105TH CONGRESS 2d Session | HOUSE OF REPRESENTATIVES | REPORT 105–587

TO AMEND THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 TO ESTABLISH A PROGRAM TO HELP CHILDREN AND YOUTH LEARN ENGLISH, AND FOR OTHER PURPOSES

JUNE 19, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOODLING, from the Committee on Education and the Workforce, submitted the following

REPORT

together with

SUPPLEMENTAL AND MINORITY VIEWS

[To accompany H.R. 3892]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 3892) to amend the Elementary and Secondary Education Act of 1965 to establish a program to help children and youth learn English, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. ENGLISH LANGUAGE EDUCATION.

Part A of title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7401 et seq.) is amended to read as follows:

"PART A—ENGLISH LANGUAGE EDUCATION

"SEC. 7101. SHORT TITLE.

"This part may be cited as the 'English Language Fluency Act'.

"SEC. 7102. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds as follows:

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"(1) English is the common language of the United States and every citizen and other person residing in the United States should have a command of the English language in order to develop to their full potential.

"(2) States and local school districts need assistance in developing the capacity to provide programs of instruction that offer and provide an equal educational opportunity to immigrant children and youth and children and youth who need special assistance because English is not their dominant language.

"(b) PURPOSES.—The purposes of this part are—

"(1) to help ensure that children and youth who are English language learners master English and develop high levels of academic attainment in English; and

"(2) to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to help immigrant children and youth with their transition into society, including mastery of the English language.

"SEC. 7103. PARENTAL NOTIFICATION AND CONSENT TO PARTICIPATE.

"(a) IN GENERAL.—A parent or the parents of a child participating in an English language instruction program for English language learners assisted under this Act shall be informed of—

"(1) the reasons for the identification of the child as being in need of English language instruction;

"(2) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement; and

"(3) how the English language instruction program will specifically help the child acquire English and meet age-appropriate standards for grade promotion and graduation.

"(b) PARENTAL CONSENT.—

"(1) IN GENERAL.—A parent or the parents of a child who is an English language learner and is identified for participation in an English language instruction program assisted under this Act—

"(A) shall sign a form consenting to their child's placement in such a program prior to such time as their child is enrolled in the program;

"(B) shall select among methods of instruction, if more than one method is offered in the program; and

"(C) shall have their child removed from the program upon their request.

"(2) EFFECT OF LAU DECISION.—A local educational agency shall not be relieved of any of its obligations under the holding in the Supreme Court case of Lau v. Nichols, 414 U.S. 563 (1974), because any parent chooses not to enroll their child in an English language instruction program using their native language in instruction.

"(c) RECEIPT OF INFORMATION.—A parent or the parents of a child identified for participation in an English language instruction program for English language learners assisted under this Act shall receive, in a manner and form understandable to the parent or parents, the information required by this section. At a minimum, the parent or parents shall receive—

"(1) timely information about English language instruction programs for English language learners assisted under this Act; and

"(2) if a parent of a participating child so desires, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents.

"(d) SPECIAL RULE.—An individual may not be admitted to, or excluded from, any federally assisted education program solely on the basis of a surname, language-minority status, or national origin.

"Subpart 1—Grants for English Language Acquisition

"CHAPTER 1—GENERAL PROVISIONS

"SEC. 7111. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

"(b) RESERVATION FOR ENTITIES SERVING NATIVE AMERICANS AND ALASKA NATIVES.—From the sums appropriated under subsection (a) for any fiscal year, the Secretary shall reserve not less than .5 percent to provide Federal financial assistance under this subpart to entities that are considered to be a local educational agency under section 7112(a).

"SEC. 7112. NATIVE AMERICAN AND ALASKA NATIVE CHILDREN IN SCHOOL.

"(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this subpart for individuals served by elementary, secondary, and postsecondary schools operated predominately for Native American or Alaska Native children and youth, the following shall be considered to be a local educational agency:

"(1) An Indian tribe.

"(2) A tribally sanctioned educational authority.

"(3) A Native Hawaiian or Native American Pacific Islander native language educational organization.

"(4) An elementary or secondary school that is operated or funded by the Bureau of Indian Affairs, or a consortium of such schools.

"(5) An elementary or secondary school operated under a contract with or grant from the Bureau of Indian Affairs, in consortium with another such school or a tribal or community organization.

"(6) An elementary or secondary school operated by the Bureau of Indian Affairs and an institution of higher education, in consortium with an elementary or secondary school operated under a contract with or grant from the Bureau of Indian Affairs or a tribal or community organization.

"(b) SUBMISSION OF APPLICATIONS FOR ASSISTANCE.—Notwithstanding any other provision of this subpart, an entity that is considered to be a local educational agency under subsection (a), and that desires to submit an application for Federal financial assistance under this subpart, shall submit the application to the Secretary. In all other respects, such an entity shall be eligible for a grant under this subpart on the same basis as any other local educational agency.

"CHAPTER 2—GRANTS FOR ENGLISH LANGUAGE ACQUISITION

"SEC. 7121. FORMULA GRANTS TO STATES.

"(a) IN GENERAL.—In the case of each State that in accordance with section 7122 submits to the Secretary an application for a fiscal year, the Secretary shall make a grant for the year to the State for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the State under section 7124.

"(b) PURPOSES OF GRANTS.—

"(1) REQUIRED EXPENDITURES.—The Secretary may make a grant under subsection (a) only if the State involved agrees that the State will expend at least 90 percent of the amount of the funds provided under the grant for the purpose of making subgrants to eligible entities to provide assistance to children and youth who are English language learners and immigrant children and youth in accordance with section 7123.

"(2) AUTHORIZED EXPENDITURES.—Subject to paragraph (3), a State that receives a grant under subsection (a) may expend not more than 10 percent of the amount of the funds provided under the grant for one or more of the following purposes:

"(A) Professional development and activities that assist personnel in meeting State and local certification requirements for English language instruction.

"(B) Planning, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

"(C) Providing technical assistance and other forms of assistance to local educational agencies that—

"(i) educate children and youth who are English language learners and immigrant children and youth; and

"(ii) are not receiving a subgrant from a State under this chapter.

"(D) Providing bonuses to subgrantees whose performance has been exceptional in terms of the speed with which children and youth enrolled in the subgrantee's programs and activities attain English language proficiency.

"(3) LIMITATION ON ADMINISTRATIVE COSTS.—In carrying out paragraph (2), a State that receives a grant under subsection (a) may expend not more than 2 percent of the amount of the funds provided under the grant for the purposes described in paragraph (2)(B).

"SEC. 7122. APPLICATIONS BY STATES.

"For purposes of section 7121, an application submitted by a State for a grant under such section for a fiscal year is in accordance with this section if the application—

"(1) describes the process that the State will use in making subgrants to eligible entities under this chapter;

"(2) contains an agreement that the State annually will submit to the Secretary a summary report, describing the State's use of the funds provided under the grant;

"(3) contains an agreement that the State will give special consideration to applications for a subgrant under section 7123 from eligible entities that describe a program that—

"(A)(i) enrolls a large percentage or large number of children and youth who are English language learners and immigrant children and youth; and

"(ii) addresses a need brought about through a significant increase, as compared to the previous 2 years, in the percentage or number of children and youth who are English language learners in a school or school district, including schools and school districts in areas with low concentrations of such children and youth; or

"(B) on the day preceding the date of the enactment of this section, was receiving funding under a grant—

"(i) awarded by the Secretary under subpart 1 or 3 of part A of the Bilingual Education Act (as such Act was in effect on such day); and

"(ii) that was not due to expire before a period of one year or more had elapsed;

"(4) contains an agreement that, in carrying out this chapter, the State will address the needs of school systems of all sizes and in all geographic areas, including rural and urban schools;

"(5) contains an agreement that the State will coordinate its programs and activities under this chapter with its other programs and activities under this Act and other Acts, as appropriate; and

"(6) contains an agreement that the State will monitor the progress of students enrolled in programs and activities receiving assistance under this chapter in attaining English proficiency and withdraw funding from such programs and activities in cases where—

"(A) students enrolling when they are in kindergarten are not mastering the English language by the end of the first grade; and

"(B) other students are not mastering the English language after 2 academic years of enrollment.

"SEC. 7123. SUBGRANTS TO ELIGIBLE ENTITIES.

"(a) PURPOSES OF SUBGRANTS.—A State may make a subgrant to an eligible entity from funds received by the State under this chapter only if the entity agrees to expend the funds for one of the following purposes:

"(1) Developing and implementing new English language instructional programs for children and youth who are English language learners, including programs of early childhood education and kindergarten through 12th grade education.

"(2) Carrying out locally designed projects to expand or enhance existing English language instruction programs for children and youth who are English language learners.

"(3) Assisting a local educational agency in providing enhanced instructional opportunities for immigrant children and youth.

"(b) AUTHORIZED SUBGRANTEE ACTIVITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), a State may make a subgrant to an eligible entity from funds received by the State under this chapter in order that the eligible entity may achieve one of the purposes described in subsection (a) by undertaking one or more of the following activities to improve the understanding, and use, of the English language, based on a child's learning skills:

"(A) Developing and implementing comprehensive preschool or elementary or secondary school English language instructional programs that are coordinated with other relevant programs and services.

"(B) Providing training to classroom teachers, administrators, and other school or community-based organizational personnel to improve the instruction and assessment of children and youth who are English language learners, immigrant children and youth, or both.

"(C) Improving the program for children and youth who are English language learners, immigrant children and youth, or both.

"(D) Providing for the acquisition or development of education technology or instructional materials, access to and participation in electronic networks for materials, providing training and communications, and incorporation of such resources in curricula and programs, such as those funded under this subpart.

"(E) Such other activities, related to the purpose of the subgrant, as the State may approve.

"(2) MOVING CHILDREN OUT OF SPECIALIZED CLASSROOMS.—Any program or activity undertaken by an eligible entity using a subgrant from a State under this chapter shall be designed to assist students enrolled in the program or activity to move into a classroom where instruction is not tailored for English language learners or immigrant children and youth—

"(A) by the end of the first grade, in the case of students enrolling when they are in kindergarten; or

"(B) by the end of their second academic year of enrollment, in the case of other students.

"(3) MAXIMUM ENROLLMENT PERIOD.—An eligible entity may not use funds received from a State under this chapter to provide instruction or assistance to any individual who has been enrolled for a period exceeding 3 years in a program or activity undertaken by the eligible entity under this section.

"(c) SELECTION OF METHOD OF INSTRUCTION.—To receive a subgrant from a State under this chapter, an eligible entity shall select one or more methods or forms of English language instruction to be used in the programs and activities undertaken by the entity to assist English language learners and immigrant children and youth to achieve English fluency. Such selection shall be consistent with the State's law, including State constitutional law.

"(d) DURATION OF SUBGRANTS.—The duration of a subgrant made by a State under this section shall be determined by the State in its discretion.

"(e) APPLICATIONS BY ELIGIBLE ENTITIES.—

"(1) IN GENERAL.—To receive a subgrant from a State under this chapter, an eligible entity shall submit an application to the State at such time, in such form, and containing such information as the State may require.

"(2) REQUIRED DOCUMENTATION.—The application shall describe the programs and activities proposed to be developed, implemented, and administered under the subgrant and shall provide an assurance that the applicant will only employ teachers and other personnel for the proposed programs and activities who are proficient in English, including written and oral communication skills.

"(3) REQUIREMENTS FOR APPROVAL.—A State may approve an application submitted by an eligible entity for a subgrant under this chapter only if the State determines that—

"(A) the eligible entity will use qualified personnel who have appropriate training and professional credentials in teaching English to children and youth who are English language learners and immigrant children and youth;

"(B) in designing the programs and activities proposed in the application, the needs of children enrolled in private elementary and secondary schools have been taken into account through consultation with appropriate private school officials;

"(C) the eligible entity has provided for the participation of children enrolled in private elementary and secondary schools in the programs and activities proposed in the application on a basis comparable to that provided for children enrolled in public school;

"(D) the eligible entity has based its proposal on sound research and theory; and

"(E) the eligible entity has described in the application how students enrolled in the programs and activities proposed in the application will be taught English—

"(i) by the end of the first grade, in the case of students enrolling when they are in kindergarten; or

"(ii) by the end of their second academic year of enrollment, in the case of other students.

"(4) QUALITY.—In determining which applications to select for approval, a State shall consider the quality of each application.

"(f) EVALUATION.—

"(1) IN GENERAL.—Each eligible entity that receives a subgrant from a State under this chapter shall provide the State, at the conclusion of every second fiscal year during which the grant is received, with an evaluation, in a form prescribed by the State, of—

"(A) the programs and activities conducted by the entity with funds received under this chapter during the two immediately preceding fiscal years; and

"(B) the progress made by students in learning the English language.

"(2) USE OF EVALUATION.—An evaluation provided by an eligible entity under paragraph (1) shall be used by the entity and the State—

"(A) for improvement of programs and activities;

"(B) to determine the effectiveness of programs and activities in assisting children and youth who are English language learners to master the English language; and

"(C) in determining whether or not to continue funding for specific programs or projects.

"(3) EVALUATION COMPONENTS.—An evaluation provided by an eligible entity under paragraph (1) shall include—

"(A) an evaluation of whether students enrolling in a program or activity conducted by the entity with funds received under this chapter—

"(i) are mastering the English language—

"(I) by the end of the first grade, in the case of students enrolling when they are in kindergarten; or

"(II) by the end of their second academic year of enrollment, in the case of other students; and

"(ii) have achieved a working knowledge of the English language that is sufficient to permit them to perform, in English, regular classroom work; and

"(B) such other information as the State may require.

