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Funding for the Impact Aid Program: Options for Budget Year Appropriations, Forward Funding, and Advance Appropriations

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July 22, 2014

Congressional Research Service
7-5700
www.crs.gov
R43657

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

Administered by the U.S. Department of Education (ED), the Impact Aid program is one of the oldest federal education programs, dating from 1950. Impact Aid, authorized under Title VIII of the Elementary and Secondary Education Act (ESEA, P.L. 89-10, as amended), compensates local educational agencies (LEAs) for "substantial and continuing financial burden" resulting from federal activities. These activities include federal ownership of certain lands, as well as the enrollments in LEAs of children of parents who work or live on federal land (e.g., children of parents in the military and children living on Indian lands). The federal government provides compensation because these activities deprive LEAs of the ability to collect property or other taxes from these individuals (e.g., members of the Armed Forces living on military bases) or their employers, even though the LEAs are obligated to provide free public education to their children. Thus, Impact Aid is intended to compensate LEAs for the resulting loss of tax revenue.

The largest Impact Aid payment, Section 8003(b) payments (also known as Basic Support Payments or BSPs), compensates LEAs for enrolling "federally connected" children. For FY2014, Section 8003(b) accounted for $1.151 billion, approximately 89.3% of all funds appropriated for the Impact Aid program. As Section 8003(b) payments account for the majority of all Impact Aid funding, this report primarily focuses on these payments.

All Impact Aid payments are funded through the Labor, Health and Human Services, Education, and Related Agencies (L-HHS-ED) annual appropriations bill. Funds are provided through "budget year appropriations," meaning the funds would be available for the budget year beginning on the first day of the next fiscal year (e.g., October 1, 2013, for FY2014), unless otherwise specified. This availability may be retroactive if annual appropriations are not enacted until after the fiscal year has begun. The Impact Aid program is also authorized to receive appropriations through advance appropriations and forward funding. Advance appropriations become available one or more fiscal years after the budget year covered by a given appropriations act (e.g., for FY2015 and an FY2014 appropriations act). Forward funding becomes available during the last quarter of the budget year (e.g., July 1), but remains available through at least the following fiscal year (e.g., July 1, 2014, through September 30, 2015).

Under the current mechanism for funding Section 8003(b) payments and the use of continuing resolutions rather than enacting regular appropriations acts prior to the start of the fiscal year, LEAs are generally unable to receive their full Section 8003(b) payments until sometime after October 1, because of delays in when regular appropriations or a full-year continuing resolution is enacted. This can create financial difficulties for LEAs, particularly those that are heavily dependent on Impact Aid funding. Providing funds for Section 8003(b) payments through advance appropriations or forward funding has the potential to ease some of these difficulties, but has budget enforcement implications that may complicate any attempt to transition to an alternative funding schedule.

This report considers three different appropriations scenarios for Impact Aid Section 8003(b) payments that are an alternative to budget year appropriations: (1) providing forward funding for Section 8003(b) payments, (2) providing advance appropriations for Section 8003(b) payments, or (3) using both forward funding and advance appropriations to provide Section 8003(b) payments, as is done for other federal education programs such as Title I-A Grants to Local Educational Agencies authorized by the ESEA or Grants to States authorized under Part B of the Individuals with Disabilities Education Act (IDEA). Each of these scenarios has budget

implications that may require at least a one-time increase in discretionary appropriations, a change in the limit set on advance appropriations, or some combination of both.

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Introduction

Administered by the U.S. Department of Education (ED), the Impact Aid program is one of the oldest federal education programs, dating from 1950. Impact Aid, authorized under Title VIII of the Elementary and Secondary Education Act (ESEA, P.L. 89-10, as amended), compensates local educational agencies (LEAs) for "substantial and continuing financial burden" resulting from federal activities. These activities include federal ownership of certain lands, as well as the enrollments in LEAs of children of parents who work or live on federal land (e.g., children of parents in the military and children living on Indian lands). The federal government provides compensation because these activities deprive LEAs of the ability to collect property or other taxes from these individuals (e.g., members of the Armed Forces living on military bases) or their employers, even though the LEAs are obligated to provide free public education to their children. Thus Impact Aid is intended to compensate LEAs for the resulting loss of tax revenue.

The largest Impact Aid payment, Section 8003(b) payments (also known as Basic Support Payments or BSPs), compensates LEAs for enrolling "federally connected" children. These are children who reside with a parent who is a member of the Armed Forces living on or off federal property; reside with a parent who is an accredited foreign military officer living on federal property; reside on Indian lands; reside in low-rent public housing; or reside with a parent who is a civilian working or living on federal land. For FY2014, Section 8003(b) payments accounted for $1.151 billion, approximately 89.3% of all funds appropriated for the Impact Aid program. As Section 8003(b) payments account for the majority of all Impact Aid funding, this report primarily focuses on them. The **Appendix** provides a brief description of other payments made under the Impact Aid program.

