and percentage of teachers and principals rated at each performance rating or level. Finally, the Department proposes to require States to indicate, for each LEA in the State whose teachers receive performance ratings or levels through an official evaluation system, whether the number and percentage of teachers rated at each performance rating or level is publicly available for each school in the LEA in a manner that is easily accessible and in a format easily understandable by the public. We were unable to find information on whether LEAs will have this information readily available in a centralized data system and, therefore, invite comment on this issue. For the purpose of this estimate, we assume that 60 percent of LEAs will have the necessary information in their central office or will be so small that collecting this information will be a simple process. Applying this percentage to the estimated 11,908 LEAs that have in place an official system to evaluate teacher and principal performance (which includes the 2,632 LEAs in States with statewide systems, as well as the estimated 9,276 LEAs in other States that have their own local systems), the Department estimates that the total burden of responding to these proposed requirements would be 59,540 hours (5 hours per affected LEA) and $1,488,500. We estimate that each of the other 4,763 LEAs will need to spend 40 hours to respond. The Department, therefore, estimates the total LEA burden for these requirements to be 260,264 hours across the Nation at an estimated total cost of $6,506,600 (assuming a cost per hour of $25).

States would then need to collect these data, most likely by including these items in the survey instrument that they will develop to respond to the other proposed requirements in this section, and will then need to aggregate

[10] *State Teacher Policy Yearbook: 2008,* page 68. *http://www.nctq.org/stpy08/reports/stpy_national.pdf.*

and publicly report the data. We estimate that this will require 8 hours of effort per State, for a total burden of 416 hours at a cost of $12,480. For more detailed estimates of costs for these proposed requirements, please see the tables in the Paperwork Reduction Act of 1995 section of this notice.

State Data Systems

Section 14005(d)(3) requires States to assure that they will establish a longitudinal data system that includes the elements described in section 6401(e)(2)(D) of the America COMPETES Act. To track State progress in this reform area, the Department proposes to require each State to indicate which of the 12 elements are included in the State's statewide longitudinal data system. The costs of reporting this information should be minimal. Moreover, most States are already reporting information on ten of the 12 elements to the Data Quality Campaign, a national effort to encourage State policymakers to use high-quality education data to improve student achievement. The Department expects that States will be able to readily provide information on whether the two remaining elements are included in their data systems and that it should take little time for the States that have not been reporting to the Data Quality Campaign to provide information on their data systems. We, therefore, estimate that States would need only 2 hours to respond to this requirement, for a total level of effort of 104 hours at an estimated cost of $3,120.

The Department also proposes to require that States report, for each LEA in the State, whether the State provides teachers of reading/language arts and mathematics in the grades in which the State administers assessments in those subjects with data on the performance of their students on those assessments that include estimates of individual teacher impact on student achievement, in a manner that is timely and informs instruction. The Department believes that making such information available would help improve the quality of instruction and the quality of teacher evaluation and compensation systems. Under the State Plan section, we discuss the costs of developing systems for the provision of such information in all States. The costs of merely reporting on whether a State currently provides this information to teachers should be minimal. We estimate that each State would spend one hour to report this information, for a total level of effort of 52 hours at a cost of $1,560.

State Assessments

In response to the section 14005(d)(4)(A) requirement that States enhance the quality of their student assessments, the Department proposes to require that the States confirm certain existing data and other information and submit some new information about their assessment systems. Specifically, the Department proposes to require each State to confirm the approval status, as determined by the Department, of the State's assessment system (with respect to reading/language arts, mathematics, and science assessments) and indicate whether and how the State is engaged in activities authorized under the Grants for Enhanced Assessment Instruments program that would enhance the quality of the State's academic assessments. In addition, States would be required to confirm that their annual State Report Card (issued pursuant to the requirements of ESEA section 1111(h)) contains the most recent available State reading and mathematics NAEP results. The Department estimates that each State would require six hours to respond to these proposed requirements, for a total cost of $9,360.

Section 14005(d)(4)(B) requires States to assure that they will administer valid and reliable assessments for children with disabilities and limited English proficient students. To measure State progress on this assurance, the Department proposes to require States to: Confirm whether the State has developed and implemented valid and reliable alternate assessments for students with disabilities that have been approved by the Department; confirm whether the State's alternative assessments for students with disabilities, if approved by the Department, are based on grade-level, modified, or alternate academic achievement standards; indicate whether the State has completed, within the last two years, an analysis of the appropriateness and effectiveness of the accommodations it provides students with disabilities to ensure their meaningful participation in State assessments; indicate whether the State has completed, within the last two years, an analysis of the appropriateness and effectiveness of the accommodations it provides limited English proficient students to ensure their meaningful participation in State assessments; and confirm whether the State provides native language versions of State assessments for limited English proficient students. To respond to these five proposed indicators, the Department estimates that the 50 States, the District of Columbia, and Puerto Rico would each require five hours, for a total cost of $7,800.

In addition, the Department proposes to require that States confirm the number and percentage of students with disabilities and limited English proficient students who are included in State reading/language arts and mathematics assessments. The Department expects that each State would, on average, require one hour of staff time to complete this effort, at a cost of $30 per hour. The burden estimated for this requirement is minimal because the States will have already submitted this information to the Department through the ED*Facts* system. For the 50 States, the District of Columbia, and Puerto Rico, the total estimated level of effort would be 52 hours at cost of $1,560.

High School and Postsecondary Success

Section 14005 (d)(4)(C) requires States to assure, in their Stabilization Fund applications, that they take steps to improve their State academic content standards and student academic achievement standards consistent with section 6401(e)(1)(A)(ii) of the American COMPETES Act, which calls for States to identify and make any necessary changes to their secondary school graduation requirements, academic content standards, academic achievement standards, and the assessments students take preceding graduation from secondary school in order to align those requirements, standards, and assessments with the knowledge and skills necessary for success in academic credit-bearing coursework in postsecondary education, in the 21st century workforce, and in the Armed Forces without the need for remediation. Several of the indicators and descriptors proposed in this notice are aligned with this provision of the America COMPETES Act.