"SEC. 7124. DETERMINATION OF AMOUNT OF ALLOTMENT.

"(a) IN GENERAL.—Except as provided in subsections (b) and (c), from the sum available for the purpose of making grants to States under this chapter for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sum as the total number of children and youth who are English language learners and immigrant children and youth and who reside in the State bears to the total number of such children and youth residing in all States (excluding the Commonwealth of Puerto Rico and the outlying areas) that, in accordance with section 7122, submit to the Secretary an application for the year.

"(b) PUERTO RICO.—From the sum available for the purpose of making grants to States under this chapter for any fiscal year, the Secretary shall allot to the Commonwealth of Puerto Rico an amount equal to 1.5 percent of the sums appropriated under section 7111(a).

"(c) OUTLYING AREAS.—

"(1) TOTAL AVAILABLE FOR ALLOTMENT.—From the sum available for the purpose of making grants to States under this chapter for any fiscal year, the Secretary shall allot to the outlying areas, in accordance with paragraph (2), a total amount equal to .5 percent of the sums appropriated under section 7111(a).

"(2) DETERMINATION OF INDIVIDUAL AREA AMOUNTS.—From the total amount determined under paragraph (1), the Secretary shall allot to each outlying area an amount which bears the same ratio to such amount as the total number of children and youth who are English language learners and immigrant children and youth and who reside in the outlying area bears to the total number of such children and youth residing in all outlying areas that, in accordance with section 7122, submit to the Secretary an application for the year.

"(d) USE OF STATE DATA FOR DETERMINATIONS.—For purposes of subsections (a) and (c), any determination of the number of children and youth who are English language learners and reside in a State shall be made using the most recent English language learner school enrollment data available to, and reported to the Secretary by, the State. For purposes of such subsections, any determination of the number of immigrant children and youth who reside in a State shall made using the most recent data available to, and reported to the Secretary by, the State.

"(e) NO REDUCTION PERMITTED BASED ON TEACHING METHOD.—The Secretary may not reduce a State's allotment based on the State's selection of the immersion method of instruction as its preferred method of teaching the English language to children and youth who are English language learners or immigrant children and youth.

"SEC. 7125. CONSTRUCTION.

"Nothing in this chapter shall be construed as requiring a State or a local educational agency to establish, continue, or eliminate a program of native language instruction.

"Subpart 2—Research and Dissemination

"SEC. 7141. AUTHORITY.

"The Secretary may conduct, through the Office of Educational Research and Improvement, research for the purpose of improving English language instruction for children and youth who are English language learners and immigrant children and youth. Activities under this section shall be limited to research to identify successful models for teaching children English and distribution of research results to States for dissemination to schools with populations of students who are English language learners. Research conducted under this section may not focus solely on any one method of instruction.".

SEC. 2. REPEAL OF EMERGENCY IMMIGRANT EDUCATION PROGRAM.

Part C of title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7541 et seq.) is repealed.

SEC. 3. ADMINISTRATION.

Part D of title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7571 et seq.) is redesignated as part C of such title and amended to read as follows:

"PART C—ADMINISTRATION

"SEC. 7301. REPORTING REQUIREMENTS.

"(a) STATES.—Based upon the evaluations provided to a State under section 7123(f), each State receiving a grant under this title annually shall report to the Secretary on programs and activities undertaken by the State under this title and the effectiveness of such programs and activities in improving the education provided to children and youth who are English language learners and immigrant children and youth.

"(b) SECRETARY.—Every other year, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on programs and activities undertaken by States under this title and the effectiveness of such programs and activities in improving the education provided to children and youth who are English language learners and immigrant children and youth.

"SEC. 7302. COMMINGLING OF FUNDS.

"(a) ESEA FUNDS.—A person who receives Federal funds under subpart 1 of part A may commingle such funds with other funds the person receives under this Act so long as the person satisfies the requirements of this Act.

"(b) STATE AND LOCAL FUNDS.—Except as provided in section 14503, a person who receives Federal funds under subpart 1 of part A may commingle such funds with funds the person receives under State or local law for the purpose of teaching English to children and youth who are English language learners and immigrant children and youth, to the extent permitted under such State or local law, so long as the person satisfies the requirements of this title and such law.".

SEC. 4. GENERAL PROVISIONS.

Part E of title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7601 et seq.) is redesignated as part D of such title and amended to read as follows:

"PART D—GENERAL PROVISIONS

"SEC. 7401. DEFINITIONS.

"For purposes of this title:

"(1) CHILDREN AND YOUTH.—The term 'children and youth' means individuals aged 3 through 21.

"(2) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization of demonstrated effectiveness or Indian tribe or tribally sanctioned educational authority which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander native language educational organization.

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) one or more local educational agencies;

"(B) one or more local educational agencies in collaboration with—

"(i) an institution of higher education;

"(ii) a community-based organization;

"(iii) a local educational agency; or

"(iv) a State; or

"(C) a community-based organization or an institution of higher education which has an application approved by a local educational agency to enhance an early childhood education program or a family education program.

"(4) ENGLISH LANGUAGE LEARNER.—The term 'English language learner', when used with reference to an individual, means an individual—

"(A) aged 3 through 21;

"(B) who—

"(i) was not born in the United States; or

"(ii) comes from an environment where a language other than English is dominant and who normally uses a language other than English; and

"(C) who has sufficient difficulty speaking, reading, writing, or understanding the English language that the difficulty may deny the individual the opportunity—

"(i) to learn successfully in a classroom where the language of instruction is English; or

"(ii) to participate fully in society.

"(5) IMMIGRANT CHILDREN AND YOUTH.—The term 'immigrant children and youth' means individuals who—

"(A) are aged 3 through 21;

"(B) were not born in any State; and

"(C) have not attended school in any State for more than three full academic years.

"(6) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) NATIVE AMERICAN; NATIVE AMERICAN LANGUAGE.—The terms 'Native American' and 'Native American language' have the meanings given such terms in section 103 of the Native American Languages Act (25 U.S.C. 2902).

"(8) NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.—The term 'Native Hawaiian or Native American Pacific Islander native language educational organization' means a nonprofit organization—

"(A) a majority of whose governing board, and a majority of whose employees, are fluent speakers of the traditional Native American languages used in the organization's educational programs; and

"(B) that has not less than five years of successful experience in providing educational services in traditional Native American languages.

"(9) NATIVE LANGUAGE.—The term 'native language', when used with reference to an individual who is an English language learner, means the language normally used by such individual.

"(10) OUTLYING AREA.—The term 'outlying area' means any of the following:

"(A) The Virgin Islands of the United States.

"(B) Guam.

"(C) American Samoa.

"(D) The Commonwealth of the Northern Mariana Islands.

"(11) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any outlying area.

"(12) TRIBALLY SANCTIONED EDUCATIONAL AUTHORITY.—The term 'tribally sanctioned educational authority' means—

"(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

"(B) any nonprofit institution or organization that is—

"(i) chartered by the governing body of an Indian tribe to operate a school described in section 7112(a) or otherwise to oversee the delivery of educational services to members of the tribe; and

"(ii) approved by the Secretary for the purpose of carrying out programs under subpart 1 of part A for individuals served by a school described in section 7112(a).

"SEC. 7402. LIMITATION ON FEDERAL REGULATIONS.

"The Secretary shall issue regulations under this title only to the extent that such regulations are necessary to ensure compliance with the specific requirements of this title.

"SEC. 7403. LEGAL AUTHORITY UNDER STATE LAW.

"Nothing in this title shall be construed to negate or supersede the legal authority, under State law, of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official.

"SEC. 7404. RELEASE FROM COMPLIANCE AGREEMENTS.

"Notwithstanding section 7403, any compliance agreement entered into between a State, locality, or local educational agency and the Department of Health, Education, and Welfare or the Department of Education, that requires such State, locality, or local educational agency to develop, implement, provide, or maintain any form of bilingual education, is void.

"SEC. 7405. RULEMAKING ON OFFICE OF CIVIL RIGHTS GUIDELINES AND COMPLIANCE STANDARDS.

"(a) IN GENERAL.—In accordance with subchapter II of chapter 5 of part I of title 5, United States Code, the Secretary—

"(1) shall publish in the Federal Register a notice of proposed rulemaking with respect to the enforcement guidelines and compliance standards of the Office of Civil Rights of the Department of Education that apply to a program or activity to provide English language instruction to English language learners that is undertaken by a State, locality, or local educational agency;

"(2) shall undertake a rulemaking pursuant to such notice; and

"(3) shall promulgate a final rule pursuant to such rulemaking on the record after opportunity for an agency hearing.

"(b) EFFECT OF RULEMAKING ON COMPLIANCE AGREEMENTS.—The Secretary may not enter into any compliance agreement after the date of the enactment of this section pursuant to a guideline or standard described in subsection (a)(1) with an entity described in such subsection until the Secretary has promulgated the final rule described in subsection (a)(3).

"SEC. 7406. REQUIREMENT FOR STATE STANDARDIZED TESTING IN ENGLISH.

"(a) REQUIREMENT.—In the case of a State receiving a grant under this title that administers a State standardized test to elementary or secondary school children in the State, the State shall not exempt a child from the requirement that the test be administered in English, on the ground that the child is an English language learner, if the child—

"(1) has resided, throughout the 3-year period ending on the date the test is administered, in a geographic area that is under the jurisdiction of only one local educational agency; and

"(2) has received educational services from such local educational agency throughout such 3-year period (excluding any period in which such services are not provided in the ordinary course).

"(b) IN GENERAL.—Notwithstanding any other provision of this title, if a State fails to fulfill the requirement of subsection (a), the Secretary shall withhold, in accordance with section 455 of the General Education Provisions Act, all funds otherwise made available to the State under this title, until the State remedies such failure.".

SEC. 5. CONFORMING AMENDMENTS.

(a) TITLE HEADING.—The title heading of title VII of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"TITLE VII—ENGLISH LANGUAGE FLUENCY AND FOREIGN LANGUAGE ACQUISITION PROGRAMS".

(b) ELEMENTARY AND SECONDARY EDUCATION ACT.—The Elementary and Secondary Education Act of 1965 is amended—

(1) in section 2209(b)(1)(C)(iii) (20 U.S.C. 6649(b)(1)(C)(iii)), by striking "Bilingual Education Programs under part A of title VII." and inserting "English language education programs under part A of title VII."; and

(2) in section 14307(b)(1)(E) (20 U.S.C. 8857(b)(1)(E)), by striking "Subpart 1 of part A of title VII (bilingual education)." and inserting "Chapter 2 of subpart 1 of part A of title VII (English language education).".

(c) DEPARTMENT OF EDUCATION ORGANIZATION ACT.—

(1) IN GENERAL.—The Department of Education Organization Act is amended by striking "Office of Bilingual Education and Minority Languages Affairs" each place such term appears in the text and inserting "Office of English Language Acquisition".

(2) CLERICAL AMENDMENTS.—

(A) SECTION 209.—The section heading for section 209 of the Department of Education Organization Act is amended to read as follows:

"OFFICE OF ENGLISH LANGUAGE ACQUISITION".

(B) SECTION 216.—The section heading for section 216 of the Department of Education Organization Act is amended to read as follows:

"SEC. 216. OFFICE OF ENGLISH LANGUAGE ACQUISITION.".

(C) TABLE OF CONTENTS.—

(i) SECTION 209.—The table of contents of the Department of Education Organization Act is amended by amending the item relating to section 209 to read as follows:

"Sec. 209. Office of English Language Acquisition.".

(ii) SECTION 216.—The table of contents of the Department of Education Organization Act is amended by amending the item relating to section 216 to read as follows:

"Sec. 216. Office of English Language Acquisition.".

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act, or October 1, 1998, whichever occurs later.

COMMITTEE ACTION

The Subcommittee on Early Childhood, Youth and Families held two hearings on reforming Bilingual Education on February 18, 1998, and April 30, 1998.

The February 18, 1998, hearing was held in the City Administration Building in San Diego, California. The Subcommittee received testimony from Mr. George Louie, Parent, Oakland, California; Dr. Eugene Garcia, Dean, Graduate School of Education, University of California at Berkeley, Berkeley, California; Ms. Cathy Liska, Teacher, Orange County, La Habra, California; and Ms. Celia Ruiz, Esq., Ruiz and Sperow, LLP, San Diego, California.

The April 30, 1998, hearing was held in Washington, D.C. The Subcommittee heard testimony from The Honorable Robert Livingston (R-LA); The Honorable Xavier Becerra (D-CA); Mr. Eric Stone, Director of Research, U.S. English, Washington, D.C.; Ms. Linda Chavez, Director, Center for Equal Opportunity, Washington, D.C.; Mr. Jim Boulet, English First, Springfield, Virginia; Dr. Mark Lopez, School of Public Affairs, University of Maryland, College Park, Maryland; Mr. David Standridge, Standridge Law Firm, Albuquerque, New Mexico; Ms. Amada Aranda, Parent, Albuquerque, New Mexico; Mr. James Littlejohn, Jim Littlejohn Consulting, The Sea Ranch, California; Ms. Rosa Montero, Parent and Member, Denver Public School Board, Denver, Colorado; and Mr. Anthony Trujillo, Superintendent, Ysleta IAD, El Paso, Texas.

Introduction of the English Language Fluency Act

On May 19, 1998, The Honorable Frank Riggs (R-CA), Chairman of the Subcommittee on Early Childhood, Youth and Families, introduced H.R. 3892, the English Language Fluency Act.