The purpose of this report is to describe options for adjusting the timing of when Impact Aid appropriations become available for obligation to carry out Section 8003(b).[1] At present, appropriations are often not available at the beginning of the school year. This report begins by explaining how Section 8003(b) activities are currently funded through "budget year appropriations" and the effect that period of availability has on those activities. It then discusses alternatives to providing funding through budget year appropriations, including forward funding and advance appropriations. The final section analyzes the way in which adopting an alternative period of availability such as forward funding, advance appropriations, or a combination approach (forward funding/advance appropriations) would affect the appropriations process once it was fully implemented. It also discusses the appropriations actions required to make these changes and the ways in which this would affect the annual appropriations process, both once the alternative period of availability was fully implemented, and also during the transition fiscal year.[2]

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[1] Appropriations bills provide agencies budget authority, which is authority provided by federal law to enter into contracts or other financial obligations that will result in immediate or future expenditures (or outlays) involving federal government funds. For explanations of these terms, see U.S. Government Accountability Office (hereinafter GAO), *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP, September 2005, pp. 20-21, available at http://www.gao.gov/new.items/d05734sp.pdf.

[2] For general information about advance appropriations and forward funding, see CRS Report R43482, *Advance Appropriations, Forward Funding, and Advance Funding: Concepts, Practice, and Budget Process Considerations*, by Jessica Tollestrup. For more information about Impact Aid programs, see http://www2.ed.gov/about/offices/list/oese/impactaid/index.html.

Overview of Impact Aid Section 8003(b) Payments

Program Activities

Section 8003(b) of the ESEA authorizes payments to LEAs to compensate them for the cost of serving certain groups of federally connected children. As previously mentioned, federally connected children include

- children living on Indian lands;
- children who live on federal land *and* whose parents are employed on federal land, are members of the Armed Forces, or are accredited foreign military officers;
- children with a parent in the Armed Forces living off the base;
- children living in low-rent public housing; and
- children whose parents otherwise work on federal land but do not live on federal land.

The presence of these children can increase the number of children the LEA must serve without a commensurate increase in the taxes that otherwise could be collected to support public education. To be eligible for Section 8003(b) payments, an LEA must have at least 400 federally connected children, or such children must represent at least 3% of an LEA's average daily attendance (ADA). Of the more than 15,000 LEAs nationwide, 1,151 LEAs meet one of these eligibility criteria.[3] Thus, fewer than 10% of all public school districts qualify for Section 8003(b) payments.

For FY2014, $1.151 billion was appropriated for Section 8003(b) payments. These payments accounted for 89.3% of the $1.289 billion provided overall for the Impact Aid program. Section 8003(b) payments differ from funds provided by most other federal elementary and secondary education programs in that they are not limited to specified uses (such as improving the educational achievement of disadvantaged students). While Section 8003(b) funds are generally used for current local education expenditures,[4] they may also be used for capital expenditures.[5] In addition, funds need not be spent only on federally connected children. Finally, because Impact Aid payments are not aimed at specific educational goals, accountability requirements for the use of funds or for specific outcomes are minimal.

[3] U.S. Department of Education, *Justifications of Appropriation Estimates to the Congress: FY2015*, 2014, available at http://www2.ed.gov/about/overview/budget/budget15/justifications/d-impactaid.pdf.

[4] Section 8014 (4) defines "current expenditures" as "expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant ... " and so forth. Funds may also be used for capital expenditures. (For more information, see U.S. Department of Education, *Impact Aid: Frequently Asked Questions*, available at http://www2.ed.gov/programs/8003/faq.html.

[5] U.S. Department of Education, "Impact Aid Section 8003 Payments for Federally Connected Students—Frequently Asked Questions," available at http://www.ed.gov/programs/8003/faq.html.

Current Funding Approach

The federal government fiscal year starts on October 1 and ends the following September 30. Funding for federal programs that is provided through the annual appropriations process is typically available at the start of the fiscal year, unless otherwise specified. In general, this period of availability most often begins on the first day of the fiscal year of the appropriations act, also referred to as the "budget year." For the purposes of this report, such periods of availability are referred to as "budget year appropriations." The Impact Aid program is funded using budget year appropriations provided in the Labor, Health and Human Services, Education, and Related Agencies (L-HHS-ED) appropriations bill. It should be noted that of the elementary and secondary education programs administered by ED that receive $1 billion or more in annual appropriations, Impact Aid Section 8003(b) is the only program that receives budget year appropriations.[6]

