

September 14, 2007

The Honorable George Miller, Chairman
Education and Labor Committee
United States House of Representatives
Washington, DC 20515

The Honorable Howard McKeon
Education and Labor Committee
United States House of Representatives
Washington, DC 20515

The Honorable Dale Kildee, Chairman
Subcommittee on Early Childhood,
Elementary and Secondary Education
Washington, DC 20515

The Honorable Michael Castle
Subcommittee on Early Childhood,
Elementary and Secondary Education
Washington, DC 20515

RE: SIIA Comments on Miller-McKeon ESEA/NCLB Title II-XI Discussion Draft

Dear Chairman Miller, Rep. McKeon, Chairman Kildee, and Rep. Castle:

On behalf of the Software & Information Industry Association (SIIA) and our member high-tech companies, we write with comments and further recommendations on the Miller-McKeon Title II-XI Discussion Draft for the reauthorization of ESEA/NCLB.

SIIA applauds the Committee for draft legislation that incorporates many principles we included in our April 12 ESEA recommendations, including the incorporation of the ATTAIN Act as Title II-F as well as the support for the use of technology throughout all titles. SIIA provides below several comments identifying both strengths of, and concerns with, the draft legislation, as well as an attachment with more specific recommended changes. SIIA has also submitted comments specifically on Title II-F under separate cover and jointly signed by three partner national education associations.

SIIA is the principal trade association for the software and digital content industry, serving more than 800 leading companies. SIIA members depend on the nation's schools for a skilled, high-tech workforce with academic proficiency in the core subject areas as well as technology literacy and related 21st century skills. SIIA and our member companies have long worked to improve education through the use of educational technologies that reflect and prepare digital-native students for the 21st century.

SIIA commends the Committee's draft legislation for the following, which are expanded upon in the attached document:

- inclusion of the Achievement through Technology and Innovation (ATTAIN) Act;
- enhanced support for professional development and technology-related training;
- support throughout the titles for technology and distance learning;
- expansion and improvement of programs aimed at addressing key subject areas;
- support for development and implementation of formative and summative assessments;
- addition of conflict of interest, peer review and curriculum control provisions; and
- revisions to research terms and definitions aimed at better guiding state and local decisions.

SIIA has also identified a number of concerns and opportunities aimed at further improving the legislation and building on these points above. These recommendations are provided in more detail in the attachment:

- further recognize the importance of training about technology, as well as through the use of technology, distance learning and peer networks;
- ensure a more appropriate federal and state role with regard to development, selection, or influence of educational materials, assessments, and other interventions and related local decisions;
- providing consistency in the use of research terms;
- further enabling the use of technology, such as software, digital content, distance learning and technology-based assessments, as appropriate, to meet programs goals and needs;
- strengthening the ATTAIN Act, including through addition of a minimum LEA formula grant, expanded support for state research leadership, increased focus on professional development, and strengthening of the means to address student technology literacy; and
- enhanced support for 21st century assessments, including of student technology literacy and through the use of technology-based assessments.

Please see the attached for more detailed comments and recommendations aimed at further improving the draft. We thank you for your leadership and for inviting public comment. SIIA looks forward to working further with you to strengthened ESEA/NCLB. Please do not hesitate to contact me or Mark Schneiderman, SIIA's director of education policy, at 202-789-4444 or marks@siia.net.

Sincerely,

A handwritten signature in black ink that reads "Ken Wasch". The signature is fluid and cursive, with the first name "Ken" and last name "Wasch" clearly distinguishable.

Kenneth A. Wasch
President

Attachment

SIIA Comments on Miller-McKeon Title II-XI Discussion Draft

As summarized in SIIA's transmittal letter, SIIA commends the Committee's draft legislation for the following:

- inclusion of the Achievement through Technology and Innovation (ATTAIN) Act as Title II-F, as a substitute for the current Title II-D education technology grant program;
- enhanced support for professional development through expansion and targeting of training resources, as well as recognition of both training about technology, use of data and assessments, and of training through the use of technology such as through distance learning and peer networks;
- support throughout the titles for technology and distance learning as strategies for addressing core teaching and learning goals, including through inclusion in state/local plans, applications and uses of funds;
- expansion and improvement of programs aimed at addressing key subject areas, including the Math & Science Partnerships, Math Success, Striving Readers, Foreign Language Partnerships, and the Integrated Curriculum Program;
- support for development and implementation of assessments, including support to expand use of formative systems to inform the instructional process and support to develop summative systems that would measure a robust set of workforce readiness skills and do so employing technology-based means;
- addition of conflict of interest, peer review and curriculum control provisions that would help restrict federal influence over curriculum decisions consistent with existing statutes and principles governing the federal role as well as help provide for more objective approval and oversight processes of state and local curriculum decisions; and
- revisions to research terms and definitions aimed at better guiding state and local decisions toward use of scientific research, while not inappropriately limiting practices and interventions to one research model when research may not be available, is not appropriate, or other types of research are relevant.