Legislative action

On May 21, 1998, the Subcommittee on Early Childhood, Youth and Families favorably reported the bill to the full Committee on Education and the Workforce by a vote of 10-5.

On June 4, 1998, the Committee on Education and the Workforce assembled to consider H.R. 3892, the English Language Fluency Act. H.R. 3892, as amended, was favorably reported by the Committee on Education and the Workforce by a vote of 22-17.

PURPOSE

The purpose of this legislation is to help ensure that children and youth who are English language learners master English and develop high levels of academic attainment in English. The purpose of this legislation is also to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to help immigrant children and youth transition into society, including mastery of the English language.

SUMMARY

H.R. 3892 creates a formula grant program to the States to fund local programs to assist English language learners attain fluency in the English language. The bill requires parents to give their consent prior to placing their children in programs that assist them in learning English. It voids all current compliance agreements related to bilingual education between the Office of Civil Rights and States, localities, or local educational agencies receiving assistance for such programs under the Elementary and Secondary Education Act. It prevents the Secretary from entering into any future compliance agreements until the enforcement guidelines and compliance standards of the Office of Civil Rights have been published in the Federal Register and become final regulations.

COMMITTEE VIEWS

BACKGROUND AND NEED FOR LEGISLATION

The Bilingual Education Act, Title VII of the Elementary and Secondary Education Act (ESEA) was passed by Congress in 1968 and amended in 1970, 1974, 1978, and 1984. While the basic structure and purpose of the Bilingual Education Act has remained intact, the program has been amended several times. The primary effect of these amendments has been to expand the coverage of the program by broadening the definition of the target population.

As enacted in 1968, the program established a Federal policy of assisting local school districts to develop and implement new programs to meet the unique educational needs of children with limited English-speaking ability. Such children are defined as those "who come from environments where the dominant language is other than English." (This definition was amended several times.

The current definition is very broad and includes "any individual who has sufficient difficulty speaking, reading, writing or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.")

Under the original legislation, grants could be used to support the design, development and operation of instructional programs to meet the unique educational needs of children with limited English-speaking ability. Grants could also be used to support preservice and in-service training for school personnel who work in bilingual programs. The enacting legislation provided a three-year authorization to support bilingual education programs, programs designed to teach history and culture associated with the child's native language, and programs to establish home-school cooperation, early childhood, adult, dropout and vocational education.

In 1974, the program authorized transitional bilingual education (programs which use a child's native language in instruction until such time as they are proficient in the English language) as the basic instructional approach supported under the Bilingual Education Act. The decision to focus on programs of transitional bilingual education was made soon after the Supreme Court issued their decision in *Lau* v. *Nichols,* 414 U.S. 563 (1974) on January 21, 1974. While the *Lau* decision required school systems enrolling national origin students who were deficient in English language skills to "take affirmative steps" to open their instructional programs to those students, it did not specify which instructional programs schools should use. That decision was left up to State and local authorities. Nevertheless, the law itself was modified to focus on transitional bilingual education, which was contradictory to the Supreme Court decision in the *Lau* case.

The provision focusing on transitional bilingual education programs was amended in 1984 to permit limited funding of instructional approaches other than transitional bilingual education. However, the Act required that 75 percent of funds appropriated for local school district programs be used to support transitional bilingual education programs.

During the 103rd Congress, the Bilingual Education Act was revised significantly. The range of project grants that funded specific local instructional programs for limited English proficient (LEP) students was replaced with four new types of competitive grants intended to support local educational agencies at different stages in their efforts. The new grant types are:

(1) program development and implementation grants, to be used for new projects;

(2) program enhancement grants, to be used to enhance or expand existing projects;

(3) comprehensive school grants, to be used for comprehensive reform at a school site with a heavy concentration of English language learners;

(4) system-wide improvement grants, to be used for programmatic reform within a school district with a high enrollment of English language learners.

If a biennial evaluation shows that the students served under comprehensive school or system-wide improvement grants are not making adequate progress toward State content and student performance standards, the Department of Education is required to terminate such grants. The same is true should the Department find a program is not, as designed and intended, promoting dual language capability.

The required 75/25 funding split between transitional bilingual education programs and alternatives was retained. However, if a school can demonstrate it is unable to hire teachers to teach transitional bilingual education, it is permitted to apply for funding under the 75 percent set aside for transitional bilingual education and operate alternative programs such as English as a Second Language. The same is true for schools that have student populations speaking multiple languages, which prevents the implementation of transitional bilingual education programs.

The Secretary is required to give priority to applications which provide for the development of bilingual proficiency both in English and another language for all participating students. In addition, the Secretary is required to give priority to applications that describe programs that enroll a large percentage or number of LEP students, take into account significant increases in LEP children and youth (including areas with low concentrations of such children and youth), and ensure that activities address the needs of school systems of all sizes and geographic areas, including rural and urban schools.

Today there are an estimated 3.1 million English language learners in the United States, with only 9 percent served under federal Bilingual Education Act programs. The majority of these children are located in five States—California, Texas, New York, Florida, and Illinois. English language learners are present in almost half of the nation's school districts (46 percent). Most English language learners are served in local, State, and other federal programs that address, at least in part, their special educational needs. The most recent estimate is that States spend at least $690 million on English language learners for bilingual education and English as a Second Language training. The Elementary and Secondary Education Act (ESEA) Title 1 program for educationally disadvantaged students is reported to reach 1.5 million English language learners.

The recurring question is how the Federal government can best help local schools and school districts provide the best possible education for these children to ensure they obtain the English language skills they need to succeed. At the present time, under the existing competitive grant program, the U.S. Department of Education decides which schools are in greatest need of assistance and provides funding to local schools and other eligible organizations based on the quality of their applications for assistance. However, since funding for special alternative projects is limited to 25 percent of available funds, the opportunities for funding are severely limited for school districts and other entities which are not seeking funds for transitional bilingual education programs. The structure of the current Bilingual Education Act not only limits alternatives available to local schools, it ignores the fact that States and local schools and communities have a better sense of the needs of local

schools with respect to the education of English language learners. States can more closely monitor increases in populations of English language learners in its school districts and can respond more quickly to requests for assistance.

In addition, the U.S. Commission on Civil Rights, in its November, 1997 report entitled, "Equal Educational Opportunity and Nondiscrimination for Students with Limited English Proficiency: Federal Enforcement of Title VI and *Lau* v. *Nichols*" stated:

> One aspect of Federal legislation over the past three decades has had adverse effects on schools' development and implementation of education programs with a primary goal of placing students in regular education programs to the greatest extent possible. This has been the emphasis on provisions that restrict the options schools may pursue in developing and implementing education programs. The Bilingual Education Act has placed restrictions on the types of programs that could be funded under the Act, and these restrictions have, in turn, limited school districts' options.

The report went on to say:

> In some cases, the emphasis on bilingual education resulted in limited English proficient students being unnecessarily segregated from their English-proficient peers, even after they were able to participate meaningfully in the regular classroom.

It is the view of the Committee that the existing Bilingual Education Act is in need of reform. Of growing concern is the fact that nationally a large number of Hispanic students do not complete high school. In 1988, 54.4 percent of Hispanic students graduated from high school. In 1996, 55.2 percent of Hispanic students graduated. Considering that almost three-fourths of English language learners speak Spanish, the Committee has great concern that graduation rates for this population of students have not increased considerably between 1988 and 1996. The "Federal" approach has been tried for many years, and still dropout rates are far too high for this population of students. The Committee believes English language learners should have the same opportunities for success as other students and that they should be held to the same high academic standards. To date, there is little evidence that the Bilingual Education Act has assisted students to meet this goal. It is time to let States and local communities determine how to best educate these students.

Witnesses at the two hearings held by the Subcommittee on Early Childhood, Youth and Families also expressed the need for reform of the current Bilingual Education Act. Witnesses, including parents, expressed particular concerns about current law practices related to the focus on transitional bilingual education and a lack of parental involvement in deciding whether or not their children should participate in programs structured for English language learners. Celia M. Ruiz, a partner in a law firm representing schools in California on a wide range of civil rights and education law issues, stated in her testimony:

> The school districts I represent today believe that local autonomy is key to meeting the needs of limited English proficient children. We believe that there is more than one way to do that, and that no single approach can serve the needs of all children in our State. Moreover, we trust our local officials to exercise wisely the flexibility and discretion we give them to develop and implement unique and appropriate solutions to the unique needs our communities face. It is for that reason that we reject the efforts of some, in our State and Federal Departments of Education, to externally mandate their preferred "solutions" to diverse and inherently local problems.

The Committee took note that State of California voters, by a margin of 61 percent to 39 percent, approved in a referendum an end to bilingual education programs. They chose to focus programs for English language learners on teaching children English. This is a clear indication that States have a strong interest in the education of English language learners and that the Federal government should not dictate to the States on how to best serve the needs of these students.

By turning decisions on bilingual education over to States and local schools and strengthening parental consent provisions, the Committee believes that decisions will be made by those individuals closest to the children who are in a position to best understand their educational needs.

BLOCK GRANT VS. COMPETITIVE GRANT PROGRAM

The Committee believes a block grant to the States will address many of the concerns about current law practices. It will provide States maximum flexibility in deciding where the greatest needs exist for this type of assistance. At the same time, it will focus funds on teaching children and youth English as quickly as possible to allow them to mainstream into regular classrooms rather than remain isolated from their English-speaking peers.

The block grant contained in this legislation is focused on supporting local programs in the development, implementation, expansion or enhancement of English language instruction programs. It also allows local educational agencies to use funds to enhance instructional opportunities for immigrant children and youth.

The Emergency Immigrant Education Act was developed to provide funds to the States to assist in the education of immigrant students who have been in the United States for less than three years. Information on recent program expenditures indicates more than half of the funds have been used on English language instruction or other bilingual education services. Given this, and the fact that there is likely to be a substantial amount of overlap among students served under this program and the Bilingual Education Act, the Committee has combined these two programs in the English Language Fluency Act. The Committee continues to support programs to help meet the educational needs of immigrant children and youth and encourages States to continue providing special services to them. This is one of the primary uses of funds under this Act.

The Committee also does not wish to restrict the types of instructional programs carried out by local schools. In fact, this bill makes it very clear that such decisions are to be made at the local level, as long as they are consistent with State law. Critics of this proposal have stated that it will eliminate bilingual education altogether. Nothing is further from the truth. H.R. 3892 contains language providing that nothing in this Act is to be construed as requiring a State or a local educational agency to establish, continue or eliminate a program of native language instruction.

This legislation provides much greater flexibility than current law with respect to the types of instruction provided to English language learners. There are no restrictions on the types of instructional programs that can be funded. In fact, a local school could decide to operate transitional bilingual programs for children who are unable to read and write in their native language, and English as a Second Language or structured immersion programs for children who are able to succeed with a moderate level of assistance.

Research on the effectiveness of different methods of instruction has produced a variety of results. It has not clearly demonstrated that any one method of instruction is superior in teaching children English. As such, the Committee believes the Federal government should not endorse one practice over another, as is the case with respect to the current Bilingual Education Act. In addition, the Committee does not believe the focus of this legislation should be on the retention of a child's native language. The focus should be on the attainment of the English language skills such children need for academic success. While there is agreement that fluency in more than one language is a benefit, this clearly is not a function of the Federal government. States and local schools and communities have the responsibility for making decisions regarding foreign language programs in local schools or programs to assist children retain their native language. In addition, the role of parents in retaining native language fluency for their children is critical.

Mr. James M. Littlejohn, who was an employee of the Office of Civil Rights for 27 years, testified before the Subcommittee on Early Childhood, Youth and Families on April 30, 1998. According to Mr. Littlejohn:

> I have reviewed this legislation and believe that the bill provides very clear, straightforward procedures for assisting students to achieve mastery of the English language. If this bill, or a similar one is adopted, it would go a long way toward resolving the problems with the current process. I particularly support having States apply for block grants, and letting the States decide the funding for individual school systems. State education officials have a much better grasp of where funds should go than the Department of Education staff.

The current Emergency Immigrant Education Program is a formula grant program under which States determine which local school districts are in need of assistance and fund projects in such schools. There is no reason to believe States will not be able to make similar determinations if the Bilingual Education Act be-

comes a block grant program. It is simply a matter of whether or not we want to continue to allow the Federal bureaucracy to make important decisions regarding the education of English language learners or to turn these decisions over to States and local schools and communities. This legislation supports making such decisions at the local level.

PARENTAL CONSENT

Parents testifying before the Subcommittee expressed concerns that their children were being placed and retained in bilingual education courses without their permission or knowledge. Parents have also complained that schools have been unwilling to remove their children from such classes upon their request.

According to the United States Commission on Civil Rights report entitled, "Equal Educational Opportunity and Nondiscrimination for Students with Limited English Proficiency: Federal Enforcement of Title VI and *Lau* v. *Nichols,"* cited above:

> School districts across the country are experiencing serious tensions between school officials and parents over placement. Many parents of students with limited English proficiency are expressing dissatisfaction with the education their children are receiving. For example, in New York City, Maria Perez, a parent who is fighting her child's placement in the city's bilingual education program recently stated: "What bothered me was that they place children in bilingual programs and keep them there for years and years. They aren't learning English." The problems that prevent academic success can and should be addressed by parents working together with school personnel to determine where problems exist and how they can be solved.