Under the current mechanism for funding Section 8003(b) payments and the use of continuing resolutions rather than enacting budget year appropriations acts prior to the start of the fiscal year, LEAs are generally unable to receive their full Section 8003(b) payments until sometime after October 1. Some observers have suggested that providing funding for these payments on a regular appropriations schedule has caused issues for program operations.[7] Because of the timing of the school year, significant planning and preparation for the upcoming year tends to occur during the spring and summer months. However, the current timing of enactment and availability of federal funds provided through Impact Aid makes it difficult for LEAs to include them in their budget planning process. In addition, the full allocation of funds to LEAs is delayed in instances where the federal government is operating under a short-term continuing resolution at the beginning of the fiscal year until regular appropriations bills or a full-year continuing resolution is enacted. LEAs dependent on Impact Aid funding are also affected more quickly by any decrease in funding than LEAs receiving funds under other federal elementary and secondary education formula grant programs. For example, as a result of the FY2013 sequester, Impact Aid funding was reduced immediately during the 2012-2013 school year, while the decrease in funding for education programs receiving forward funding or advance appropriations did not affect LEAs until the following school year (2013-2014).[8] The uncertainty that results from each of these

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[6] The elementary and secondary education programs administered by ED that receive annual appropriations of at least $1 billion and receive both advance appropriations and forward funding include the following: (1) Title I-Grants to Local Educational Agencies (ESEA Title I-A), (2) Improving Teacher Quality (ESEA Title II-A), (3) Individuals with Disabilities Education Act, Part B Grants to States, and (4) Career and Technical Education State Grants (Carl. D. Perkins Career and Technical Education Act of 2006, Title I). The 21st Century Community Learning Centers program (ESEA Title IV-B) receives forward funding but does not receive advance appropriations.

[7] For example, see concerns raised by the National Association of Federally Impacted Schools (NAFIS) and the American Association of School Administrators (http://www.aasa.org/aasablog.aspx?id=24844), Military Impacted Schools Association (http://militaryimpactedschoolsassociation.org/88/what-is-misa), and National Military Family Association (http://mil.ccs.k12.nc.us/files/2012/06/Impact-Aid.pdf). The issue of how Impact Aid payments are funded became a particularly prominent issue during sequestration. While most Impact Aid program advocates seem to focus on the lack of forward funding for Impact Aid, this report also focuses on the provision of advance appropriations as the Impact Aid account is authorized to receive advance appropriations and several other programs administered by ED that receive $1 billion or more in annual appropriations receive advance appropriations and forward funding (see subsequent discussion on Alternative Funding Approaches for Section 8003(b) Payments).

[8] For more information, see for example, Letter from Anthony W. Miller, Deputy Secretary, U.S. Department of Education, to Chief State School Officers, Clarification of Sequester Impact on Four Accounts with Advance Funding, July 20, 2012, available at http://www.ed.gov/sites/default/files/Letter_07_20_2012.pdf, or Jocelyn Bissonnette, *Impact Aid and Sequestration*, National Association of Federally Impacted Schools, December 5, 2013, http://www.ncsl.org/documents/standcomm/sceduc/JBissonnette1213.pdf.

funding scenarios can create financial difficulties for LEAs, particularly those that are heavily dependent on Impact Aid funding.[9]

Alternative Funding Approaches for Section 8003(b) Payments: Advance Appropriations and Forward Funding

In contrast to regular budget year appropriations for Impact Aid that fund a school year that is already underway, funding could be provided in the appropriations act for the fiscal year that precedes the school year for which they will be used. In general, this alternative approach would provide appropriations a number of months in advance of when they would become available with budget year appropriations. Such a process would presumably allow LEAs to incorporate funding with more certainty in their planning process for the upcoming school year. In addition, because of the lag in availability, if appropriations acts were delayed in any given year, LEAs presumably would not be adversely affected for the purposes of the upcoming school year.

While appropriations could be made available at any time, as specified in the appropriations act in which they are enacted, two such conventions have been used for certain other ED programs to accommodate the disconnect between the federal fiscal year and the school year—"advance appropriations" and "forward funding." The Impact Aid Section 8003(b) payment is the only K-12 program administered by ED that receives $1 billion or more through the annual appropriations process that is not provided advance appropriations, forward funding, or a combination of the two. Although the Impact Aid programs have generally been authorized to receive funding in appropriations acts on either of these bases since 1968, through Title IV, Section 420 (a), of the General Education Provisions Act (see below), no such appropriations are currently being provided with such timing:

> To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing education activities and projects, appropriations for grants, contracts, or other payments under any applicable program are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.[10]

While any or all of the Impact Aid payments could be provided through forward funding or advance appropriations (as discussed below), for the purposes of this report it is assumed that any change in appropriations would affect only the Section 8003(b) payments.

[9] See, for example, Alyson Klein, "After Fiscal Drama, Impact Aid Districts Will See Some Early Money," *Education Week*, October 23, 2013.

[10] The General Education Provisions Act (GEPA; P.L. 90-247 (as amended), Title IV, §420; 20 U.S.C. 1223) In the *Fiscal Year 2007 Appendix: Budget of the U.S. Government*, the Office of Management and Budget (OMB) states that the Impact Aid account is authorized to receive advance appropriations and cites 20 U.S.C. 1223 as providing such authority. See Office of Management and Budget, *Fiscal Year 2007 Appendix: Budget of the U.S. Government*, pp. 1225-1226, http://www.gpo.gov/fdsys/pkg/BUDGET-2007-APP/pdf/BUDGET-2007-APP-2-2.pdf.