First, the Department proposes to require each State to report, for the State and each LEA and high school in the State and, at each of these levels, by student subgroup,[11] the number and percentage of students who graduate from high school as determined using the four-year adjusted cohort graduation rate. The Department believes that State efforts to comply with the Department's October 29, 2008 regulation requiring the use of a four-year adjusted cohort graduation rate in the determination of adequate yearly progress under Title I of the ESEA are now underway (see 34

[11] As noted earlier in this notice, the student subgroups include: economically disadvantaged students, students from major racial and ethnic groups, students with limited English proficiency, and students with disabilities.

CFR 200.19(b)(1)(i)). Some additional effort would be required to collect and report these data for all schools as the current regulations apply only to Title I schools.

Based on the Data Quality Campaign's 2008 survey of the 50 States and the District of Columbia, which found that 42 States have the capacity to calculate the National Governors Association longitudinal graduation rate,[12] the Department believes that most States are well-situated to collect and report these data, or have the processes underway to make such reporting possible by September 30, 2011. In fulfillment of the proposed requirement, the Department estimates that States would need to distribute to non-Title I LEAs the survey instrument they are using to collect this information from Title I LEAs and to input the data from these surveys, which would require an estimated 8 hours per State. The new LEA burden to respond to this indicator would be limited to the approximately 976 LEAs that do not receive Title I funds.[13] The Department estimates that these LEAs would spend an average of 40 hours to respond to this indicator for a total LEA effort of 39,040 hours. The total estimated cost is, therefore, $976,000.

In addition, the Department is proposing that States report, for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup, the number of students who graduate from high school consistent with 34 CFR 200.19(b)(1)(i) who enroll in an IHE and, of those students who enroll in a public IHE, the number who complete at least one year's worth of college credit (applicable to a degree) within two years. The proposed requirements would entail considerable coordination among high schools, LEAs, SEAs, and IHEs. The Department expects that SEAs would have to develop a system to make this data collection and sharing possible, which they could at least partially achieve by establishing a longitudinal data system that includes the elements described in section 6401(e)(2)(D) of the America COMPETES Act. As discussed above, section 14005(d)(3) of the ARRA requires States to assure, in their Stabilization Fund application, that they will establish such a data system. Because the requirement to establish such a system flows from the statute, not from these proposed requirements, the Department does not include the costs of establishing such a system in the costs of these proposed requirements.[14] In addition, States will be able to use Government Services funds that they receive as part of their Stabilization allocation to support these efforts, and may compete for funds from the Statewide Longitudinal Data Systems program. Further, the efforts of the National Student Clearinghouse, a non-profit organization that provides student enrollment and degree verification services, demonstrate that there is significant interest in information sharing between IHEs and LEAs; more than 3,300 colleges that enroll over 92 percent of US college students and hundreds of LEAs participate in the Clearinghouse's efforts. The Department expects that LEAs and IHEs that currently provide data to this system may require less effort to respond to this proposed requirement.

With respect to the proposed requirement on reporting postsecondary enrollments, the Department expects that LEAs would need to enter, into their State's statewide longitudinal data system, data on each high school graduate's plans after high school, including the IHE where the student intends to enroll, if applicable. According to the *Digest of Education Statistics,* approximately 2,492,000 students who graduated from public high schools enrolled in IHEs as first-time freshmen in fall 2007.[15] Holding that number constant, the Department estimates that LEAs would be able to enter data for these students at a pace of 20 students per hour, which would result in a total level of LEA effort of 124,600 hours at a cost of $3,115,000.

The State would then likely need to request that each IHE in the State confirm a student's enrollment, using the statewide longitudinal data system to obtain data on students who intended to enroll within the State. Based on data from the 2006 Integrated Postsecondary Education Data System (IPEDS), Spring 2007,[16] the Department estimates that 2,043,440 first-time freshmen (82 percent of all first-time freshmen who graduated from public high schools) enroll in IHEs in their home State. The Department estimates that IHEs will be able to confirm enrollment for 20 students per hour, for a total of 102,172 hours of IHE effort at a total cost of $2,554,300 (assuming a cost of $25 per hour).[17]

States would also likely need to request that IHEs outside the State confirm the enrollment of students who indicated that they would enroll in those institutions. Again, based on data from the 2006 IPEDS, Spring 2007, the Department estimates that 448,560 students who graduate from public high schools each year enroll in IHEs in States outside their home State. The Department estimates that it will take States 30 minutes per student to complete this process, including contacting out-of-State IHEs, obtaining the necessary information from them, and including data on those students in their public reports. This element of the proposed requirement, therefore, would result in a national total of 224,280 hours of State effort at a total cost of $6,726,840. As with students who enroll in IHEs in their home State, the Department estimates that IHEs will be able to confirm enrollment for 20 students per hour, for a total of 22,428 hours of IHE effort at a total cost of $560,700.

Finally, to meet the proposed requirement that they publicly report the number of students who enroll in IHEs, States would need to aggregate the data received from all IHEs and would then need to run analyses and publicly post the data for the State, for each LEA, for each high school and, at each of these levels, by student subgroup. The Department estimates that each State would need 40 hours to conduct these analyses and post these data, for a total State burden of 2,080 hours at a cost of $62,400.

The proposed requirement that States report the number of students enrolling in a public IHE who complete at least one year's worth of college credit

[12] *http://www.dataqualitycampaign.org/survey.*

[13] According to data States submitted to the Department through the Consolidated State Performance Report 2007–08, there are a total of 15,016 LEAs across the Nation, 14,040 of which receive Title I, Part A funds.

[14] We do acknowledge, however, that although the statute does not set a deadline for State establishment of the required data systems, item (c)(ii)(A) under State Plans in this notice would require States to have in place State longitudinal data systems that fully include all 12 elements described in the America COMPETES Act by September 30, 2011. Putting a full system in place by that date might increase costs to States or, alternatively, might reduce costs (if the more rapid establishment of a system results in efficiencies). The Department invites comments on the cost implications of the proposed deadline.