The parental consent provisions in this bill make it very clear that parents should play a major role in determining the placement of their children in English language instruction programs. Schools should not be making decisions regarding the placement of English language learners unless they have reached an agreement on such placement with the children's parents. Parents want their children to learn English as quickly as possible because they know it is the language of success. They should be able to prevent their children from being placed in classrooms which they do not believe will help them learn English and succeed in school. Parents should also have the ability to remove their children from such classrooms if they believe it is not in their children's best interest. The Committee agrees with the report of the Civil Rights Commission stating that parents and schools should be working together to make the best possible decisions regarding the education of English language learners.

Mr. George Louie, testifying before the Subcommittee, spoke of his experiences with his son. Mr. Louie's son, Travell, was born and raised in the United States. Yet, he told the Subcommittee that his son was placed in a Chinese bilingual classroom in Oakland, California without his consent or knowledge. He told of over 75 calls he made to school officials. He also met with the administrative as-

sistant to the Superintendent and the General Counsel in an attempt to have his son removed from this program. According to Mr. Louie: "Their initial response was, 'We will transfer your kid to another school district'." This was not a satisfactory resolution to the problem for Mr. Louie, who was living on disability and could not afford to take his child on public transportation to another school. At the time the hearing was held on February 18, 1998, Travell was still in a Cantonese bilingual class.

Mrs. Amada Aranda, a parent living in Albuquerque, New Mexico, also testified before the Subcommittee regarding her experiences with bilingual education. Mrs. Aranda told the Subcommittee that she came to the United States illegally and could not go to school. She learned English while working in a hotel with individuals who spoke English. She told the Subcommittee that her children, who were born in the United States, had been in bilingual education classes since kindergarten. According to Mrs. Aranda, they did not ask her permission to place her children in bilingual education classes, they just took them out of ESL classes and placed them into bilingual education classes. She stated that when she and her husband asked, "Why?" they were given a lot of excuses. Mrs. Aranda stated that her 12 and 16-year-old daughters, who had been enrolled in bilingual education since kindergarten, were now in special education classes, not because they had a learning disability, but because they were limited English proficient. Finally, Mrs. Aranda stated that in Albuquerque, the students are the ones asking for ESL classes. She said that they are not forcing children to go to ESL classes; rather, the students are the ones who want ESL classes instead of bilingual.

Accounts such as these pointed out to the Committee the need for greater parental involvement in decisions regarding the education of children who are English language learners.

H.R. 3892 adopts current law provisions that require that the parent or parents of children participating in programs under this Act are to be informed of: 1) the reasons for identification of their child as being in need of English language instruction, 2) their child's level of English proficiency and how it was assessed, and 3) the status of their child's academic achievement and how the program will assist their child to learn English and meet age-appropriate standards for grade-promotion and graduation.

In addition, the legislation requires that parents of a child who is an English language learner and is identified for participation in an English language instruction program funded under the Elementary and Secondary Education Act must sign a permission form before their child can be placed in such a program. It further requires that schools honor a parental request to have their child removed from a bilingual education program should the parents decide they no longer wish their child to participate in such a program. Finally, H.R. 3892 provides that schools must allow the parents of English language learners to select the method of English language instruction their child will receive if more than one method is offered.

It is the view of the Committee that parents have the primary responsibility for their children's education. These new changes in-

sure that the parents of English language learners have the same rights as other parents.

TESTING OF ENGLISH LANGUAGE LEARNERS

H.R. 3892 provides that States receiving funds under this program may not exempt children who are English language learners from State standardized tests, even if the test is administered only in English. This provision only applies if the child has resided and received educational services in that local educational agency for 3 years. The Committee is concerned that States and local educational agencies will not have a true picture of the educational abilities of these children if they are not tested along with other children in the State.

Testing these children will provide States with a clear picture of the performance of English language learners and where they may need to improve assistance programs for these children. The whole point of education programs for English language learners, by whatever method, is to assimilate English language learners into the mainstream of society and the regular education population. We are not promoting this concept if we effectively segregate English language learners from other children taking standardized tests.

Other provisions in this legislation would eliminate Federal support for English language learners after they have been participating in programs for three years. Providing that such children participate in State standardized tests after they have been participating in such programs for three years is consistent with the view of the Committee that most or all children should be able to mainstream into regular classrooms after three years of assistance.

ELIGIBILITY OF INDIVIDUAL CHILDREN

The Committee is very concerned that children are spending too many years in classes which isolate them from their English language peers and which do not bring them to English language fluency as quickly as possible.

The bill establishes a goal of two years, within which time children are expected to master the English language. States seeking assistance under this Act must agree that they will monitor the progress of students enrolled in programs and activities under this Act and withdraw funding from programs and activities where students are not mastering English within a two-year period. In addition, any program or activity undertaken by an eligible entity seeking assistance under this Act must be designed to assist students to move into a classroom where instruction is not tailored for English language learners. Potential grantees must describe how they will accomplish this goal in their application to the State. Finally, in evaluating the success of local programs, eligible entities must include information on whether or not students participating in a program or activity carried out with funds under this Act are mastering the English language within two academic years and have achieved a working knowledge of the English language sufficient to permit them to perform, in English, regular classroom work.

The Committee recognizes that all children may not be able to achieve English language fluency within two years. As such, this legislation would permit an English language learner to participate in a program or activity funded under this Act for a period of three years. Further, there is nothing in this legislation which prevents States or local schools and communities from providing additional assistance to these children when they are no longer eligible for Federal support. It is, however, the belief of the Committee that most or all children should be able to mainstream into regular classrooms within three years, regardless of the method of instruction used to teach them English. Two States, New York and Washington, already generally place a three-year limit on the participation of English language learners in bilingual education programs.

In 1988, Congress added an enrollment cap to the Bilingual Education Act that limited the length of time an English language learner could enroll in a Bilingual Education Act project to three years. The Senate Committee Report accompanying the 1988 amendments stated, The Members feel that a fundamental goal of this federal program is proficiency in English. This cap was dropped in 1994. However, the Committee concurs with the Senate Committee Report in its belief that a fundamental goal of this program is proficiency in English. Without a cap on attendance, there is no pressure on schools to move children to English language proficiency as quickly as possible.

Finally, Secretary of Education Richard W. Riley, in a statement entitled, "Helping All Children Learn English," dated April 27, 1998, stated, "I propose setting a three-year goal to make sure that a child is learning English. Individual differences and circumstances may cause some children to take longer, but a goal of learning English within three years is reasonable."

Secretary Riley's statement is consistent with the Committee bill in its belief that most or all children can learn English within three years. For those that cannot achieve proficiency within the three-year limit set by this goal, the Committee is confident that additional assistance will be provided by States, local schools and communities.

STATE AND LOCAL USE OF FUNDS

In an effort to best serve the needs of English language learners, this legislation drives 90 percent of available funds to the local level, to be used by eligible entities to provide assistance to children and youth who are English language learners. States can use remaining funds for a variety of activities, although the amount that can be spent on administration is limited to 2 percent.

In restructuring the Bilingual Education Act, the Committee eliminated the direct funding of professional development programs. However, the Committee agrees that there is a need for additional teachers and other professionals who are trained to provide services for English language learners. As such, H.R. 3892 provides that States can use funds for professional development and activities that assist personnel in meeting state and local certification requirements for English language instruction. In addition, local grantees can use funds received under this Act to provide training to classroom teachers, administrators and other school or commu-

nity-based personnel to improve the instruction and assessment of children and youth who are English language learners and immigrant children and youth.

States are also permitted to use funds to provide bonuses to subgrantees whose performance has been exceptional in terms of the speed with which children and youth attain English language proficiency. The Committee believes such bonuses will encourage local subgrantees to work even harder to ensure that English language learners are taught English as quickly as possible.

In addition, H.R. 3892 allows States to use funds to provide other forms of assistance to local educational agencies (LEAs) that do not receive a subgrant under this Act. A growing number of schools are faced with educating English language learners. Many of these LEAs have little or no experience in how to provide quality educational services to children who do not speak English. The Committee feels it is important to provide States the flexibility to use funds to provide assistance to these LEAs, be it technical assistance or curriculum materials, etc. The Committee also encourages States to link LEAs with little or no experience in educating English language learners with schools which provide quality services to these children so they can share information and ideas on how to best address the needs of these children.

While the focus of this legislation is on providing assistance to LEAs with large numbers of English language learners and immigrant children and youth, the Committee does not want to overlook the needs of smaller LEAs, where the education of these children is just as important as it is in larger school districts.

In addition to professional development, local entities requesting funds under this Act may use funds to develop and implement or expand and enhance English language instruction programs for children and youth who are English language learners, to acquire or develop technology or instructional materials, and to provide enhanced instructional opportunities for immigrant children and youth. States are also permitted to fund other activities that assist in the education of eligible children and youth.

RESEARCH

It is the view of the Committee that enough time and effort has been spent on research directed at trying to prove one instructional method to be superior to another. A 1997 report issued by the National Research Council entitled, "Improving Schooling for Language-Minority Children," stated:

> There is little value in conducting evaluations to determine which type of program is best. The key issue is not finding a program that works for all children and all localities, but rather finding a set of program components that works for the children in the community of interest, given that community's goals, demographics, and resources of that community. The focus needs to be on the proper context in which a program component is most effective and conversely, the contexts in which it may be harmful.

The Committee agrees. As reported by the Committee on Education and the Workforce, H.R. 3892 permits the Secretary to con-

duct, through the Office of Educational Research and Improvement, research for the purpose of improving English language instruction for children who are English language learners. The research is to be focused on identifying successful models for teaching children English. The Secretary is prohibited from focusing such research on one method of instruction.

The bill further provides that information from such research is to be provided to States for dissemination to schools with populations of children who are English language learners. The Committee hopes States and local schools and communities will use this information to improve instruction to English language learners. As noted previously, the Committee understands that different techniques work for different children and different schools. The information provided through this research would allow such providers to mix and match various techniques to meet their specific needs.

The Committee believes it is time to stop focusing research on proving one method of instruction is superior to another. We must develop sound models for all different methods of instruction which can be used to teach English to English language learners. What is important is whether or not children are gaining the English language skills necessary for success, not which method of instruction is used to provide them with such skills.

COMPLIANCE AGREEMENTS

Consistent with the fresh start that H.R. 3892 offers to school districts, section 7404 of the Committee-reported bill voids all compliance agreements (between the Office of Civil Rights (OCR) of the Department of Education and schools or school districts) that require bilingual education as a form of English language instruction. This action will enable school districts to start anew and determine for themselves what form of English language instruction is best for the English language learners in their districts. Such a change must be viewed in the broader context of the 1974 United States Supreme Court decision *Lau* v. *Nichols,* 414 U.S. 563 (1974), and the subsequent "*Lau* remedies" which have been used by OCR for enforcement purposes.

Lau v. Nichols, 414 U.S. 563 (1974)

In *Lau,* the parents of non-English speaking Chinese students brought a class action suit against the San Francisco Unified School District alleging that the failure of the school administration to provide supplemental language programs denied students their right to equal educational opportunities under the equal protection clause of the 14th Amendment and constituted a violation of the anti-discrimination provisions of Title VI of the Civil Rights Act of 1964.

The lower court concluded that the school was not responsible for the deficiencies of the children and need not provide supplemental programs noting that "every student brings to the starting line of his educational career different advantages and disadvantages caused in part by social, economic and cultural background, created and continued completely apart from any contribution by the school."

The U. S. Supreme Court reversed, holding that the school system had violated Title VI of the Civil Rights Act of 1964, which prohibits receipt of Federal education funds if one discriminates on the basis of race, color or national origin. The Court stated that any discrimination which would in effect deny non-English speaking students a "meaningful opportunity to participate in federally-funded education programs" was impermissible. The Court's decision affirmed the validity of a May 25, 1970 OCR guideline which required school districts enrolling national origin students who were deficient in English language skills to "take affirmative steps" to open their instructional programs to those students. Most noteworthy is the fact that the Lau decision left the decision of what form of English language instruction is to be used up to local decision-makers. The Court concluded that many different forms of instruction could be appropriate. The Court stated: "Teaching English to the students of Chinese ancestry who do not speak the language is one choice. Giving instructions to this group in Chinese is another. There may be others." 414 U.S. at 564.

Lau remedies

It was the *Lau* decision which led the Office of Civil Rights to develop its so-called "*Lau* remedies" which were used in the late 1970s to coerce school districts to enter into compliance agreements to provide bilingual education instruction. The testimony of James Littlejohn, a former 27-year employee of the Office of Civil Rights, sums up what the "*Lau* remedies" were, and their wide-ranging impact upon school districts. He stated:

> I was shocked when, in 1975, OCR developed an internal guideline referred to as "The *Lau* Remedies" which essentially required school systems to implement transitional bilingual education programs, especially at the elementary and middle school levels. From 1975–1980, using this internal guideline, OCR's regional offices negotiated approximately 500 compliance plans with school systems across the nation. * * * These plans were in a very real sense coerced agreements, since OCR threatened to cut off federal funds if a school did not implement a bilingual education program. Schools wanting to implement English-immersion programs were told such programs were not acceptable unless they were as "equally effective" as bilingual education.

These remedies were used until 1981, when they were withdrawn. Internal OCR documents admit the oppressiveness of the "*Lau* remedies" upon school districts. A December 3, 1985 OCR internal memorandum entitled "OCR's Title VI Language Minority Compliance Procedures" states: "These *Lau* remedies evolved into *de facto* compliance standards which allowed undue Federal influence over education judgments that could and should be made by local and State educational authorities."