Advance Appropriations

Advance appropriations are enacted one or more fiscal years prior to when they become available.[11] For example, in an appropriations act for FY2015, funds would generally become available for obligation at the start of the fiscal year—October 1, 2014. Advance appropriations in this FY2015 act, however, would not become available until the start of FY2016—October 1, 2015—or later.

Advance appropriations have been provided for a variety of programs besides the education programs mentioned above, particularly those that provide payments or services directly to individuals or states, such as the Veteran's Health Administration (Department of Veterans' Affairs) and the Tenant-Based and Project-Based Rental Assistance Programs (Department of Housing and Urban Development). The reasons such appropriations have been advocated include avoiding funding gaps or relying on continuing resolutions for funding at the beginning of the fiscal year, as well as the belief that such appropriations enable better advanced planning for those programs because they are typically enacted many months prior to the beginning of the fiscal year. Others have argued, however, that the ability to make such commitments may be limited by the extent to which programmatic needs can be forecasted in advance, and that providing alternative periods of availability for some programs makes their budgetary levels difficult to compare to programs that receive budget year appropriations.[12]

Forward Funding

Forward funds are also enacted in advance, but become available during the last quarter of the budget year as opposed to a future fiscal year.[13] For example, in an appropriations act for FY2015, budget authority that is forward funded would become available during FY2015, but not until July 1, 2015, or later, and would remain available through at least part of the following fiscal year.

Forward funding is provided for many elementary and secondary education programs to allow additional time for school officials to develop budgets in advance of the beginning of the school year and to better align federal appropriations with the fiscal year used by many school districts, which runs from July 1 to June 30. Forward funding is similar to advance appropriations, in that it is enacted in advance of the school year for which it is provided. In the context of education, the distinction between the two is that forward funding becomes available during the summer months to provide for program costs that largely occur during the following fiscal year, whereas advance appropriations first become available in the fall, during that following fiscal year.

At the program level, there is little difference between providing funds in July or October, as most expenditures for a standard school year occur after October 1. Using forward funding or advance

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[11] See U.S. Government Accountability Office (GAO), *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP, September 2005, p. 8, available at http://www.gao.gov/new.items/d05734sp.pdf. See footnote 1 for a definition of "obligation" and other related budget process concepts.

[12] For further information on these issues, see CRS Report R43482, *Advance Appropriations, Forward Funding, and Advance Funding: Concepts, Practice, and Budget Process Considerations*, by Jessica Tollestrup, pp. 4-5.

[13] See U.S. GAO, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP, September 2005, p. 56, available at http://www.gao.gov/new.items/d05734sp.pdf.

appropriations, however, may have budget enforcement implications, and the choice of one approach over the other may be determined, to some extent, by those implications.

Budget Enforcement Considerations

Budget enforcement rules generally provide limits on the amount provided in appropriations acts for each fiscal year through both statutory and procedural mechanisms.[14] For statutory enforcement, the Budget Control Act of 2011 imposed limits on discretionary spending[15] that apply each fiscal year between FY2012 and FY2021.[16] For procedural enforcement, the Congressional Budget Act of 1974[17] provides for allocations of budget authority under the jurisdiction of the Appropriations Committee, referred to as a "302(a) allocation," as well as the suballocation of that spending to each of the 12 Appropriations subcommittees, referred to as a "302(b) allocation."[18] Both the 302(a) and 302(b) allocations, as well as the statutory discretionary spending limits, are enforceable during floor consideration through points of order that may be raised against any measure, including amendments, that would cause these limits to be exceeded.[19] In addition, the statutory limits are enforceable after enactment through sequestration.[20]

The amount provided in an appropriations act for a given fiscal year, for budget enforcement purposes, is determined by its period of availability. That is, the amount provided is "scored" in the fiscal year in which it first becomes available for obligation.[21] Forward funding becomes available during the latter part of the budget year, and so is scored against the budget year of the bill in which it is enacted. In contrast, advance appropriations are scored against the limits on appropriations that apply the first fiscal year that they are available for obligation (typically the following fiscal year), and not the budget year of the bill in which they are enacted.[22] Consequently, budget enforcement for advance appropriations would typically occur that following fiscal year in combination with the new discretionary appropriations for that year. That

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[14] For general information on budget enforcement during the congressional consideration of budgetary measures, including appropriations acts, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno. For information on budget enforcement once appropriations have been enacted, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan, pp. 13-14.

[15] Budget enforcement rules distinguish between direct (or "mandatory") and discretionary spending. Spending authority provided and controlled in appropriations acts is treated as discretionary spending. In contrast, spending authority controlled by (and, in most cases, provided in) authorizing laws is direct spending.

[16] These limits are found in Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

[17] P.L. 93-344; 88 Stat. 297; 2 U.S.C. 60-688.