[15] According to the *Digest of Education Statistics,* 2008, almost 2.8 million first-time freshmen enrolled in IHEs in fall 2007. See *http://nces.ed.gov/programs/digest/d08/tables/dt08_198.asp.* Also according to the *Digest,* in fall 2005, 6,073,240 students were enrolled in private elementary and secondary schools. At that time, enrollment in public elementary and secondary schools was 49,113,298. Extrapolating from those data, the Department estimates that 11 percent of all first-time postsecondary students graduated from private schools. See *http://nces.ed.gov/programs/digest/d08/tables/dt08_058.asp.*

[16] *http://nces.ed.gov/programs/digest/d08/tables/dt08_223.asp.*

[17] Note that a table in the Paperwork Reduction Act of 1995 section of this notice provides the burden estimates by IHE, but that this narrative provides national estimates using the total number of students included in the data requirement.

applicable toward a degree within two years would also entail a collaborative process between SEAs and IHEs. Again, based on data from the *Digest of Education Statistics,* the Department estimates that 2,492,000 first-time freshmen enroll in public IHEs. Further, the Department estimates that, once a State has established a system for the collection and reporting of these data, IHEs will be able to enter data for 20 students an hour; thus, the total estimated level of effort to respond to this proposed requirement would be approximately 124,600 hours of IHE effort at an estimated cost of $3,115,000, assuming a cost of $25 per hour.

As with the previous indicator, States would likely need to request that IHEs outside the State report whether the students enrolled in those institutions have completed at least one year's worth of college credit. Again, the Department estimates that 448,560 students who graduate from public high schools each year enroll in IHEs in States outside their home State. The Department estimates that it will take States 30 minutes per student to complete this process, including contacting out-of-State IHEs, obtaining the necessary information from them, and including data on those students in their public reports. This element of the proposed requirement, therefore, would result in a national total of 224,280 hours of State effort at a total cost of $6,726,840. As with students who enroll in IHEs in their home State, the Department estimates that IHEs will be able to report whether students obtained a year or more of college credit for 20 students per hour, for a total of 22,428 hours of IHE effort at a total cost of $560,700.

Finally, as with the previous indicator, States would need to aggregate the data received from all IHEs and would then need to run analyses and publicly post the data for at the State, LEA, and school levels and at each of these levels, by student subgroup. The Department estimates that each State would need 40 hours to conduct these analyses and post these data, for a total State burden of 2,080 hours at a cost of $62,400.

Supporting Struggling Schools

A key goal of the ARRA is to ensure that States and LEAs provide targeted, intensive support and effective interventions to turn around schools identified for corrective action and restructuring under Title I of the ESEA. Section 14005(d)(5) requires States to ensure compliance with the Title I requirements in this area. To track State progress, the Department proposes to require States to provide, for each LEA in the State and aggregated at the State level, the number and percentage of schools in improvement, corrective action, or restructuring that have made progress on State assessments in reading/language arts and mathematics in the last year, and the number and percentage of schools in improvement, corrective action, or restructuring that have been turned around, consolidated, or closed in the last year. States would also be required to report the number and identity of schools in the lowest-achieving five percent of the schools in improvement, corrective action, or restructuring that have been turned around, consolidated, or closed in the last year, as well as the number of those schools (*i.e.,* the schools in the lowest-achieving five percent of the schools in improvement, corrective action, or restructuring that have been turned around, consolidated, or closed in the last year) that are secondary schools.

The Department believes that States will already have available the data needed to report on the indicators related to the total number and percentage of schools in improvement, corrective action, or restructuring that have made progress on State assessments, although they might need to run new analyses of the data. However, the Department expects that States would have to collect new data on the schools in improvement, corrective action, or restructuring (in general and in the lowest-achieving five percent) that have been turned around, consolidated, or closed. In addition, the State will need to define the schools in the lowest-achieving five percent. We estimate that this data collection will entail two hours of effort in each of the 1,173 LEAs (the number of LEAs that, according to data reported to ED*Facts,* had at least one school in improvement, corrective action, or restructuring in the 2007–08 school year). As a result, the Department estimates that the total LEA burden for this proposed requirement would be 2,346 hours at a cost of $58,650. States would then need to aggregate these data, in addition to the effort they will spend responding to the other indicators that relate to struggling schools. The Department estimates that each State would require 16 hours of effort to respond, for a total cost of $83,610.

Charter Schools

The Department believes that the creation and maintenance of high-quality charter schools is a key strategy for promoting successful models of school reform. To determine the level of State effort in this area, the Department proposes to require States to provide, at the State level and, if applicable, for each LEA in the State, the number of charter schools that are currently permitted to operate and the number that are currently operating. We expect that this information will be readily available, and that States will need only one hour to respond to this proposed requirement.

In addition, the Department proposes to require States to report, at the State and, if applicable, LEA levels, the number and identity of charter schools that have closed within the last five years and to indicate, for each such school, whether the closure was for financial, enrollment, academic, or other reasons. The Department estimates that SEAs would likely also have this information readily available (although some may need to obtain additional information from their LEAs) and would need five hours to report it. The Department assumes that the effort to respond to these proposed requirements would be limited to the 42 States (including the District of Columbia and Puerto Rico) that allow charter schools. The Department thus estimates that the State effort required to respond to these indicators would total 210 hours at a cost of $6,300.

State Plans

This notice proposes to require States, as a condition of receiving their remaining funding for the Stabilization program, to submit a plan to the Department that describes the State's current ability to fully collect and report data for the proposed indicators and descriptors at least annually and in a manner easily accessible and a format easily understandable by the public. If the State is currently able to fully collect and report the data or other information required by the indicator or descriptor, the State must provide the most recent data or information with its plan. If a State is not currently able to fully collect and report the required data or other information, the plan must describe the process that the State will undertake in order to have the means to fully collect and report such data or information as soon as possible but no later than September 30, 2011.