Compliance agreements currently in force

According to the OCR, as of April 30, 1998, there are currently 288 compliance agreements currently in force between OCR and

school districts across the Nation. A list of these districts is attached as Exhibit A. Some of the characteristics of these agreements are that they emphasize bilingual education programs, as opposed to English-immersion, and inappropriately delve into curriculum matters, including choice of programs and instructional materials. In testimony before the Subcommittee on Early Childhood, Youth and Families on April 30, 1998, witness James Littlejohn noted the continuing efforts of OCR to advocate bilingual education above other forms of instruction:

> While I do not have the exact numbers, I estimate that, since 1992, OCR has obtained several * * * new agreements from schools across the nation, many of which will likely require some form of bilingual education. The plans I reviewed were from school districts in Utah, Colorado, and New Mexico, and were all negotiated during late 1995. Each of the plans required bilingual education, as well as English as a second language instruction. However, none of the plans contained time frames for moving students into English, or indicated any sense of urgency that students should become fluent English speakers within any particular period of time.

Conclusion

Given this history, the Committee strongly believes that local authorities should be free to choose the form of English language instruction that is most suitable for them, free from the biased viewpoint and practices of OCR, which have been to push bilingual education to the exclusion of other instructional methods. H.R. 3892 represents a fresh start. In that regard, releasing school districts from these OCR-initiated compliance agreements will provide them with true local control over the type of English language instruction programs they should provide to their students. If a school district then decides to utilize bilingual education instruction, it would be free to do so. On the other hand, if a school district chooses to use English immersion instruction or English as a second language, it would be free to do so. It would be a local decision free from OCR bias. That's the way it should be.

OFFICE OF CIVIL RIGHTS GUIDELINES

In addition to voiding all compliance agreements entered into by States, localities, or local educational agencies (which receive funds under the Elementary and Secondary Education Act) and OCR related to bilingual education, H.R. 3892 requires the Secretary to publish in the Federal Register, through the formal rulemaking process, the enforcement guidelines and compliance standards of the Office of Civil Rights that apply to a program or activity to provide English language instruction to English language learners. It further prevents the Secretary from entering into any future compliance agreements until such guidelines or standards become final regulations.

The most significant problem with the Office of Civil Rights' approach to civil rights enforcement is the Agency's practice of imposing prescriptive, inflexible and burdensome procedures on local

educational agencies with little oversight from Congress or the Department of Education.

The internal guidelines OCR has used in extracting agreements were developed internally by OCR staff and have never been open to public comment or scrutiny. In fact, OCR is currently using at least three lengthy internal enforcement memoranda that have never been subject to public scrutiny.

In fact, the fiasco of the "*Lau* remedies"—which were internal guidelines—is one reason why we need to subject the internal enforcement guidelines and compliance standards to notice and comment in the Federal Register. The "*Lau* remedies" were ultimately withdrawn because they were so poorly done, and OCR itself, in one of its internal policy memoranda from December 3, 1985, stated: "These *Lau* remedies evolved into *de facto* compliance standards which allowed undue Federal influence over education judgments that could and should be made by local and State educational authorities."

Giving notice to the public to comment upon OCR's guidelines and practices should have been done a long time ago. The public deserves the right to know what policies it is that OCR is applying.

According to a 1997 Report by the U.S. Commission on Civil Rights (cited earlier):

> * * * OCR's Title VI/Lau program continues to suffer in its efforts to play a major role in ensuring equal educational opportunity for students with limited English proficiency because of a number of weaknesses. For example, since 1990, OCR has placed a high priority on issues related to students with limited English proficiency, but it has failed to issue policy guidance on compliance relating to the development and implementation of educational programs for students with limited English proficiency since a May 1970 policy memorandum published in the Federal Register.

The report further states:

> * * * By failing to address these principles adequately in its enforcement of Title VI and *Lau,* OCR has not provided State and local education agencies with the type of guidance that would afford them a concrete understanding of their obligations under the law and point them in the direction of a proactive civil rights agenda that would ensure equal opportunity for students with limited English proficiency.

Conditioning any new OCR compliance agreements upon the publication of final regulations is most reasonable. Since there are many questions surrounding OCR's tactics in obtaining current compliance agreements, the Committee believes it is important that States and local schools have information on the criteria on which their programs for English language learners are to be judged. It is also important to allow for a public review of these guidelines to ensure that OCR is not overstepping its boundaries when it seeks compliance agreements which involve issues such as testing and the qualifications of school personnel working with students.

CHANGING THE NAME OF THE OFFICE

Currently the name of the office within the Department of Education responsible for the Bilingual Education Act is the Office of Bilingual Education and Minority Languages Affairs. The Committee believes the name of the office should reflect the primary purpose of the program. It has, therefore, renamed the office, the Office of English Language Acquisition. Since the primary purpose of this legislation is to provide English language learners with the English language skills they need to perform well in school, the Committee believes renaming the office is appropriate and consistent with the intent of this Act.

EXHIBIT A

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Office	Docket #	Recipient Name	Recipiency City	State	Received	Resolved
01	01911162	SOMERVILLE P.S.	SOMERVILLE	MA	07/19/1991	12/20/1993
01	01915001	LAWRENCE P.S.	LAWRENCE	MA	06/18/1991	06/30/1995
01	01925002	SOMERVILLE P.S.	SOMERVILLE	MA	01/23/1992	12/20/1993
01	01931075	WOBURN P.S.	WOBURN	MA	03/04/1993	06/14/1994
01	01935001	WOONSOCKET P.S.	WOONSOCKET	RI	03/30/1993	06/30/1995
01	01935005	HOLYOKE P.S.	HOLYOKE	MA	09/29/1993	06/27/1995
01	01951151	ARLINGTON PS	ARLINGTON	MA	06/16/1995	02/01/1996
01	01951171	FITCHBURG PS	FITCHBURG	MA	08/01/1995	05/30/1996
01	01955001	E. HARTFORD P.S.	E. HARTFORD	CT	03/08/1995	09/29/1995
01	01955002	W. HARTFORD BD OF ED	W. HARTFORD	CT	05/17/1995	09/28/1995
01	01955003	BRISTOL BD OF ED	BRISTOL	CT	04/27/1995	09/29/1995
01	01955005	WATERBURY PS	WATERBURY	CT	05/30/1995	08/16/1996
01	01961079	LOWELL PS	LOWELL	MA	04/01/1996	11/01/1996
01	01965001	NEW BRITAIN P.S.	NEW BRITAIN	CT	03/25/1996	10/03/1996
01	01965002	STRATFORD PS	STRATFORD	CT	02/13/1996	09/27/1996
01	01965005	PROVIDENCE PS	PROVIDENCE	RI	11/13/1995	08/09/1996
01	01965009	LYNN PS	LYNN	MA	06/11/1996	09/30/1996
01	01965011	LOWELL PS	LOWELL	MA	10/31/1995	09/27/1996
01	01965012	SOUTHBRIDGE PS	SOUTHBRIDGE	MA	04/29/1996	09/20/1996
01	01965013	PROVIDENCE PS	PROVIDENCE	RI	11/13/1995	08/13/1996
01	01975001	PAWTUCKET PS	PAWTUCKET	RI	05/07/1997	09/30/1997
01	01975003	DANBURY PS	DANBURY	CT	02/26/1997	01/14/1998
01	01975008	QUINCY PS	QUINCY	MA	01/13/1997	09/30/1997
01	01975014	MANCHESTER PS - SAU #37	MANCHESTER	NH	10/29/1996	04/17/1997
02	02935002	LINDEN SCHOOL DISTRICT	LINDEN	NJ	09/24/1993	03/10/1995
02	02935004	MINEOLA UNION FREE S.D.	MINEOLA	NY	06/14/1993	06/12/1995
02	02941083	NYC BOARD OF EDUCATION	BROOKLYN	NY	04/20/1994	09/29/1995
02	02945003	PATERSON S.D.	PATERSON	NJ	04/04/1994	01/22/1996
02	02945004	PORTCHESTER RYE UNION FREE	PORTCHESTER	NY	03/22/1994	07/10/1995
02	02945005	OSSINING UNIFIED S.D.	OSSUNING	NY	03/31/1994	06/28/1995
02	02945006	PASSAIC PUBLIC S.D.	PASSAIC	NJ	03/30/1994	06/29/1995
02	02945007	WHITE PLAINS BOARD OF	WHITE PLAINS	NY	03/30/1994	08/31/1995
02	02945008	ATLANTIC CITY S.D.	ATLANTIC CITY	NJ	03/29/1994	01/30/1996
02	02945011	NYC BOARD OF EDUCATION #26	BROOKLYN	NY	11/03/1994	08/27/1996
02	02951135	V.I. DEPARTMENT OF EDUCATION	CHARLOTTE AMALIE	VI	06/26/1995	01/22/1996
02	02951138	U.S. VIRGIN ISLANDS DEPT OF	ST. THOMAS	VI	06/30/1995	01/22/1996
02	02961165	NEWARK BOARD OF EDUCATION	NEWARK	NJ	07/23/1996	01/30/1997
02	02975004	WESTBURY UNION FREE S.D.	OLD WESTBURY	NY	05/14/1997	10/24/1997
02	02975005	BRENTWOOD UNION FREE S.D.	BRENTWOOD	NY	06/09/1997	11/26/1997
03	03915002	DISTRICT OF COLUMBIA SCHOOL	WASHINGTON	DC	09/18/1991	05/02/1994
03	03931029	BETHLEHEM AREA SCHOOL	BETHLEHEM	PA	11/12/1992	05/31/1995
03	03945001	ACCOMACK COUNTY SCHOOL	ACCOMACK	VA	02/05/1997	10/09/1997
03	03945002	CHESAPEAKE SCHOOL DIVISION	CHESAPEAKE	VA	02/05/1997	09/30/1997
03	03945003	NEWPORT NEWS SCHOOL DIVISION	NEWPORT NEWS	VA	06/06/1994	11/04/1997
03	03945004	NORFOLK SCHOOL DIVISION	NORFOLK	VA	09/19/1994	03/09/1998
03	03945005	PORTSMOUTH SCHOOL DIVISION	PORTSMOUTH	VA	09/26/1994	10/31/1997
03	03945006	PRINCE GEORGE COUNTY SCHOOL	PRINCE GEORGE	VA	02/05/1997	10/15/1997
03	03945007	VIRGINIA BEACH SCHOOL	VIRGINIA BEACH	VA	10/17/1994	12/23/1997
03	03945008	BEDFORD COUNTY SCHOOL	BEDFORD	VA	02/05/1997	09/30/1997
03	03945009	DANVILLE SCHOOL DIVISION	DANVILLE	VA	02/05/1997	10/09/1997
03	03945010	HENRICO COUNTY SCHOOL	RICHMOND	VA	02/05/1997	12/18/1997
03	03945011	HENRY COUNTY SCHOOL DIVISION	COLLINSVILLE	VA	09/14/1994	09/30/1997