SIIA has also identified a number of concerns and opportunities aimed at further improving the legislation and building on these points above:

- Titles II-A, II-B and II-C. SIIA supports enhanced support for professional development through expansion and targeting of training resources. The following recommendations would further recognize the importance of training about technology, use of data and assessments, and of training through the use of technology such as through distance learning and peer networks, including that which provides for timely and ongoing support.

Title II-A

- Page 9, lines 5-6: Insert "*technologies*," after "textbooks,"
- Page 9, line 7-8: Insert "*and technology infrastructure*" after "facilities"
- Page 18, line 12: Insert "*use of data and technology*," after "test analysis"
- Page 32, strike lines 19-20 and replace with: "*(7) Creating libraries of professional development materials, including on the uses of educational technology*"

- On Page 33, strike line 3 and replace with: *“Developing professional development curricula or curricula that provides teachers with a framework for instruction in literacy, math, science, and other curricular areas”*

Title II-B

- Page 40, line 2: Insert at the end, *“, such as those that involve delivery through the use of technology, coaching, and peer networks”*
- Page 53, line 14: Insert at the end, *“(V) strategies that involve the training of educators in the effective use of technology, including for formative assessment and use of data to improve teaching and learning, and for teaching students with diverse learning needs”*
- Page 55, line 21: Insert *“, including in the use of technology,”* after “teaching skills”
- Page 71, line 1: Insert *“, including in the use of technology,”* after “teaching practices”
- Page 74, line 6: Insert at the end, *“, provides timely and ongoing training and support, including through the use of technology, coaching and peer networks”*
- Page 74, line 15: Insert *“that provides timely and ongoing training and support such as through the use of technology, coaching and peer networks”* after “professional development”

Title II-C

- Page 112, lines 21-24: Strike “if the followup training is for teachers in rural school districts” and add at the end *“for teachers in rural school districts or if this is the most effective or efficient means for such followup”*

- Title II-D. SIIA supports inclusion of the Mathematics Success program. To further improve the program, we provide the following recommendations aimed at: (1) enabling the use of technology as appropriate to meet program goals; (2) providing consistency in the use of research terms; and (3) further limiting inappropriate federal or state interference in local curriculum decisions.

- Page 124, line 13: Insert at the end, *“, as determined by the local educational agency”*
- Page 129, line 19: Strike “selecting” and replace with “evaluating”
- Page 129, line 22: Insert at the end, *“, as determined by the local educational agency”*
- Page 129, line 23: Strike “selecting” and replace with “implementing”
- Page 132, line 5: Insert *“technologies,”* after “materials”
- Page 132, lines 8-9: Strike “reflect a demonstrated record of effectiveness” and replace with *“based on the best available evidence of effectiveness”*
- Page 136, line 13: Strike “with demonstrated effectiveness” and replace with *“based on the best available evidence of effectiveness”*
- Page 139, lines 3-4: Strike all and replace with *“(A) Procuring and implementing programs and instructional materials based on mathematics research, including software and other education technology related to mathematics instruction based on the best available evidence of effectiveness in improving mathematics instruction and student academic achievement.”*
- Page 141, line 24: Insert *“, upon request by the eligible local educational agency,”* after “local educational agencies”
- Page 142, line 4: Insert *“, upon request by the eligible local educational agency,”* after “local educational agencies”