As a part of this plan, the State would be required to establish milestones and a date by which the State expects to reach each milestone, describe the nature and frequency of publicly available reports that the State will publish on its progress, and identify the amount and source (*i.e.,* whether Federal, State or local) of funds that will support the efforts necessary to collect and report the data or information. The level of effort involved in preparing

these elements of the plan will vary from State to State based on individual State progress in each reform area. For example, according to the Data Quality Campaign's 2008 survey of the 50 States and the District of Columbia, 48 States have ''a unique statewide student identifier that connects student data across key databases across years,'' 28 States have the ''[a]bility to match student-level p-12 and higher education data,'' and 21 States have a ''statewide teacher identifier with a teacher-student match.'' States that have taken these steps have built a foundation for the efforts that would be necessary to meet some of the proposed requirements, and will likely need to spend less time completing these elements of their plans. The Department estimates that, in total, each State will need an average of 396 hours to prepare these sections of the plan; thus, the total hours that would be necessary to meet this proposed requirement for the 50 States, the District of Columbia, and Puerto Rico would be 20,592 hours, for a total cost of $617,760. For more detailed estimates of costs for each specific proposed requirement, please see the tables in the Paperwork Reduction Act of 1995 section of this notice.

As part of the planning requirements, the Department proposes to require each State to indicate whether it provides teachers of reading/language arts and mathematics with data on the performance of their students that includes estimates of individual teacher impact on student achievement and, if the State does not do so, to describe a process and timeline for doing so by September 30, 2011. The Department understands that only a small number of States (approximately three) currently provide this type of information to their teachers. However, most other States that are developing State longitudinal data systems have included teacher identifiers in those systems and, thus, have part of the infrastructure to produce and report these data. The Department also understands that there are currently only a limited number of providers with which States can contract for the development of ''value-added'' or other mechanisms for using information from the State data systems to produce estimates of individual teacher impact. This limited capacity may make the costs of acquiring this assistance higher than they would be otherwise. However, the Department assumes that as the market grows, more providers will enter the field and costs will come down.

The Department further estimates that 30 percent of all K–12 public school teachers are teaching reading/language arts or mathematics in the grades in which the State administers assessments. Based on this assumption, the Department estimates that the State assessment results for approximately 14,790,000 students (30 percent of all students enrolled in public elementary and secondary schools) would be included in the calculations necessary for States to meet this proposed requirement.[18] The Department estimates that the State cost of analyzing the data, verifying with teachers that the correct teacher-subject-student connection is made in the system, and publishing the information online in a user-friendly format would be 2 dollars per student, for a total State cost of $29,940,000.

The Department also understands that an important element of State efforts to inform teachers of the estimated impact of their teaching on student achievement is providing professional development for principals and teachers on the interpretation and use of those data in raising student achievement. However, since the proposed planning requirements would not require States to provide this professional development, we have not included its cost in the estimated costs of these proposed requirements.

In addition, the Department proposes to require States to describe in their plans the following: the entities responsible for the development, execution, and oversight of the plan; the agencies or organizations that will provide any technical assistance or other support that is necessary; the overall budget for the development, execution, and oversight of the plan; the processes that the State employs to review and verify the required data and other information; and the processes the State employs to ensure that, consistent with 34 CFR 99.31(b), the required data and other information are not made publicly available in a manner that personally identifies students, where applicable. The Department estimates that this management and oversight section of the plan will require 80 hours per State, for a total national estimate of 4,160 hours at a cost of $124,800. The total estimated cost to States of preparing the plans is, thus, $742,560.

Total Estimated Costs

The Department estimates that the total burden of responding to these proposed requirements would be 494,650 hours and $44,779,500 for SEAs, 426,250 hours and $10,656,250 for LEAs, and 249,200 hours and $6,230,000 for IHEs, for a total burden of 1,170,100 hours at a cost of $61,665,750.

Benefits

The principal benefits of the proposed requirements are those resulting from the reporting and public availability of information on each State's progress in the four reform areas described in the ARRA. The Department believes that the information gathered and reported as a result of these requirements will improve public accountability for performance, help States, LEAs, and schools learn from one another and make improvements in what they are doing, and inform the ESEA reauthorization process.

A second major benefit is that better public information on State and local progress in the four reform areas will likely spur more rapid progress on those reforms, because States and LEAs that appear to be lagging in one or more areas may see a need to redouble their efforts. The Department believes that more rapid progress on the essential educational reforms will have major benefits nationally, and that these reforms have the potential to drive dramatic improvements in student outcomes.

For example, statewide longitudinal data systems are essential tools in advancing education reform. With these systems in place, States can assess the effectiveness of specific interventions, schools, principals, and teachers by tracking individual student achievement, high school graduation, and postsecondary enrollment and credit. They can, for example, track the academic achievement of individual students over time, even if those students change schools during the course of their education. By analyzing this information, decision-makers can determine if a student's ''achievement trajectory'' will result in his or her being college- or career-ready, and can better target services based on the student's academic needs.[19]

The Department also believes that States' implementation of these requirements will lead to more widespread development and implementation of better teacher and principal evaluation systems. In particular, the availability of accurate, complete, and valid achievement data is essential to implementing better systems

[18] According to the *Digest of Education Statistics,* 49,298,945 students were enrolled in public elementary and secondary schools in fall 2006. See *http://nces.ed.gov/programs/digest/d08/tables/dt08_033.asp.*

[19] For example, *see http://dataqualitycampaign.org/files/publications-dqc_academic_growth-100908.pdf* and *http://www.dataqualitycampaign.org/files/Meetings-DQC_Quarterly_Issue_Brief_092506.pdf.*

of teacher and principal evaluation. Value-added models, for example, can provide an objective estimate of the impact of teachers on student learning and achievement.[20] Further, they can be used by schools, LEAs, or States to reward excellence in teaching or school leadership, as a component of performance-based compensation systems, or to identify schools in need of improvement or teachers who may require additional training or professional development.[21]

The proposed requirements will have additional benefits to the extent that they provide States with incentives to address inequities in the distribution of effective teachers, improve the quality of State assessments, and undergo intensive efforts to improve struggling schools. Numerous studies document the substantial impact of improved teaching on educational outcomes and the need to take action to turn around the lowest-performing schools, including high schools (and their feeder middle schools) that enroll a disproportionate number of the students who fail to complete a high school education and receive a regular high school diploma. The Department believes that more widespread adoption of these reforms would have a significant, positive impact on student achievement.