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03	03945012	LYNCHBURG SCHOOL DIVISION	LYNCHBURG	VA	02/05/1997	09/30/1997
03	03945013	PITTSYLVANIA COUNTY SCHOOL	CHATHAM	VA	01/23/1997	10/28/1997
03	03945014	ROANOKE COUNTY SCHOOL	SALEM	VA	11/29/1994	10/10/1997
03	03975006	AVON GROVE SCHOOL DISTRICT	WEST GROVE	PA	05/19/1997	11/13/1997
03	03975007	CENTRAL YORK SCHOOL DISTRICT	YORK	PA	05/29/1997	10/10/1997
03	03975008	GETTYSBURG AREA SCHOOL	GETTYSBURG	PA	05/27/1997	10/08/1997
03	03975009	UPPER ADAMS SCHOOL DISTRICT	BIGLERVILLE	PA	06/02/1997	11/20/1997
03	03975010	WEST CHESTER AREA SCHOOL	WEST CHESTER	PA	05/29/1997	09/19/1997
03	03975011	WEST YORK AREA SCHOOL	YORK	PA	05/29/1997	09/23/1997
04	04945014	DECATUR CITY SCHOOL DISTRICT	DECATUR	AL	10/05/1994	05/03/1995
04	04945017	SHELBY COUNTY SCHOOL	MEMPHIS	TN	12/03/1994	09/27/1995
04	04945018	METRO NASHVILLE DAVIDSON CO	NASHVILLE	TN	03/27/1995	07/14/1995
04	04955023	YADKIN COUNTY SCHOOL	YADKINVILLE	NC	04/26/1995	05/26/1995
04	04965017	AIKEN COUNTY SCHOOL DISTRICT	AIKEN	SC	11/30/1995	06/27/1996
04	04965018	GREENVILLE COUNTY SCHOOL	GREENVILLE	SC	12/11/1995	05/15/1996
04	04965019	RICHLAND COUNTY #1 SCHOOL	COLUMBIA	SC	03/19/1996	05/21/1996
04	04965020	BEAUFORT COUNTY SCHOOL	BEAUFORT	SC	03/25/1996	08/23/1996
04	04965024	PICKENS COUNTY SCHOOL	EASLEY	SC	05/07/1996	05/20/1996
04	04975024	ALBERTVILLE CITY SCHOOL	ALBERTVILLE	AL	02/25/1997	06/25/1997
04	04975025	BLOUNT COUNTY SCHOOL	ONEONTA	AL	11/18/1996	03/07/1997
04	04975026	MOBILE COUNTY SCHOOL	MOBILE	AL	05/13/1997	10/17/1997
04	04975027	MADISON COUNTY SCHOOL	HUNTSVILLE	AL	02/25/1997	03/13/1997
04	04985020	GWINNETT COUNTY SCHOOL	LAWRENCEVILLE	GA	12/01/1997	04/03/1998
05	05935001	WILLMAR SCHOOL DISTRICT 347	WILLMAR	MN	03/29/1993	10/08/1993
05	05945001	SCHOOL DISTRICT 46	ELGIN	IL	01/31/1994	08/31/1995
05	05945002	SCHOOL CITY OF HAMMOND	HAMMOND	IN	03/14/1994	08/25/1995
05	05965021	GARY COMMUNITY SCHOOL CORP.	GARY	IN	10/12/1995	05/17/1996
05	05965022	MERRILLVILLE COMM. SCHOOLS	MERRILLVILLE	IN	11/29/1995	07/11/1996
05	05965023	SCHOOL CITY OF WHITING	WHITING	IN	02/20/1996	06/28/1996
05	05965024	LAKE STATION COMMUNITY	LAKE STATION	IN	12/06/1995	07/11/1996
05	05965025	SCHOOL CITY OF EAST CHICAGO	EAST CHICAGO	IN	10/30/1995	05/08/1996
05	05965026	RACINE UNIFIED SCHOOL	RACINE	WI	02/20/1996	11/26/1996
05	05965027	SCHOOL CITY OF HOBART	HOBART	IN	02/20/1996	08/08/1996
05	05965028	RIVER FOREST COMM. SCHOOL	HOBART	IN	12/05/1995	08/01/1996
05	05971037	FARIBAULT AREA SCHOOLS	FARIBAULT	MN	11/15/1996	07/15/1997
05	05975001	METRO. SD OF WASHINGTON	INDIANAPOLIS	IN	01/27/1997	08/04/1997
05	05975002	METRO. SD OF PERRY TOWNSHIP	INDIANAPOLIS	IN	01/27/1997	07/15/1997
05	05975003	METRO. SD OF WAYNE TOWNSHIP		IN	12/02/1996	06/26/1997
05	05975004	METRO. SD OF PIKE TOWNSHIP	INDIANAPOLIS	IN	10/15/1996	03/31/1997
05	05975005	METRO. SD OF WARREN TOWNSHIP	INDIANAPOLIS	IN	02/18/1997	07/25/1997
05	05975006	METRO. SD OF LAWRENCE	INDIANAPOLIS	IN	11/04/1996	04/17/1997
05	05975007	INDIANAPOLIS PUBLIC SCHOOLS	INDIANAPOLIS	IN	01/26/1997	06/20/1997
05	05975008	FORT WAYNE COMMUNITY SCHOOLS	FORT WAYNE	IN	02/24/1997	12/18/1997
05	05975009	SOUTH BEND COMM. SCHOOL	SOUTH BEND	IN	10/21/1996	06/30/1997
05	05975010	ELKHART COMMUNITY SCHOOLS	ELKHART	IN	10/28/1996	08/29/1997
06	06931325	HUMBLE ISD	HUMBLE	TX	07/26/1993	07/28/1994
06	06945005	OKLAHOMA CITY PUBLIC SCHOOLS	OKLAHOMA CITY	OK	05/02/1994	05/24/1995
06	06945006	LUBBOCK ISD	LUBBOCK	TX	05/02/1994	08/04/1995
06	06945007	AUSTIN ISD	AUSTIN	TX	05/16/1994	06/30/1995
06	06955004	DONNA ISD	DONNA	TX	11/14/1994	11/21/1996
06	06955015	ROGERS PUBLIC SCHOOL	ROGERS	AR	05/01/1995	06/19/1995
06	06965007	MCALLEN ISD	MCALLEN	TX	03/25/1996	03/19/1997

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06	06965008	CORPUS CHRISTI ISD	CORPUS CHRISTI	TX	09/30/1996	04/25/1997
06	06971017	DESOTO COUNTY SCHOOL	HERNANDO	MS	10/18/1996	05/16/1997
06	06971418	ANNA ISD	ANNA	TX	07/09/1997	03/02/1998
07	07925004	KANSAS CITY U.S.D. #500	KANSAS CITY	KS	03/17/1992	07/29/1993
07	07945008	EMPORIA U.S.D. #253	EMPORIA	KS	06/08/1994	12/14/1995
07	07961284	UNIVERSITY CITY SCHOOL	UNIVERSITY CITY	MO	08/19/1996	04/02/1997
07	07961295	HOLCOMB CONSOLIDATED SCHOOLS	HOLCOMB	KS	09/09/1996	12/23/1996
07	07965002	DODGE CITY USD # 443	DODGE CITY	KS	03/04/1996	06/21/1996
07	07965003	WICHITA USD # 259	WICHITA	KS	02/05/1996	04/09/1996
07	07965004	GARDEN CITY USD # 457	GARDEN CITY	KS	03/04/1996	04/25/1996
07	07965007	SOUTH TAMA COMMUNITY SCH.	TAMA	IA	03/01/1996	04/05/1996
07	07965008	WEST LIBERTY COMMUNITY S. D.	WEST LIBERTY	IA	03/11/1996	07/01/1996
07	07965017	LEXINGTON PUBLIC SCHOOLS	LEXINGTON	NE	05/07/1996	06/27/1996
07	07965018	MADISON PUBLIC SCHOOLS	MADISON	NE	04/23/1996	06/21/1996
07	07965019	MITCHELL PUBLIC SCHOOLS	MITCHELL	NE	03/12/1996	06/28/1996
07	07975001	DES MOINES INDEPENDENT	DES MOINES	IA	04/14/1997	04/20/1998
07	07975003	STORM LAKE COMMUNITY SCHOOL	STORM LAKE	IA	10/21/1996	12/30/1996
07	07975004	WASHINGTON COMMUNITY SCHOOL	WASHINGTON	IA	05/05/1997	08/19/1997
07	07975006	GEARY COUNTY SCHOOLS U.S.D.	JUNCTION CITY	KS	10/28/1996	02/03/1997
07	07975007	KISMET-PLAINS U.S.D. #483	PLAINS	KS	11/19/1996	03/13/1997
07	07975009	SHAWNEE MISSION PUBLIC	SHAWNEE MISSION	KS	03/03/1997	08/07/1997
07	07975013	JEFFERSON COUNTY SCHOOL	LOUISVILLE	KY	02/24/1997	11/04/1997
07	07975017	JOPLIN R-VIII SCHOOL	JOPLIN	MO	11/04/1996	02/03/1997
07	07975018	MCDONALD COUNTY R-I SCHOOL	ANDERSON	MO	10/21/1996	11/25/1996
07	07975021	GRAND ISLAND PUBLIC SCHOOLS	GRAND ISLAND	NE	05/19/1997	07/16/1997
07	07975022	HASTINGS PUBLIC SCHOOLS	HASTINGS	NE	11/05/1996	02/03/1997
07	07975025	SOUTH SIOUX CITY PUBLIC	SOUTH SIOUX CITY	NE	03/04/1997	07/16/1997
08	08921064	DURANGO SCHOOL DISTRICT 9-R	DURANGO	CO	02/27/1992	12/15/1992
08	08925002	AMPHITHEATER SCH DIST #104	TUCSON	AZ	02/10/1992	01/10/1994
08	08925007	GALLUP-MCKINLEY SCH DIST	GALLUP	NM	08/31/1992	01/21/1993
08	08931138	MARICOPA UNIF SCH DIST #20	MARICOPA	AZ	05/11/1993	12/23/1993
08	08931244	PORTALES MUNICIPAL SCHS	PORTALES	NM	09/24/1993	02/04/1994
08	08935005	FARMINGTON SCH DIST	FARMINGTON	NM	03/22/1993	07/20/1993
08	08935006	LAS CRUCES SCH DIST	LAS CRUCES	NM	03/08/1993	07/06/1993
08	08935007	SILVER CITY SCH DIST	SILVER CITY	NM	03/01/1993	06/29/1993
08	08935008	WELD COUNTY SCH DIST #6	GREELEY	CO	02/08/1993	06/08/1993
08	08935009	LAMAR SCH DIST	LAMAR	CO	05/10/1993	09/13/1993
08	08935011	ROARING FORK SCH DIST/MTN	GLENWOOD SPRINGS	CO	09/13/1993	01/27/1994
08	08935012	ALAMOSA SCH DIST	ALAMOSA	CO	09/27/1993	03/08/1994
08	08935021	SAN LUIS VALLEY BOCES	ALAMOSA	CO	09/27/1993	03/08/1994
08	08945002	OGDEN CITY SCH DIST	OGDEN	UT	11/15/1993	03/23/1994
08	08945003	DUCHESNE SCH DIST	DUCHESNE	UT	10/25/1993	03/15/1994
08	08945005	YUMA SCH DIST #1	YUMA	AZ	10/04/1993	02/08/1994
08	08945008	JORDAN SCH DIST	SANDY	UT	11/29/1993	05/13/1994
08	08945009	FORT LUPTON SCH DIST	FORT LUPTON	CO	12/13/1993	08/12/1994
08	08945010	BRIGHTON SCH DIST #27J	BRIGHTON	CO	01/03/1994	08/10/1994
08	08945013	WELD COUNTY SCH DIST #RE-1	GILCREST	CO	01/10/1994	07/21/1994
08	08945014	JOHNSTOWN-MILLIKEN SCH DIST	JOHNSTOWN	CO	01/18/1994	09/01/1994
08	08945016	WELD COUNTY BOCES	LA SALLE	CO	12/13/1993	11/09/1994
08	08945017	HARRISON SCH DIST #2	COLORADO SPRINGS	CO	02/07/1994	12/23/1994
08	08945018	COLORADO SPRINGS SCH DIST	COLORADO SPRINGS	CO	02/22/1994	11/01/1994
08	08945021	GRANITE SCH DIST	SALT LAKE CITY	CO	03/14/1994	05/04/1995

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Office	Docket #	Recipient Name	Recipieny City	State	Received	Resolved
08	08945022	WASHINGTON COUNTY SCH DIST	ST GEORGE	UT	04/11/1994	11/08/1995
08	08945027	ALBUQUERQUE SCH DIST	ALBUQUERQUE	NM	05/09/1994	09/08/1995
08	08951150	DOUGLAS UNIF SCH DIST	DOUGLAS	AZ	07/11/1995	09/13/1996
08	08951155	WASHINGTON SCH DIST #6	PHOENIX	AZ	07/20/1995	01/26/1996
08	08955001	ADAMS COUNTY SCH DIST #50	WESTMINSTER	CO	12/12/1994	06/01/1995
08	08955002	TUCSON USD	TUCSON	AZ	10/24/1994	05/31/1996
08	08955010	PUEBLO SCH DIST #60	PUEBLO	CO	11/14/1994	05/11/1995
08	08955011	DAVIS COUNTY SCH DIST	FARMINGTON	UT	10/17/1994	11/28/1995
08	08955012	ROCKY FORD SCH DIST #R-2	ROCKY FORD	CO	01/09/1995	07/24/1995
08	08955013	SIERRA GRANDE SCH DIST	BLANCA	CO	03/08/1995	10/10/1995
08	08955014	TAOS SCH DIST	TAOS	NM	03/27/1995	10/03/1995
08	08961016	LOS LUNAS SCH DIST	LAS LUNAS	NM	10/25/1995	04/18/1996
08	08961076	BRUSH SCH DIST RE-2J	BRUSH	CO	02/13/1996	07/23/1996
08	08965002	CUBA INDEPENDENT SCH DIST	CUBA	NM	12/11/1995	06/25/1996
08	08965003	MESA COUNTY VALLEY SCH DIST	GRAND JUNCTION	CO	12/11/1995	06/21/1996
08	08965006	ARTESIA SCH DIST	ARTESIA	NM	03/18/1996	07/28/1997
08	08965007	HOBBS SCH DIST	HOBBS	NM	02/26/1996	06/18/1997
08	08971019	IGNACIO SCH DIST	IGNACIO	CO	10/28/1996	01/28/1997
08	08971093	WINDOW ROCK UNIFIED SCH DIST	FT. DEFIANCE	AZ	02/21/1997	08/20/1997
08	08971123	GALLUP-MCKINLEY PUB SCH	GALLUP	NM	04/14/1997	12/03/1997
08	08971146	THOMPSON SCH DIST R2-J	LOVELAND	CO	05/19/1997	10/02/1997
08	08975001	TEMPE ELEMENTARY SCH DIST		AZ	01/06/1997	04/07/1997
08	08975002	FLAGSTAFF SCH DIST	FLAGSTAFF	AZ	02/24/1997	04/17/1997
08	08981004	JEFFERSON COUNTY PUB SCH		CO	10/21/1997	03/03/1998
08	08985003	JEFFERSON COUNTY PUB SCH	GOLDEN	CO	02/10/1998	04/23/1998
09	09871051	SAN JUAN USD	CARMICHAEL	CA	02/23/1987	06/06/1988
09	09881176	SAN FRANCISCO USD	SAN FRANCISCO	CA	08/11/1988	06/28/1991
09	09895013	OAKLAND USD	OAKLAND	CA	09/27/1990	05/20/1994
09	09901054	LOS ANGELES CNTY OE	DOWNEY	CA	11/29/1989	06/30/1993
09	09901062	LOS NIETOS ESD	LOS NIETOS	CA	12/05/1989	05/03/1990
09	09911159	LINDSAY USD	LINDSAY	CA	04/29/1991	05/28/1993
09	09915001	OJAI USD	OJAI	CA	09/23/1991	03/06/1992
09	09921049	WEST COVINA USD	WEST COVINA	CA	11/06/1991	04/30/1992
09	09921198	FREMONT UNION HSD	SUNNYVALE	CA	04/27/1992	06/30/1993
09	09931196	MENDOTA USD	MENDOTA	CA	05/04/1993	02/15/1994
09	09931359	PORTERVILLE PUBLIC S	PORTERVILLE	CA	09/09/1993	06/29/1995
09	09935002	ALAMEDA CTY USD	ALAMEDA	CA	03/30/1993	09/10/1993
09	09941104	SAN FRANCISCO USD	SAN FRANCISCO	CA	01/31/1994	11/30/1995
09	09941193	SWEETWATER UNION HSD	CHULA VISTA	CA	04/21/1994	03/14/1995
09	09945007	GOLDEN PLAINS USD	TRANQUILITY	CA	03/24/1994	07/25/1994
09	09945008	HANFORD JT UNION HSD	HANFORD	CA	03/21/1994	10/31/1994
09	09945009	MERCED CTY ESD	MERCED	CA	03/17/1994	06/30/1995
09	09945012	NAPA VLY USD	NAPA	CA	05/31/1994	12/12/1994
09	09945014	SAN RAFAEL CTY ESD	SAN RAFAEL	CA	10/31/1994	05/23/1996
09	09945016	WEST CONTRA COSTA USD	RICHMOND	CA	03/30/1994	02/03/1997
09	09945017	INGLEWOOD USD	INGLEWOOD	CA	03/22/1994	09/29/1995
09	09945022	LODI USD	LODI	CA	03/30/1994	10/21/1994
09	09946004	RANCHO SANTIAGO COMM C	SANTA ANA	CA	09/30/1994	06/30/1995
09	09951134	SONOMA VLY USD	SONOMA	CA	02/06/1995	06/28/1996
09	09951155	VENTURA CNTY OE	CAMARILLO	CA	02/27/1995	12/15/1995
09	09951369	SHORELINE USD	TOMALES	CA	08/30/1995	09/30/1996
09	09955002	NORWALK-LA MIRADA USD	NORWALK	CA	04/24/1995	04/26/1996