[18] Congressional Budget Act, §§302(a) and 302(b). Procedural budget enforcement may be established through other methods, such as through provisions in the congressional budget resolution.

[19] Primarily, the appropriations 302(b) and 302(a) allocations are enforced through points of order under §302(f) of the Congressional Budget Act. Points of order to enforce the statutory spending limits would be raised under the Congressional Budget Act, §§312(b) and 314(f).

[20] Sequestration involves the automatic cancelation of budget authority through largely across-the-board reductions of non-exempt programs and activities. Procedures for discretionary spending sequestration are provided by the Balanced Budget and Emergency Deficit Control Act of 1985. For further information about the Budget Control Act, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

[21] U.S. House of Representatives, Committee on the Budget, *Compilation of Laws and Rules Relating to the Congressional Budget Process,* as amended through August 3, 2012, Committee Print, 112th Cong., 2nd sess. (Washington, DC: GPO, 2012), pp. 313-318.

[22] Ibid, p. 314.

is, in the following fiscal year, the appropriations process begins with a "charge" against the appropriations limits for the budget year, even before the appropriations acts for that fiscal year have been drafted.

Given that budget enforcement rules generally limit discretionary spending a single fiscal year at a time, providing appropriations in advance may allow them to be considered outside the context of the spending decisions for the upcoming year. In response to concerns about the potential to avoid the budget year limits when considering advance appropriations, various House and Senate procedural limits on the amount of advance appropriations that may be provided have been imposed through the congressional budget resolution and other associated procedural mechanisms since FY2001. These limits have typically specified the accounts for which advance appropriations may be provided, and have capped the amounts for certain advance appropriations. For FY2015, for example, the Senate limits established in the Bipartisan Budget Act of 2013 (P.L. 113-67, §112) restricted advance appropriations enacted in FY2015 appropriations acts to a total of $28.582 billion for the following accounts:

- Employment and Training Administration;
- Job Corps;
- Education for the Disadvantaged;
- School Improvement;
- Special Education;
- Career, Technical, and Adult Education;
- Payment to Postal Service;
- Tenant-based Rental Assistance; and
- Project-based Rental Assistance.

An unlimited amount of advance appropriations are also allowed in the Senate for the Corporation for Public Broadcasting; and the Department of Veterans Affairs for the Medical Services, Medical Support and Compliance, and Medical Facilities accounts of the Veterans Health Administration.[23]

Potential Implementation and Transition Options for Advance Appropriations and Forward Funding

This section considers three different appropriations scenarios for Impact Aid Section 8003(b) payments that are an alternative to regular budget year appropriations: (1) providing forward funding for Section 8003(b) payments, (2) providing advance appropriations for Section 8003(b) payments, or (3) using both forward funding and advance appropriations to provide Section 8003(b) funding, as is done for other federal education programs such as Title I-A Grants to Local Educational Agencies authorized by the ESEA or Grants to States authorized under Part B of the Individuals with Disabilities Education Act (IDEA). This section considers each of these

[23] P.L. 113-67, §112, and *Congressional Record,* daily edition, vol. 160, no. 66 (May 5, 2014), p. S2641.

scenarios in terms of how each might affect the annual appropriations process once it were fully implemented, the appropriations actions required in the transition fiscal year, and various potential budget process issues that might arise during that transition.[24] Please note that for discussion purposes, it is assumed that budget year appropriations would be provided on October 1 of the fiscal year corresponding to the appropriations bill, forward funding would be provided on July 1 of the year corresponding to the appropriations bill, and advance appropriations would be provided on the first day of the succeeding fiscal year. As previously discussed, the ESEA would not have to be amended to permit the Section 8003(b) payments to receive forward funding or advance appropriations, as both funding mechanisms are already authorized for the Impact Aid account.

Forward Funding

As was previously stated, Impact Aid is currently funded using regular budget year appropriations that first become available about one month after the start of the school year. If Section 8003(b) payments were to be forward funded, however, funds would shift from being available in October to support the current school year to being available in July to support the upcoming school year. For example, if Section 8003(b) continued to be funded through budget year appropriations for FY2015, the funds would become available on October 1, 2014, and be used to support activities during the 2014-2015 school year. If appropriations for Section 8003(b) were forwarded funded in FY2015, funds would become available on July 1, 2015, and be used to support school activities during the 2015-2016 school year. More specifically, such funds would typically be made available for the next 15 months, through September 30, 2016. Likewise, the following fiscal year, if all Section 8003(b) appropriations were forward funded, funds to support activities during the 2016-2017 school year would be provided through the FY2016 appropriations act to become available on July 1, 2016.