Although these benefits are not easily quantified, the Department believes they will exceed the projected costs.

Accounting Statement: As required by OMB Circular A–4 (available at *http://www.Whitehouse.gov/omb/Circulars/a004/a-4.pdf*), in the following table, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this proposed regulatory action. This table provides our best estimate of the Federal payments to be made to States under this program as a result of this proposed regulatory action. Expenditures are classified as transfers to States.

TABLE—ACCOUNTING STATEMENT CLASSIFICATION OF ESTIMATED EXPENDITURES

Category	Transfers
Annual monetized transfers.	$12,621,790,599.
From Whom to Whom	Federal Government to States.

The Stabilization program provides approximately $48.6 billion in formula grants to States.[22] As previously noted, the Department is awarding Stabilization program funds in two phases. In the first phase, the Department is awarding 67 percent of a State's Education Stabilization Fund allocation, unless the State can demonstrate that additional funds are required to restore fiscal year 2009 State support for education, in which case the Department will award the State up to 90 percent of that allocation. In addition, the Department will award 100 percent of each State's Government Services Fund allocation in Phase I. The Department will award the remainder of a State's Education Stabilization Fund allocation in the second phase. Thus, depending on the total amount of funds States receive in the first phase, up to $12.6 billion may be available in the second phase.

Paperwork Reduction Act of 1995

This notice contains information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). It is our plan to offer a comment period for the information collection at the time of the final notice. At that time, the Department will submit the information collection to OMB for its review and provide the burden hours associated with each requirement for comment. However, because it is likely that the information collection will be reviewed under emergency OMB processing, the Department encourages the public to comment on the burden hours associated with each requirement in this notice.

A description of the specific proposed information collection requirements is provided in the following tables along with preliminary estimates of the annual recordkeeping burden for these requirements. Included in a preliminary estimate is the time for collecting and tracking data, maintaining records, calculations, and reporting. The first table presents the estimated indicators burden for SEAs, the second table presents the estimated indicators burden for LEAs, the third table presents the estimated indicators burden for IHEs, and the fourth table presents the estimated State plan burden for SEAs.

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[20] *See:* Braun, Henry I. *Using Student Progress To Evaluate Teachers: A Primer on Value-Added Models.* Educational Testing Service, Policy Information Center, 2005; Marsh, Julie A.; Pane, John F.; Hamilton, Laura S. *Making Sense of Data-Driven Decision Making in Education: Evidence from Recent RAND Research.* Santa Monica, CA: RAND Corporation, 2006; and Sanders, William L. ''Value-Added Assessment from Student Achievement Data: Opportunities and Hurdles.'' Journal of Personnel Evaluation in Education, Vol. 14, No. 4, p. 329–339, 2000.

[21] Center for Educator Compensation Reform: *http://cecr.ed.gov/.*

[22] A table listing the allocations to States under the Stabilization program is available at: *http://www.ed.gov/programs/statestabilization/funding.html.*

I. Assurance Indicators and Descriptors Burden Hours/Cost for SEAs

Citation	Description	Number of respondents	Average hours per response *	Total hours	Total cost (total hours x $30.00)
Indicator (a)(1)	Confirm, for the State and for each LEA in the State, the number and percentage (including numerator and denominator) of core academic courses taught, in the highest-poverty and lowest-poverty schools, by teachers who are highly qualified consistent with section 9101(23) of the ESEA	52	1	52	$1,560
Descriptor (a)(1)	Describe, for each LEA in the State, the systems used to evaluate the performance of teachers	52	123	6,388	$191,640
Indicator (a)(2)	Indicate, for each LEA in the State, whether the systems used to evaluate the performance of teachers, if any, include student achievement outcomes as an evaluation criterion	52	16	812	$24,360
Indicator (a)(3)	Provide, for each LEA in the State whose teachers receive performance ratings or levels through an evaluation system, the number and percentage (including numerator and denominator) of teachers rated at each performance rating or level	52	6	312	$9,360
Indicator (a)(4)	Indicate, for each LEA in the State whose teachers receive performance ratings or levels through an evaluation system, whether the number and	52	2	104	$3,120

Citation	Description	Number of respondents	Average hours per response *	Total hours	Total cost (total hours x $30.00)
	percentage (including numerator and denominator) of teachers rated at each performance rating or level are available for each school in the LEA in a manner easily accessible and a format easily understandable by the public				
Descriptor (a)(2)	Describe, for each LEA in the State, the systems used to evaluate the performance of principals	52	123	6,388	$191,640
Indicator (a)(5)	Indicate, for each LEA in the State, whether the systems used to evaluate the performance of principals, if any, include student achievement outcomes as an evaluation criterion	52	16	812	$24,360
Indicator (a)(6)	Provide, for each LEA in the State whose principals receive performance ratings or levels through an evaluation system, the number and percentage (including numerator and denominator) of principals rated at each performance rating or level	52	6	312	$9,360
Indicator (b)(1)	Indicate which of the 12 elements described in section 6401(e)(2)(D) of the America COMPETES Act (20 U.S.C. 9871) are included in the State's statewide longitudinal data system	52	2	104	$3,120
Indicator (b)(2)	Indicate whether the State provides teachers of reading/language arts and mathematics in	52	16	832	$24,960

Citation	Description	Number of respondents	Average hours per response *	Total hours	Total cost (total hours x $30.00)
	grades in which the State administers assessments in those subjects with data on the performance of their students on those assessments that include estimates of individual teacher impact on student achievement, in a manner that is timely and informs instruction				
Indicator (c)(1)	Confirm the approval status, as determined by the Department, of the State's assessment system under section 1111(b)(3) of the ESEA with respect to reading/language arts, mathematics, and science assessments	52	.5	26	$780
Indicator (c)(2)	Indicate whether the State is engaged in activities consistent with section 6112(a) of the ESEA (20 U.S.C. 7301a) to enhance the quality of its academic assessments	52	2	104	$3,120
Descriptor (c)(1)	Briefly describe the nature of any such activities indicated in Indicator (c)(2)	52	3	156	$4,680
Indicator (c)(3)	Confirm whether the State has developed and implemented valid and reliable alternate assessments for students with disabilities that are approved by the Department	52	1	52	$1,560
Indicator (c)(4)	Confirm whether the State's alternate assessments for students with disabilities, if approved by the Department, are based	52	1	52	$1,560