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Office	Docket #	Recipient Name	Recipieny City	State	Received	Resolved
09	09955005	NEWPORT-MESA USD	NEWPORT BEACH	CA	12/05/1994	01/26/1996
09	09955011	FAIRFIELD-SUISUN USD	FAIRFIELD	CA	12/05/1994	03/31/1995
09	09955013	BURBANK USD	BURBANK	CA	05/01/1995	08/01/1996
09	09955014	ORLAND JOINT ELEM SD	ORLAND	CA	05/08/1995	03/10/1997
09	09955015	WINTERS JT USD	WINTERS	CA	02/28/1995	07/24/1995
09	09955016	EASTSIDE UNION HSD	SAN JOSE	CA	04/10/1995	08/09/1995
09	09955017	GRANT JT UNION HSD	SACRAMENTO	CA	12/12/1994	08/05/1996
09	09955018	MANTECA USD	LATHROP	CA	12/13/1994	06/25/1996
09	09955019	ATWATER ESD	ATWATER	CA	04/10/1995	07/18/1997
09	09955020	DELANO JT UNION HSD	DELANO	CA	05/15/1995	09/24/1996
09	09955021	HACIENDA-LA PUENTE USD	CITY OF INDUSTRY	CA	02/21/1995	03/20/1996
09	09955022	BELLEVUE UNION ESD	SANTA ROSA	CA	03/06/1995	05/24/1995
09	09955024	SADDLEBACK VY USD	MISSION VIEJO	CA	01/23/1995	05/15/1995
09	09955025	FRESNO USD	FRESNO	CA	04/17/1995	03/20/1996
09	09961055	BEAUMONT USD	BEAUMONT	CA	11/28/1995	02/06/1997
09	09961177	EMPIRE UNION SD	MODESTO	CA	03/21/1996	09/17/1997
09	09965002	POMONA USD	POMONA	CA	04/22/1996	12/18/1996
09	09965004	LYNWOOD USD	LYNWOOD	CA	11/01/1995	08/14/1996
09	09965006	MARYSVILLE JT USD	MARYSVILLE	CA	12/06/1995	10/01/1996
09	09965008	ELK GROVE USD	ELK GROVE	CA	03/26/1996	09/11/1996
09	09965010	MONTEREY PENINSULA USD	MONTEREY	CA	05/20/1996	05/16/1997
09	09965011	KERN UNION HSD	BAKERSFIELD	CA	03/11/1996	01/15/1997
09	09965012	CENTRALIA ESD	BUENA PARK	CA	02/26/1996	06/03/1996
09	09965013	SAN LEANDRO USD	SAN LEANDRO	CA	12/04/1995	06/06/1996
09	09971030	BRAWLEY UNION HSD	BRAWLEY	CA	10/22/1996	06/19/1997
09	09971131	SANTA CRUZ CTY SD	SANTA CRUZ	CA	01/24/1997	05/02/1997
09	09975004	UKIAH USD	UKIAH	CA	12/10/1996	08/25/1997
09	09975009	MILPITAS USD	MILPITAS	CA	03/31/1997	11/03/1997
10	09881027	GUAM DEPT OF ED	AGANA	GQ	12/08/1987	06/30/1989
10	10935003	SEDRO WOOLLEY SD	SEDRO WOOLLEY	WA	04/12/1993	10/01/1993
10	10945001	TWIN FALLS SD	TWIN FALLS	ID	03/07/1994	12/21/1994
10	10945004	PORTLAND SD	PORTLAND	OR	08/31/1994	12/27/1994
10	10945005	LYON COUNTY SD	YERRINGTON	NV	05/23/1994	07/17/1995
10	10945009	EVERETT SD	Everett	WA	06/13/1994	03/03/1997
10	10945010	N. FRANKLIN SD	Connell	WA	05/16/1994	03/13/1996
10	10951064	CENTRAL SD	INDEPENDENCE	OR	02/21/1995	10/10/1996
10	10951142	SEATTLE SD	SEATTLE	WA	06/28/1995	02/10/1997
10	10955001	GRANDVIEW SD	GRANDVIEW	WA	12/15/1994	06/10/1996
10	10955003	CALDWELL SD	BOISE	ID	06/11/1996	09/06/1996
10	10955006	ELKO COUNTY SD	ELKO	NV	05/19/1995	07/11/1995
10	10955007	NAMPA SD	NAMPA	ID	05/01/1995	04/15/1996
10	10965002	CARSON CITY SD	CARSON CITY	NV	05/13/1996	06/10/1996
10	10965003	DOUGLAS COUNTY SD	MINDEN	NV	09/04/1996	10/08/1996
10	10965005	WOODBURN SD	WOODBURN	OR	04/16/1996	05/29/1996
10	10965013	YAKIMA SD	YAKIMA	WA	06/17/1996	09/25/1996
10	10965014	FEDERAL WAY SD	FEDERAL WAY	WA	09/18/1996	11/29/1996
10	10965015	VANCOUVER SD	VANCOUVER	WA	04/01/1996	07/01/1996
10	10965016	SPOKANE SD	SPOKANE	WA	09/25/1996	11/18/1996
10	10965017	IDAHO FALLS SD	IDAHO FALLS	ID	03/06/1996	04/25/1996
10	10975005	ABERDEEN SD No. 58	ABERDEEN	ID	10/29/1996	01/15/1997
10	10975006	MINIDOKA COUNTY JOINT SD	RUPERT	ID	10/30/1996	02/07/1997
10	10975007	SNAKE RIVER SD	BLACKFOOT	ID	11/12/1996	01/21/1997

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Office	Docket #	Recipient Name	Recipieny City	State	Received	Resolved
10	10975008	BLACKFOOT SD	BLACKFOOT	ID	11/12/1996	01/16/1997
10	10975009	WAHLUKE SD	MATTAWA	WA	12/10/1996	02/06/1997
10	10975010	LANDER COUNTY SD	BATTLE MOUNTAIN	NV	12/20/1996	02/06/1997
10	10975011	NEWBERG SD	NEWBERG	OR	01/08/1997	03/06/1997
10	10975012	EMMETT JOINT SD	EMMETT	ID	04/02/1997	05/23/1997
10	10975013	JEFFERSON COUNTY SD	RIGBY	ID	10/31/1996	01/15/1997
10	10975014	CLOVER PARK SD	TACOMA	WA	09/29/1997	10/28/1997
10	10975015	SHORELINE SD 42	SEATTLE	WA	01/22/1997	03/03/1997
10	10975016	PULLMAN SD	PULLMAN	WA	05/08/1997	11/03/1997
11	11961003	DISTRICT OF COLUMBIA SCHOOLS	WASHINGTON	DC	07/22/1996	01/30/1997
15	15925005	FARMINGTON PUBLIC SCHOOLS	FARMINGTON	MI	06/16/1992	12/30/1993
15	15941123	GRAND RAPIDS PUBLIC SCHOOLS	GRAND RAPIDS	MI	04/18/1994	08/23/1995
15	15945001	DEARBORN PUBLIC SCHOOLS	DEARBORN	MI	03/21/1994	11/29/1995
15	15945002	TOLEDO PUBLIC SCHOOLS	TOLEDO	OH	03/23/1994	05/19/1995
15	15961125	CAPAC COMMUNITY SCHOOLS	CAPAC	MI	04/30/1996	02/14/1997
15	15961172	FLINT COMMUNITY SCHOOLS	FLINT	MI	08/05/1996	01/30/1997
15	15965001	BERKLEY SCHOOL DISTRICT	BERKLEY	MI	03/06/1996	03/18/1996
15	15965002	BIRMINGHAM PUBLIC SCHOOLS	BIRMINGHAM	MI	02/27/1996	06/18/1996
15	15965003	BLOOMFIELD HILLS PUBLIC SCHS	BLOOMFIELD HILLS	MI	03/21/1996	05/29/1996
15	15965004	FERNDALE SCHOOL DISTRICT	FERNDALE	MI	02/05/1996	06/19/1996
15	15965005	HAZEL PARK PUBLIC SCHOOLS	HAZEL PARK	MI	12/05/1995	02/08/1996
15	15965006	ROYAL OAK PUBLIC SCHOOLS	ROYAL OAK	MI	12/13/1995	02/08/1996
15	15965007	SOUTHFIELD PUBLIC SCHOOLS	SOUTHFIELD	MI	03/06/1996	06/19/1996
15	15965008	TROY SCHOOL DISTRICT	TROY	MI	02/22/1996	12/10/1996
15	15965009	WEST BLOOMFIELD PUBLIC	WEST BLOOMFIELD	MI	03/19/1996	04/18/1996
15	15975003	PONTIAC SCHOOL DISTRICT	PONTIAC	MI	02/19/1997	08/26/1997
15	15975004	WALLED LAKE CONSOLIDATED	WALLED LAKE	MI	01/15/1997	02/24/1997
15	15975005	OAK PARK PUBLIC SCHOOLS	OAK PARK	MI	03/25/1997	10/22/1997

SECTION-BY-SECTION ANALYSIS

H.R. 3892, The English Language Fluency Act, as reported by the Committee on Education and the Workforce, on June 4, 1998.

Section 1 amends Part A of title VII of the Elementary and Secondary Education Act of 1965 (Bilingual Education Act, Part A) as follows:

"PART A—ENGLISH LANGUAGE EDUCATION

"Section 7101 contains the short title of this part.

"Section 7102 contains the findings and purpose.

"Section 7103 contains notification and consent requirements for parents of children participating in programs under this part.

"SUBPART 1—GRANTS FOR ENGLISH LANGUAGE ACQUISITION

"Chapter 1—General Provisions

"Section 7111 authorizes appropriations of such sums for fiscal year 1999 and each of the 4 succeeding fiscal years; and requires the Secretary to set aside not less than .5 percent for entities serving Native Americans and Alaska Natives.

"Section 7112 contains the definition of an eligible entity to serve predominantly Native American or Alaska Native children and youth and timeline for submission of their application.

"Chapter 2—Grants for English Language Acquisition

"Section 7121 requires not less than 90 percent of funds to be used for subgrants to eligible entities to provide assistance to children and youth who are English language learners; allows States to retain 10 percent of funds and sets forth allowable State activities and limits the amount to be used for administration to 2 percent.

"Section 7122 contains the criteria to be included in the State application.

"Section 7123 contains the purposes and activities for which eligible entities receiving a subgrant may expend subgrant funds.

"Section 7124 contains the method of determination for the allotment of subgrants.

"Section 7125 states that nothing in this part shall be construed to require a State or LEA to establish or continue or eliminate a program of native language instruction.

"SUBPART 2—RESEARCH AND DISSEMINATION

"Section 7141 allows the Secretary to conduct research for the purpose of improving English language instruction.

Section 2 repeals the Emergency Immigrant Education Program

Section 3 redesignates Part D of Title VII of ESEA as Part C of such title and is amended as follows:

"Part C—Administration

"Section 7301 requires States to report annually to the Secretary on programs and activities; and requires the Secretary to report biannually to Congress on the progress of States.

"Section 7302 allows for the commingling of funds under this Act.

Section 4 redesignates Part E of title VII of ESEA as Part D of such title and is amended as follows:

"PART D—GENERAL PROVISIONS

"Section 7401 contains definitions relevant to this part.

"Section 7402 authorizes the Secretary to issue regulations only to the extent they are necessary to ensure compliance with the specific requirements of this title.