- Title II-F. SIIA strongly supports inclusion of the ATTAIN Act as Title II-F. To further improve the program, we urge the Committee to consider several recommendations important to addressing core tenets of the program. These points are expanded upon in additional comments specifically on Title II-F submitted under separate cover and jointly signed by three partner national education associations.
 - Minimum Formula Allocation: Insert a \$3,000 minimum LEA allocation for the formula portion to ensure all qualified LEAs receive at least \$3,000 in a given fiscal year.
 - State Research and Evaluation Leadership: Allow for states to use up to 5% of funds for state activities and technical assistance, and an additional 2.5% for research and evaluation. At a minimum, establish a \$100,000 minimum for state activities and evaluation.
 - Student Technology Literacy: Insert HR 2449's provisions on student technology literacy assessments. At a minimum, provide encouragement to and support for states to identify related standards and measure student progress towards technology literacy. Lastly, add for the annual local, state and federal collection and reporting on student technology literacy.
 - Professional Development: Increase the professional development set-aside for formula grants to 40%, while adding permitting states to waive the professional development set aside upon an LEA's demonstration that they have otherwise met these needs.
 - Authorization of Appropriations: Insert a \$1 billion authorization level for Title II, Part F.
- Title IV, New Day for Learning Study
 - Page 35, line 3: Insert "*student technology literacy (as defined in Title II-F)*" after "information usage"
- Title V, Foreign Language Education Partnership Program
 - Page 109, line 13: Insert ", *if appropriate alternatives do not already exist,*" after "demonstrated need"
 - Page 112, line 5: Insert at the beginning, "*to acquire and, if appropriate alternatives do not already exist,*"
- Title VI, Sections 6111 and 6112, State Assessments. SIIA commends this enhanced support for state and other assessments. These recommendations below would: (1) appropriately target the scope of federal investment; and (2) enhanced support for 21st century assessments, including of student technology literacy and through the use of technology-based assessments.
 - Page 149, lines 20: Strike "to develop, field test" and replace with "*to provide research and other support for local development, acquisition, field testing*"
 - Page 150, line 6: Insert "*and technology-based assessment systems*"
 - Page 152, line 4: Insert at the end, "*(1) to support research and development of technology-based assessments to enhance the delivery, efficiency, and timeliness of state assessment systems under Section 111A, as well as to enable such assessments to measure an enhanced set of student knowledge and skills and performance based measures*"
 - Page 152, line 19: Insert "*student technology literacy (as defined in Title II-F)*" after "problem-solving"
 - Page 155, line 3: Insert, "*student technology literacy (as defined in Title II-F)*" after "problem solving,"
 - Page 155, line 6: Insert, "*(I) use technology to enhance the delivery, efficiency, and timeliness of assessments and assessment data, as well as to enable such assessments to*

measure an advanced set of knowledge and skills such as through performance based measures”

- Title IX, General Provisions

- Add a new Section, Appropriate Federal Role.

“Section XX. Appropriate Federal Role--

(a) In General -- The policy of the federal government in the implementation of the Elementary and Secondary Education Act and the General Education Provisions Act is that the federal government should not compete directly, or through grants or contracts, with the private sector in the development and delivery of products and services, including instructional materials, technologies, and assessments, where such activities are not inherently governmental and are already, or best, carried out by non-federal entities.

(b) Review Policy -- The Secretary shall establish a process, in consultation with interested parties, including but not limited to providers of educational products and services, to ensure that the Department and any other federal agency or recipient of funds authorized under this Act, first reviews the market needs and the availability of existing products and services before approving any research or development project/application to ensure that it does not compete with the private sector, but rather encourages further private development.

(c) Review Process – Before creating, delivering, or funding any education product or service that may compete with the private sector as determined in accordance with the criteria outlined in paragraphs (a) and (b), the Secretary shall:

(1) conduct a public comment and review process and a competitive impact study before creating, delivering, or funding any such product or service; and

(2) issue an approval of such education product or service initiative only upon a finding that:

(A) it is an inherently governmental function and/or delivers inherently governmental information and

(B) there does not exist a non-federal entity currently providing, or best positioned to provide, the same or similar product or service.”

(d) Grants and Contracts – The Secretary shall, for grants and contracts for creation of products or services that are approved in accordance with the process described in paragraph (c), allow for-profit entities to apply, unless otherwise prohibited by federal law, in order to ensure federal investments are best leveraged to create maximum value, including through federal technology transfer.

Section 901, Definitions

- Page 187, lines 10-11: Strike all and replace with, “*is ongoing, timely, continuous and may be technology-based to provide such timeliness*”
- Page 191, lines 19-20: “*as*” after “includes,”

- Title X, Literacy is Essential

- Page 228, line 10: Strike “10” and replace with “35”
- Page 270, line 3: Strike “developing and”
- Page 278, line 8: Strike “designing”
- Page 284, line 23: Insert at the end, “*(E) the use of technology to meet program goals and needs, including in the areas of instructional materials and assessment*”
- Page 291, line 15: Insert at the beginning, “*Acquiring and*”