Citation	Description	Number of respondents	Average hours per response *	Total hours	Total cost (total hours x $30.00)
	on grade-level, modified, or alternate academic achievement standards				
Indicator (c)(5)	Indicate whether the State has completed, within the last two years, an analysis of the appropriateness and effectiveness of the accommodations it provides students with disabilities to ensure their meaningful participation in State assessments	52	1	52	$1,560
Indicator (c)(6)	Confirm the number and percentage (including numerator and denominator) of students with disabilities who are included in State reading/language arts and mathematics assessments	52	.5	26	$780
Indicator (c)(7)	Indicate whether the State has completed, within the last two years, an analysis of the appropriateness and effectiveness of the accommodations it provides limited English proficient students to ensure their meaningful participation in State assessments	52	1	52	$1,560
Indicator (c)(8)	Confirm whether the State provides native language versions of State assessments for limited English proficient students that are approved by the Department	52	1	52	$1,560
Indicator (c)(9)	Confirm the number and percentage (including numerator and denominator) of limited	52	.5	26	$780

Citation	Description	Number of respondents	Average hours per response *	Total hours	Total cost (total hours x $30.00)
	English proficient students who are included in State reading/language arts and mathematics assessments				
Indicator (c)(10)	Confirm that the State's annual State Report Card (under ESEA section 1111(h)(1)) contains the most recent available State reading and mathematics NAEP results as required by 34 CFR 200.11(c)	52	.5	26	$780
Indicator (c)(11)	Provide, for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), the number and percentage (including numerator and denominator) of students who graduate from high school using a four-year adjusted cohort graduation rate as required by 34 CFR 200.19(b)(1)(i)	52	8	416	$12,480
Indicator (c)(12)	Provide, for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), of the students who graduate from high school consistent with 34 CFR 200.19(b)(1)(i), the number who enroll in an IHE as defined in	52	4,353	226,356	$6,790,680

Citation	Description	Number of respondents	Average hours per response *	Total hours	Total cost (total hours x $30.00)
	section 101(a) of the HEA				
Indicator (c)(13)	Provide, for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), of the students who graduate from high school consistent with 34 CFR 200.19(b)(1)(i) who enroll in a public IHE, the number who complete at least one year's worth of college credit (applicable to a degree) within two years	52	4,353	226,356	$6,790,680
Indicator (d)(1)	Provide, for the State and for each LEA in the State, the number and percentage (including numerator and denominator) of schools in improvement, corrective action, or restructuring that have made progress on State assessments in reading/language arts in the last year	52	2	104	$3,120
Indicator (d)(2)	Provide, for the State and for each LEA in the State, the number and percentage (including numerator and denominator) of schools in improvement, corrective action, or restructuring that have made progress on State assessments in mathematics in the last year	52	2	104	$3,120
Indicator (d)(3)	Provide, for the State and for each LEA in the	52	10	520	$15,600

Citation	Description	Number of respondents	Average hours per response *	Total hours	Total cost (total hours x $30.00)
	State, the number and percentage (including numerator and denominator) of schools in improvement, corrective action, or restructuring that have been turned around, consolidated, or closed in the last year				
Indicator (d)(4)	Provide, for the State, of the schools in improvement, corrective action, or restructuring, the number and identity of schools in the lowest-achieving five percent that have been turned around, consolidated, or closed in the last year	52	1	52	$1,560
Indicator (d)(5)	Provide, for the State, of the schools in the lowest-achieving five percent of schools in improvement, corrective action, or restructuring that have been turned around, consolidated, or closed in the last year, the number that are secondary schools	52	1	52	$1,560
Indicator (d)(6)	Provide, for the State and, if applicable, for each LEA in the State, the number of charter schools that are currently permitted to operate	52	1	52	$1,560
Indicator (d)(7)	Confirm, for the State and for each LEA in the State that operates charter schools, the number of charter schools currently operating	52	2	104	$3,120
Indicator (d)(8)	Provide, for the State and for each LEA in the	52	1	52	$1,560

Citation	Description	Number of respondents	Average hours per response *	Total hours	Total cost (total hours x $30.00)
	State that operates charter schools, the number and identity of charter schools that have closed (including schools that were not reauthorized to operate) within the last five years				
Indicator (d)(9)	Indicate, for each charter school that has closed within the last five years, whether the closure of the school was for financial, enrollment, academic, or other reasons	52	1	52	$1,560

*Figures in this column may reflect rounding.

II. Assurance Indicators and Descriptors Burden Hours/Cost for LEAs

Citation	Description	Number of respondents	Average hours per response *	Total hours	Total cost (total hours x $25.00)
Descriptor (a)(1)	Describe the LEA's system used to evaluate the performance of teachers	12,368	1.1	13,914	$347,850
Indicator (a)(2)	Indicate whether the systems used by the LEA to evaluate the performance of teachers include student achievement outcomes as an evaluation criterion	12,368	.25	3,092	$77,300
Indicator (a)(3)	If teachers in the LEA receive performance ratings or levels through an evaluation system, provide the number and percentage (including numerator and denominator) of teachers rated at each performance rating or level	11,908	9	107,172	2,679,300
Indicator (a)(4)	If the LEA's teachers receive performance ratings or levels through an evaluation system, indicate whether the number and percentage (including numerator and denominator) of teachers rated at each performance rating or level are available for each school in the LEA in a manner easily accessible and a format easily understandable by the public	11,908	1	11,908	297,700
Descriptor (a)(2)	Describe the LEA's systems used to evaluate the performance of principals	12,368	1.1	13,914	$347,850
Indicator (a)(5)	Indicate whether the systems used by the LEA	12,368	.25	3,092	$77,300

Citation	Description	Number of respondents	Average hours per response *	Total hours	Total cost (total hours x $25.00)
	to evaluate the performance of principals include student achievement outcomes as an evaluation criterion				
Indicator (a)(6)	If the LEA's principals receive performance ratings or levels through an evaluation system, provide the number and percentage (including numerator and denominator) of principals rated at each performance rating or level.	11,908	9	107,172	2,679,300
Indicator (c)(11)	Provide for each high school in the LEA, disaggregated by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), the number and percentage (including numerator and denominator) of students who graduate from high school using a four-year adjusted cohort graduation rate as required by 34 CFR 200.19(b)(1)(i)	976	40	39,040	$976,000
Indicators (d)(3), (d)(4), and (d)(5)	Provide a list of the schools in improvement, corrective action, or restructuring in the LEA that have been turned around, consolidated, or closed in the last year	1,173	2	2,346	$58,650

*Figures in this column may reflect rounding.