Transition Year

To change the Impact Aid program to be solely forward funded starting in FY2015 would essentially require double-funding the program in the transition year through the following appropriations actions. First, the FY2015 appropriations would need to include the regular budget year appropriation that the program has historically received to fund activities in the 2014-2015 school year. These would be available for obligation as of October 1, 2014. Otherwise, under the switch to forward funding, the program would be without an appropriation until July 1, 2015, leaving little to no funding for the 2014-2015 school year. Second, funds for the 2015-2016 school year would need to be forward funded to become available in the final months of FY2015. If the intent is to completely forward fund the Section 8003(b) payment, then the full amount required to level fund the payment would need to be appropriated using a forward funding period of availability. That is, for the FY2015 appropriations process, the Section 8003(b) payment would need to be funded through both regular budget year appropriations and forward funding appropriations, a scenario that was arguably contemplated in Title IV, Section 420(b) of The General Education Provisions Act:

[24] Under any of these scenarios, a portion of the funds could continue to be provided through regular appropriations. This option is not discussed, however, as the focus of this analysis is on alternative funding options.

> In order to effect a transition to the timing of appropriation action authorized by subsection (a) of this section, the application of this section may result in the enactment, in a fiscal year, of separate appropriations for an applicable program (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

The following scenario illustrates this potential transition. For FY2014, the Section 8003(b) payments were funded at $1.151 billion, so $2.302 billion would need to be provided for the program in FY2015 under this funding scenario ($1.151 for regular budget year appropriations and $1.151 billion for forward funding). In subsequent fiscal years, however, assuming the program remained forward funded (and level-funded), the annual appropriation provided solely through forward funding would be $1.151 billion. The increase in discretionary appropriations required to forward fund the Section 8003(b) payments in FY2015 would be counted against any statutory or procedural limits on discretionary spending applicable to that fiscal year. In effect, this might require that the additional appropriations to forward fund the Section 8003(b) payments during this transition period be offset by reductions to another discretionary program. Alternatively, this transition period could be addressed by enacting a provision specifying that a certain amount, such as the double funding needed to switch to forward funding, is not to be counted for the purposes of budget enforcement.

Advance Appropriations

In contrast to the regular budget year appropriations that are enacted to fund education activities for a school year that is already underway, advance appropriations are enacted prior to when that school year starts. For example, budget year appropriations to fund the 2015-2016 school year would be enacted in the FY2016 appropriations act and become available as of October 1, 2015. Advance appropriations to fund the 2015-2016 school year, however, would be enacted one year in advance—in the appropriations act for the fiscal year starting October 1, 2014 (FY2015)—but not become available until October 1, 2015, one full fiscal year after the budget year. The following fiscal year, advance appropriations for the 2016-2017 school year would be enacted in the FY2016 appropriations act but not become available until October 1, 2016.

Transition Year

Changing appropriations for payments for federally connected children from regular budget year appropriations to advance appropriations requires a different set of actions, with a different set of costs, for a given fiscal year. First, to change the Section 8003(b) payment to receive advance appropriations during the FY2015 appropriations process, the FY2015 L-HHS-ED appropriations bill would need to include the budget year appropriation that the program has historically received to cover program needs for the 2014-2015 school year. That is, funds for the 2014-2015 school year would be available for obligation as of October 1, 2014, once enacted. A switch to advance appropriations without also providing these budget year appropriations would leave the program without an appropriation until October 1, 2015, resulting in little to no funding for that school year. Second, advance appropriations for the 2015-2016 school year would also need to be provided in the FY2015 L-HHS-ED appropriations act, to become available on October 1, 2015. If the intent is to completely fund needs for the 2015-2016 school year through advance appropriations, then the full appropriation for that program year would need to be provided in this way.

The budget process implications for a switch to advance appropriations also differ from those for forward funding. The funding for advance appropriations for FY2016 included in the FY2015 appropriations bill would not count against any limits on FY2015 discretionary spending and would not require any double funding of Section 8003(b) payments in a single fiscal year. Such spending would count against the FY2016 limits, however, if provided on the schedule considered in this scenario. It would also require that any procedural limit on advance appropriations, which is generally determined each year during the consideration of the congressional budget resolution, allows such appropriations for the Impact Aid account and be set at a level sufficient to accommodate appropriations for the Section 8003(b) payments.

Combination Forward Funding/Advance Appropriations Approach

Appropriations for Section 8003(b) payments could also be made using a combination of forward funding and advance appropriations, as has been the practice for other federal education programs such as ESEA, Title I-A and IDEA, Part B. Under this approach, only the portion of funding needed during the summer months would be forward funded, while the rest would be advance appropriated to become available after the start of the following fiscal year. For example, for the 2015-2016 school year, in the FY2015 appropriations act, a portion (e.g., 25%) of the Section 8003(b) payments would be forward funded and become available on July 1, 2015, while the rest (e.g., 75%) would be advance appropriated and become available three months later, on October 1, 2015. This combination of advance appropriations and forward funding would be appropriated each fiscal year to fund payments for the upcoming school year.