III. Assurance Indicators and Descriptors Burden Hours/Cost for IHEs

Citation	Description	Number of respondents	Average hours per response *	Total hours	Total cost (total hours x $25.00)
Indicator (c)(12)	Provide for each State information on the students from the State who enrolled in the IHE	4352	28.6	124,600	$3,115,000
Indicator (c)(13)	[For public IHEs only] Provide for each State information on the students from the State who enrolled in the IHE who completed at least one year's worth of college credit (applicable to a degree) within two years	1685	60.6	102,172	$2,554,300

*Figures in this column reflect rounding.

IV. State Plan Burden for SEAs

Citation	Description	Number of respondents	Average hours per response	Total hours	Total cost (total cost x $30.00)
II.a.1.	[Except as discussed in II.c] Describe, for each assurance indicator or descriptor, the State's current ability to fully collect the required data or other information at least annually	52	20	1,040	$31,200
II.a.2.	[Except as discussed in II.c] Describe, for each assurance indicator or descriptor, the State's ability to fully report the required data or other information, at least annually through September 30, 2011, in a manner easily accessible and a format easily understandable by the public	52	10	520	$15,600
II.a.3.A.	[Except as discussed in II.c] Describe, for each assurance indicator or descriptor, if the State is not currently able to fully collect, at least annually, the data or other information required by the indicator or descriptor, the State's process and timeline for developing and implementing, as soon as possible but no later than September 30, 2011, the means to fully collect the data or information, as required	52	40	2,080	$62,400

Citation	Description	Number of respondents	Average hours per response	Total hours	Total cost (total cost x $30.00)
II.a.3.B.	[Except as discussed in II.c] Describe, for each assurance indicator or descriptor, if the State is not currently able to fully collect the data or information required by the indicator or descriptor, the nature and frequency of reports that the State will provide to the public regarding its progress in developing and implementing those means	52	8	416	$12,480
II.a.3.C.	[Except as discussed in II.c] Describe, for each assurance indicator or descriptor, if the State is not currently able to fully collect the data or information required by the indicator or descriptor, the amount of funds the State is using or will use to develop and implement those means, and whether the funds are or will be Federal, State, or local funds	52	20	1,040	$31,200

Citation	Description	Number of respondents	Average hours per response	Total hours	Total cost (total cost x $30.00)
II.a.4.A.	[Except as discussed in II.c] Describe, for each assurance indicator or descriptor, if the State is not able to fully report, at least annually through September 30, 2011, in a manner easily accessible and a format easily understandable by the public, the data or other information required by the indicator or descriptor, the State's process and timeline for developing and implementing, as soon as possible but no later than September 30, 2011, the means to fully report the data or information, as required	52	20	1,040	$31,200
II.a.4.B.	[Except as discussed in II.c] Describe, for each assurance indicator or descriptor, if the State is not able to fully report, by September 30, 2009 and at least annually through September 30, 2011, in a manner easily accessible and a format easily understandable by the public, the data or other information required by the indicator or descriptor, the nature and frequency of reports that the	52	8	416	$12,480

Citation	Description	Number of respondents	Average hours per response	Total hours	Total cost (total cost x $30.00)
	State will provide to the public regarding its progress in developing and implementing those means				
II.a.4.C.	[Except as discussed in II.c] Describe, for each assurance indicator or descriptor, if the State is not able to fully report, by September 30, 2009 and at least annually through September 30, 2011, in a manner easily accessible and a format easily understandable by the public, the data or other information required by the indicator or descriptor, the amount of funds the State is using or will use to develop and implement those means, and whether the funds are or will be Federal, State, or local funds	52	20	1,040	$31,200
II.b.	If the State is currently able to fully collect and report the data or information required by the indicator, the State must provide the most recent data or information with its plan	52	20	1,040	$31,200

Citation	Description	Number of respondents	Average hours per response	Total hours	Total cost (total cost x $30.00)
II.c.1.A.	[With respect to Indicator (b)(1)] Indicate which of the 12 elements described in section 6401(e)(2)(D) of the America COMPETES Act are currently included in the State's statewide longitudinal data system	52	.5	26	780
II.c.1.B.i.	[With respect to Indicator (b)(1)] If the State's statewide longitudinal data system does not currently include all 12 elements, describe, as required, the State's process and timeline for developing and implementing, as soon as possible but no later than September 30, 2011, a statewide longitudinal data system that includes all 12 elements	52	80	4,160	$124,800
II.c.1.B.ii.	[With respect to Indicator (b)(1)] If the State's statewide longitudinal data system does not currently include all 12 elements, describe the nature and frequency of reports that the State will provide to the public regarding its progress in developing and implementing such a system	52	2	104	$3,120

Citation	Description	Number of respondents	Average hours per response	Total hours	Total cost (total cost x $30.00)
II.c.1.B.iii.	[With respect to Indicator (b)(1)] If the State's statewide longitudinal data system does not currently include all 12 elements, describe the amount of funds the State is using or will use to develop and implement such a system, and whether the funds are or will be Federal, State, or local funds	52	20	1,040	$31,200
II.c.2.A.	[With respect to Indicator (b)(2)] Indicate whether the State provides teachers with data on the performance of their students that includes estimates of individual teacher impact on student achievement consistent with the indicator	52	.5	26	780
II.c.2.B.i.	[With respect to Indicator (b)(2)] If the State does not provide teachers with such data, describe, as required, the State's process and timeline for developing and implementing, as soon as possible but no later than September 30, 2011, the means to provide teachers with such data	52	80	4,160	$124,800

Citation	Description	Number of respondents	Average hours per response	Total hours	Total cost (total cost x $30.00)
II.c.2.B.ii.	[With respect to Indicator (b)(2)] If the State does not provide teachers with such data, describe the nature and frequency of reports that the State will provide to the public regarding its progress in developing and implementing the means to provide the data	52	8	416	$12,480
II.c.2.B.iii.	[With respect to Indicator (b)(2)] If the State does not provide teachers with such data, describe the amount of funds the State is using or will use to develop and implement the means to provide the data, and whether the funds are or will be Federal, State, or local funds	52	20	1,040	$31,200
II.d.1.	Describe the agency or agencies in the State responsible for the development, execution, and oversight of the plan, including the institutional infrastructure and capacity of the agency or agencies as they relate to each of those tasks	52	10	520	$15,600

Citation	Description	Number of respondents	Average hours per response	Total hours	Total cost (total cost x $30.00)
II.d.2.	Describe the agency or agencies, institutions, or organizations, if any, providing technical assistance or other support in the development, execution, and oversight of the plan, and the nature of such technical assistance or other support	52	10	520	$15,600
II.d.3.	Describe the overall budget for the development, execution, and oversight of the plan	52	40	2,080	$62,400
II.d.4.	Describe the processes the State employs to review and verify the required data and information	52	10	520	$15,600
II.d.5.	Describe the processes the State employs to ensure that, consistent with 34 CFR 99.31(b), the required data and other information are not made publicly available in a manner that personally identifies students, where applicable	52	10	520	$15,600

Regulatory Flexibility Act Certification:

The Secretary certifies that this proposed regulatory action will not have a significant economic impact on a substantial number of small entities. The small entities that this proposed regulatory action will affect are small LEAs receiving funds under this program and small IHEs.

This proposed regulatory action will not have a significant economic impact on small LEAs because they will be able to meet the costs of compliance with this regulatory action using the funds provided under this program.

With respect to small IHEs, the U.S. Small Business Administration Size Standards define these institutions as ''small entities'' if they are for-profit or nonprofit institutions with total annual revenue below $5,000,000 or if they are institutions controlled by small governmental jurisdictions, which are comprised of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000. Based on data from the Department's Integrated Postsecondary Education Data System (IPEDS), up to 532 small IHEs with revenues of less than $5 million may be affected by this proposed requirement. These small IHEs represent only 15 percent of degree-granting IHEs. In addition, only 161,155 students (0.7 percent) enrolled in degree-granting IHEs in fall 2007 attended these small institutions. As the burden for indicators (c)(12) and (c)(13) is driven by the number of students for whom IHEs would be required to submit data, small IHEs will require significantly less effort to adhere to these proposed regulations than would be the case for larger IHEs. Based on IPEDS data, the Department estimates that 18,050 of these students are first-time freshmen. As stated earlier in the Summary of Costs and Benefits section of this notice, the Department estimates that, as required by proposed indicator (c)(12), IHEs will be able confirm the enrollment of 20 first-time freshmen per hour. Applying this estimate to the estimated number of first-time freshmen at small IHEs, the Department estimates that these IHEs would need to spend 8,058 hours to respond to this proposed requirement at a total cost of $201,450 (assuming a cost of $25 per hour).

The effort involved in reporting the number of students enrolling in a public IHE who complete at least one year's worth of college credit applicable toward a degree within two years as required by indicator (c)(13) would also apply to small IHEs. For this proposed requirement, the Department also estimates that IHEs will be able to report the credit completion status of 20 first-time freshmen per hour. Again applying this data entry rate to the estimated number of first-time freshmen at small IHEs, the Department estimates that these IHEs would need to spend 8,058 hours to respond to this proposed requirement at a total cost of $201,450. The total cost of these proposed requirements for small IHEs is, therefore, $402,900, and the estimated cost per small IHE is $757. The Department has, therefore, determined that the regulations would not represent a significant burden on small not-for-profit IHEs.

It is also important to note that States may use their Government Services Fund allocations to help small IHEs meet the costs of complying with the requirements that affect them, and public IHEs may use Education Stabilization Fund dollars they receive for that purpose.

In addition, the Department believes the benefits provided under this proposed regulatory action will outweigh the burdens on these institutions of complying with the proposed requirements. One of these benefits will be the provision of better information on student success in postsecondary education to policymakers, educators, parents, and other stakeholders. The Department believes that the information gathered and reported as a result of these requirements will improve public accountability for performance; help States, LEAs, and schools learn from one another and improve their decision-making; and inform Federal policymaking.

A second major benefit is that better public information on State and local progress in the four reform areas will likely spur more rapid progress on those reforms, because States and LEAs that appear to be lagging in one area or another may see a need to redouble their efforts. The Department believes that more rapid progress on the essential educational reforms will have major benefits nationally, and that these reforms have the potential to drive dramatic improvements in student outcomes. The proposed requirements that apply to IHEs should, in particular, spur more rapid implementation of P–16 State longitudinal data systems.

The Secretary invites comments from small IHEs and small LEAs as to whether they believe this proposed regulatory action would have a significant economic impact on them and, if so, requests evidence to support that belief.

Assessment of Educational Impact:

In accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e–4, the Department invites comment on whether these requirements do not require transmission of information that any other agency or authority of the United States gathers or makes available.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: July 22, 2009.

Arne Duncan,

Secretary of Education.

[FR Doc. E9–17906 Filed 7–24–09; 11:15 am]

BILLING CODE 4000–01–C

DEPARTMENT OF EDUCATION

Institute of Education Sciences; Overview Information; Grant Program for Statewide Longitudinal Data Systems; Notice Inviting Applications for New Awards Under the American Recovery and Reinvestment Act of 2009.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.384A.

Dates:

Applications Available: July 24, 2009 (Request for Applications [RFA]); August 10, 2009 (Application Package).