Transition Year

If this change were made during the FY2015 appropriations process, appropriations subject to the applicable FY2015 limits would be needed to fund both the 2014-2015 school year through budget year appropriations, as well as whatever percentage of the 2015-2016 school year was determined to be necessary through forward funding. The amount provided through forward funding could be set at any appropriate percentage of the total payment (e.g., 25%, 50%, 75%), with the remainder for the 2015-2016 school year being provided through advance appropriations. For example, if 25% of the funds were provided through forward funding and 75% were provided through advance appropriations, for FY2015 $1.439 billion would need to be provided in discretionary appropriations—$1.151 billion in budget year appropriations to support activities during the 2014-2015 school year and $288 million (25% of the budget year appropriations amount) for forward funding—and $863 million would need to be included in advance appropriations for FY2016.

This combination approach involves, to a lesser degree, the same budget process implications that apply to forward funding and advance appropriations. While a combination approach would avoid the need for double funding in that transition year, a lesser one-time increase over the typical amount appropriated subject to the applicable limits would still occur. Because the portion that is forward funded would be counted against any statutory or procedural limits on discretionary spending, the additional appropriations to forward fund the Section 8003(b) payments during this transition period might need to be effectively offset by reductions in another discretionary program. In subsequent fiscal years, only the forward funding amount would need to be appropriated in the budget year, and the remainder could be advance appropriated. At the same time, any limits on advance appropriations established through the budget resolution would need to be altered to accommodate advance appropriations for the portion of Section 8003(b) payments funded in this way. As was previously mentioned, this transition period could also be addressed by enacting a provision specifying that a certain amount, such as the double funding, is not to be counted for the purposes of budget enforcement.

Illustration of Alternative Funding Approach Transitions

Table 1 summarizes the key elements of current law and transitions to each of the three approaches discussed above. It is assumed that the alternative funding approaches would be applied in the FY2015 appropriations act. The table details how much discretionary funding would be needed in FY2015 and the level of advance appropriations for FY2016 that would need to be included in the FY2015 appropriations act, assuming the Section 8003(b) payment remains level funded. It is also assumed that regardless of the approach taken, the FY2015 appropriations act would provide level funding for Section 8003(b) payments for the 2014-2015 school year, as well as the 2015-2016 school year. For the combination approach, it assumes a distribution of 25% forward funding and 75% advance appropriations.

Table 1. Illustration of Alternative Funding Approach Transitions

Funding Approach	FY2015 Appropriation	Advance Appropriations for FY2016 Provided in FY2015 Appropriations Act	Date on Which Funds Would First be Available for the 2014-2015 School Year	Date on Which Funds Would First be Available for the 2015-2016 School Year	Comments
Budget year appropriations (current approach)	$1.151 billion	None	October 1, 2014	Not applicable	LEAs would not receive their full allocation until budget year appropriations or a long-term continuing resolution was enacted. If such funds were enacted after the start of the budget year, they would be retroactively available as of the first day of the budget year (October 1).
Forward funding only	$2.302 billion ($1.151 billion in budget year appropriations and $1.151 billion in forward funding)	None	October 1, 2014	July 1, 2015	The FY2015 appropriations act would have to provide funding for two school years, requiring a "doubling" of the discretionary appropriation for the Section 8003(b) payment in FY2015. In subsequent years, the discretionary appropriation would need only be for a single school year.
Advance appropriations only	$1.151 billion	$1.151 billion	October 1, 2014	October 1, 2015	The FY2015 appropriations act would need to include budget year appropriations to fund the 2014-2015 school year, as well as advance appropriations for FY2016 to fund the 2015-2016 school year.
Combination of forward funding (assuming 25%) and advance appropriations (assuming 75%)	$1.439 billion ($1.151 billion for budget year appropriations and $288 million for forward funding)	$863 million	October 1, 2014	July 1, 2015 (25% of funds), followed by October 1, 2015 (75% of funds)	The FY2015 appropriations act would need to provide FY2015 funding for the 2014-2015 school year, as well as for part of the 2015-2016 school year. In addition, the FY2015 appropriations bill would need to include advance appropriations for FY2016 for the remainder of 2015-2016 school year.

Source: Table prepared by CRS, July 22, 2014, based on CRS analysis of Section 8003(b) payments and alternative funding strategies.

Notes: This table was prepared assuming budget year appropriations would be available on October 1 of the fiscal year corresponding to the appropriations bill, forward funding would become available on the following July 1, and advance appropriations would become available on October 1 of the succeeding fiscal year. It is also assumed that regardless of the approach taken, the FY2015 appropriations act would provide level funding for Section 8003(b) payments for the 2014-2015 school year, as well as the 2015-2016 school year. For the combination approach, it assumes a distribution of 25% forward funding and 75% advance appropriations.

Appendix. Impact Aid Payment Descriptions

Title VIII of the Elementary and Secondary Education Act (ESEA, P.L. 89-10, as amended) authorizes several types of Impact Aid payments. These include payments made under Section 8002, Section 8003, Section 8007, and Section 8008. Each of these types of payments is discussed briefly below.

Section 8002

Section 8002 compensates LEAs for the federal ownership of certain property. To qualify for compensation, the federal government must have acquired the property, in general, after 1938, and the assessed value of the land at the time it was acquired must have represented at least 10% of the assessed value of all an LEA's real property. About 216 LEAs receive Section 8002 payments annually.[25] Payments are usually used by LEAs for general operating expenses (e.g., teacher salaries, books, supplies, and utilities).[26] For FY2014, $66.8 million was appropriated for Section 8002, and payments to LEAs are expected to range from $150 to $5.0 million.[27]

Section 8003

Section 8003 compensates LEAs for enrolling "federally connected" children. These are children who reside with a parent who is a member of the Armed Forces living on or off federal property; reside with a parent who is an accredited foreign military officer living on federal property; reside on Indian lands; reside in low-rent public housing; or reside with a parent who is a civilian working or living on federal land.

Two payments are made under Section 8003. Section 8003(b) authorizes "basic support payments" for federally connected children.[28] In FY2014, 1,151 LEAs are eligible to receive payments under Section 8003(b). These LEAs serve about 930,000 federally connected students.[29] In FY2014, $1.151 billion was appropriated for Section 8003(b) payments, and LEA payments are expected to range from $66 to $53.9 million. Section 8003(d) authorizes additional payments to LEAs based on the number of certain federally connected children with disabilities who are eligible to receive services under the Individuals with Disabilities Education Act (IDEA). More specifically, payments are limited to certain IDEA-eligible children, most notably those whose parents are members of the Armed Forces (residing on or off military bases) and those residing on Indian lands. In FY2014, $48.3 million was appropriated for Section 8003(d)

[25] U.S. Department of Education, *Justifications of Appropriation Estimates to the Congress: FY2015*, 2014. (Hereinafter referred to as ED, *FY2015 Budget Justifications*.)

[26] U.S. Department of Education, "Impact Aid Section 8002 Payments for Federal Property-Awards," available at http://www.ed.gov/programs/8002/awards.html.

[27] ED, *FY2015 Budget Justifications*.

[28] Prior to the 2000 reauthorization, Section 8003(f) provided additional payments for about 30 "heavily impacted LEAs"—those that enroll large numbers or high proportions of federally connected children. P.L. 106-398 repealed Subsection (f) and incorporated payments for these LEAs in the basic payments under Section 8003(b)(2).

[29] ED, *FY2015 Budget Justifications*.

payments from which about 888 LEAs are expected to receive payments, ranging from $512 to $1.2 million.[30]

Section 8007

Section 8007 provides funds for construction and facilities upgrading to certain LEAs serving high percentages of children living on Indian lands or children of military parents. These funds are used to make formula and competitive grants.[31] In FY2014, per provisions included in the Consolidated Appropriations Act, 2014 (P.L. 113-76), Section 8007 grants will be awarded only by formula. In FY2014, $17.4 million was provided for Section 8007 payments. It is estimated that 174 LEAs will receive formula grants, ranging from $480 to $1.8 million.[32]

Section 8008

Section 8008 provides funds for emergency repairs and comprehensive capital improvements to 12 schools that ED currently owns but LEAs operate and use to serve federally connected military dependent children.[33] Statutory language requires ED to transfer ownership of these facilities to LEAs or other entities.[34] In FY2014, $4.8 million was provided for Section 8008.

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[30] ED, *FY2015 Budget Justifications*.

[31] For the past several fiscal years, provisions included in the Labor, Health and Human Services, Education, and Related Agencies (L-HHS-ED) appropriations acts have specified that Section 8007 grants be made using formula grants only or competitive grants only and have specified which of the two grant types would be used for a given fiscal year. For example, for FY2014, only formula grants will be awarded, while for FY2013, only competitive grants were awarded.

[32] ED, *FY2015 Budget Justifications*.

[33] Since 1983, the Department of Defense (DOD) has assumed funding responsibility for other facilities owned by ED but located on domestic military bases that serve students whose parents are in the armed forces. These were formerly known as Section 6 schools in reference to that section of P.L. 81-874. Since FY2008, ED has transferred the titles to 42 facilities that DOD operates as Domestic Dependents Elementary and Secondary Schools (DDESSs) to DOD. Of the remaining 31 facilities owned by ED and located on military bases, DOD is responsible for 19 facilities. ED is in the final stages of transferring the titles to these facilities to DOD. ED is responsible for the other 12 facilities, which are operated and used by LEAs to serve military dependent students. For more information, see ED, *FY2015 Budget Justifications*.

[34] Many of the 12 facilities operated by LEAs are deteriorating, overcrowded, or fail to meet building standards. Most LEAs will not assume ownership of the facilities unless ED provides funding for needed repairs. The estimated cost of repairs and renovations for all 12 schools is approximately $60 million, which is approximately $5 million per school See ED, *FY2015 Budget Justifications*.