"Section 7403 contains the legal limitations of this part under State law.

"Section 7404 releases States, LEAs and schools from compliance agreements, entered into with the Department of Education and its predecessor, concerning bilingual education.

"Section 7405 contains the requirements for making public the enforcement guidelines and compliance standards of the Office of Civil Rights as they apply to the provision of English language instruction.

"Section 7406 prohibits States from exempting English language learners from State standardized tests if they have received instruction in one LEA for the 3 year period prior to the date of the test and have received educational services throughout that 3 year period.

Section 5 makes conforming amendments.

Section 6 sets forth the effective date of the amendments made by this Act to be October 1, 1998, or enactment of this Act, whichever occurs later.

EXPLANATION OF AMENDMENTS

The Amendment in the Nature of a Substitute is explained in the body of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. This bill amends the Elementary and Secondary Education Act of 1965 to help children learn English. The bill does not prevent legislative branch employees from receiving the benefits of this legislation.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act requires a statement of whether the provisions of the reported bill include unfunded mandates. This bill amends the Elementary and Secondary Education Act of 1965 to help children learn English. The bill does not contain any unfunded mandates.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 2(l)(3)(A) of rule XI and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

STATEMENT OF OVERSIGHT FINDINGS OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from

the Committee on Government Reform and Oversight on the subject of H.R. 3892.

CONSTITUTIONAL AUTHORITY

The Elementary and Secondary Education Act of 1965, and this bill, H.R. 3892, are constitutional under the spending clause of the constitution, Article 1, section 8, clause 1.

COMMITTEE ESTIMATE

Clause 7 of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 3892. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 2(l)(3)(B) of rule XI of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of 2(l)(3)(C) of rule XI of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3892 from the Director of the Congressional Budget Act:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 18, 1998.

Hon. WILLIAM F. GOODLING,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3892, the English Language Fluency Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Justin Latus.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 3892—English Language Fluency Act

Summary: H.R. 3892 would rewrite title VII of the Elementary and Secondary Education Act (ESEA), which authorizes federal bilingual and immigrant education programs. It would authorize appropriations of such sums as necessary for fiscal years 1999 through 2003 to provide grants to states to ensure that all children master English. Programs under title VII are currently authorized through 2000. CBO estimates that the bill would authorize an additional $1.1 billion over the 2001–2003 period, assuming adjust-

ments for inflation. Because H.R. 3892 would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

The bill contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments except as a result of complying with grant conditions.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3892 is shown in the following table.

Basis of estimate: Under current law, programs under Title VII are authorized through fiscal year 2000, including the one-year extension provided under the General Education Provisions Act (GEPA). H.R. 3892 would authorize appropriations of such sums as may be necessary for programs for 1999 through 2003 (except for the Part B foreign language assistance program, which would expire in 2000).

Estimated budgetary impact of H.R. 3892:

	By fiscal years, in millions of dollars—					
	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
With adjustments for Inflation						
Spending Under Current Law:						
Estimated Authorization Levels [1]	354	362	370	0	0	0
Estimated Outlays	258	335	359	324	74	0
Proposed Changes:						
Estimated Authorization Levels	0	0	0	374	383	392
Estimated Outlays	0	0	0	45	300	374
Spending Under H.R. 3892:						
Estimated Authorization Levels [1]	354	362	370	374	383	392
Estimated Outlays	258	335	360	369	374	382
Without adjustments for Inflation						
Spending Under Current Law:						
Estimated Authorization Levels [1]	354	354	354	0	0	0
Estimated Outlays	258	334	352	312	71	7
Proposed Changes:						
Estimated Authorization Levels	0	0	0	349	349	349
Estimated Outlays	0	0	0	42	279	342
Spending Under H.R. 3892:						
Estimated Authorization Levels [1]	354	354	354	349	349	349
Estimated Outlays	258	334	352	353	350	349

[1] The 1998 level is the amount appropriated for that year.

Note.—Components may not sum to totals due to rounding.

CBO estimates that under this bill authorizations would be $374 million for fiscal year 2001 and would total $1.1 billion over the 2001–2003 period, with adjustments for inflation. Since the rewritten Title VII would serve a similar population as current law, namely immigrants and other children whose native language is not English, CBO based this estimate on current funding for Title VII.

The costs of this legislation fall within budget function 500 (education, training, employment, and social services).

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 3892 contains no private-sector or intergovernmental mandates as defined in UMRA. The bill would consolidate existing federal bilingual education programs into a block grant and give states and local edu-

cation agencies additional flexibility to design programs, but it also would impose some new requirements as a condition for receiving grants. The bill would also void compliance agreements between the Department of Education and states and local education agencies governing bilingual education.

Estimate prepared by: Federal Cost: Justin Latus. Impact on State, Local, and Tribal Governments: Marc Nicole. Impact on the Private Sector: Nabeel Alsalam.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

ROLLCALL VOTES

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 1 **BILL** **H.R. 3892** **DATE** **June 4, 1998**
PASSED 22 - 17

SPONSOR/AMENDMENT Mrs. Roukema / motion to report the bill with an amendment and with the recommendation that the amendment be agreed to and that the bill as amended do pass

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GOODLING, Chairman	X			
Mr. PETRI, Vice Chairman				X
Mrs. ROUKEMA	X			
Mr. FAWELL	X			
Mr. BALLENGER	X			
Mr. BARRETT	X			
Mr. HOEKSTRA	X			
Mr. McKEON				X
Mr. CASTLE	X			
Mr. JOHNSON	X			
Mr. TALENT	X			
Mr. GREENWOOD	X			
Mr. KNOLLENBERG	X			
Mr. RIGGS	X			
Mr. GRAHAM	X			
Mr. SOUDER	X			
Mr. McINTOSH				X
Mr. NORWOOD	X			
Mr. PAUL	X			
Mr. SCHAFFER	X			
Mr. PETERSON	X			
Mr. UPTON	X			
Mr. DEAL	X			
Mr. HILLEARY	X			
Mr. PARKER	X			
Mr. CLAY				X
Mr. MILLER				X
Mr. KILDEE		X		
Mr. MARTINEZ		X		
Mr. OWENS		X		
Mr. PAYNE		X		
Mrs. MINK		X		
Mr. ANDREWS		X		
Mr. ROEMER		X		
Mr. SCOTT				X
Ms. WOOLSEY		X		
Mr. ROMERO-BARCELO		X		
Mr. FATTAH		X		
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KIND		X		
Ms. SANCHEZ		X		
Mr. FORD		X		
Mr. KUCINICH		X		
TOTALS	22	17		6

CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
Washington, DC, June 17, 1998.

Hon. WILLIAM GOODLING,
Chairman, Education and Workforce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On rollcall vote number one, regarding reporting H.R. 3892 to the House floor, I was unavoidably detained due to legislative duties. Had I been present, I would have voted aye.

I would appreciate your inserting this letter into the Committee's report. Thank you for your attention to this matter.

Sincerely,

HOWARD P. "BUCK" MCKEON,
Member of Congress.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

* * * * * * *

TITLE II—DWIGHT D. EISENHOWER PROFESSIONAL DEVELOPMENT PROGRAM

* * * * * * *

PART B—STATE AND LOCAL ACTIVITIES

* * * * * * *

SEC. 2209. LOCAL COST-SHARING.

(a) * * *

(b) AVAILABLE RESOURCES FOR COST-SHARING.—

(1) IN GENERAL.—A local educational agency may meet the requirement of subsection (a) through one or more of the following:

(A) * * *

* * * * * * *

(C) Funds received under one or more of the following programs, so long as such funds are used for professional development activities consistent with this part and the statutes under which such funds were received, and are used to benefit students and teachers in schools that otherwise would have been served with such funds:

(i) * * *

* * * * * * *

(iii) [Bilingual Education Programs under part A of title VII.] *English language education programs under part A of title VII.*

* * * * * * *

[TITLE VII—BILINGUAL EDUCATION, LANGUAGE ENHANCEMENT, AND LANGUAGE ACQUISITION PROGRAMS

[PART A—BILINGUAL EDUCATION

[SEC. 7101. SHORT TITLE.

[This part may be cited as the "Bilingual Education Act".

[SEC. 7102. FINDINGS, POLICY, AND PURPOSE.

[(a) FINDINGS.—The Congress finds that—

[(1) language-minority Americans speak virtually all world languages plus many that are indigenous to the United States;

[(2) there are large and growing numbers of children and youth of limited-English proficiency, many of whom have a cultural heritage that differs from that of their English-proficient peers;

[(3) the presence of language-minority Americans is related in part to Federal immigration policies;

[(4) many language-minority Americans are limited in their English proficiency, and many have limited education and income;

[(5) limited English proficient children and youth face a number of challenges in receiving an education that will enable such children and youth to participate fully in American society, including—

[(A) segregated education programs;

[(B) disproportionate and improper placement in special education and other special programs due to the use of inappropriate evaluation procedures;

[(C) the limited-English proficiency of their own parents, which hinders the parents' ability to fully participate in the education of their children; and

[(D) a shortage of teachers and other staff who are professionally trained and qualified to serve such children and youth;

[(6) Native Americans and Native American languages (as such terms are defined in section 103 of the Native American Languages Act), including native residents of the outlying areas, have a unique status under Federal law that requires special policies within the broad purposes of this Act to serve the education needs of language minority students in the United States;

[(7) institutions of higher education can assist in preparing teachers, administrators and other school personnel to under-

stand and build upon the educational strengths and needs of language-minority and culturally diverse student enrollments;

[(8) it is the purpose of this title to help ensure that limited English proficient students master English and develop high levels of academic attainment in content areas;

[(9) quality bilingual education programs enable children and youth to learn English and meet high academic standards including proficiency in more than one language;

[(10) as the world becomes increasingly interdependent and as international communication becomes a daily occurrence in government, business, commerce, and family life, multilingual skills constitute an important national resource which deserves protection and development;

[(11) educational technology has the potential for improving the education of language-minority and limited English proficient students and their families, and the Federal Government should foster this development;

[(12) parent and community participation in bilingual education programs contributes to program effectiveness;

[(13) research, evaluation, and data-collection capabilities in the field of bilingual education need to be strengthened so that educators and other staff can better identify and promote those programs, program implementation strategies, and instructional practices that result in effective education of limited English proficient children;

[(14) the use of a child or youth's native language and culture in classroom instruction can—

[(A) promote self-esteem and contribute to academic achievement and learning English by limited English proficient children and youth;

[(B) benefit English-proficient children and youth who also participate in such programs; and

[(C) develop our Nation's national language resources, thus promoting our Nation's competitiveness in the global economy;

[(15) the Federal Government, as exemplified by title VI of the Civil Rights Act of 1964 and section 204(f) of the Equal Education Opportunities Act of 1974, has a special and continuing obligation to ensure that States and local school districts take appropriate action to provide equal educational opportunities to children and youth of limited English proficiency; and

[(16) the Federal Government also, as exemplified by the Federal Government's efforts under this title, has a special and continuing obligation to assist States and local school districts in developing the capacity to provide programs of instruction that offer limited English proficient children and youth an equal educational opportunity.

[(b) POLICY.—The Congress declares it to be the policy of the United States, in order to ensure equal educational opportunity for all children and youth and to promote educational excellence, to assist State and local educational agencies, institutions of higher education and community-based organizations to build their capacity

to establish, implement, and sustain programs of instruction for children and youth of limited English proficiency.

[(c) PURPOSE.—The purpose of this part is to educate limited English proficient children and youth to meet the same rigorous standards for academic performance expected of all children and youth, including meeting challenging State content standards and challenging State student performance standards in academic areas by—

[(1) developing systemic improvement and reform of educational programs serving limited English proficient students through the development and implementation of exemplary bilingual education programs and special alternative instruction programs;

[(2) developing bilingual skills and multicultural understanding;

[(3) developing the English of such children and youth and, to the extent possible, the native language skills of such children and youth;

[(4) providing similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law;

[(5) developing data collection and dissemination, research, materials development, and technical assistance which is focused on school improvement for limited English proficient students; and

[(6) developing programs which strengthen and improve the professional training of educational personnel who work with limited English proficient students.

[SEC. 7103. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—For the purpose of carrying out this part, there are authorized to be appropriated $215,000,000 for the fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[(b) DISTRIBUTION.—From the sums appropriated under subsection (a) for any fiscal year, the Secretary shall reserve not less than 25 percent of such funds for such year to carry out subpart 3.

[SEC. 7104. NATIVE AMERICAN AND ALASKA NATIVE CHILDREN IN SCHOOL.

[(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this part for individuals served by elementary, secondary, and postsecondary schools operated predominately for Native American or Alaska Native children and youth, an Indian tribe, a tribally sanctioned educational authority, a Native Hawaiian or Native American Pacific Islander native language education organization, or an elementary or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency as such term is used in this part, subject to the following qualifications:

[(1) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska

Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

[(2) TRIBALLY SANCTIONED EDUCATIONAL AUTHORITY.—The term "tribally sanctioned educational authority" means—

[(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

[(B) any nonprofit institution or organization that is—

[(i) chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee the delivery of educational services to members of that tribe; and

[(ii) approved by the Secretary for the purpose of this section.

[(b) ELIGIBLE ENTITY APPLICATION.—Notwithstanding any other provision of this part, each eligible entity described in subsection (a) shall submit any application for assistance under this part directly to the Secretary along with timely comments on the need for the proposed program.

[SEC. 7105. RESIDENTS OF THE TERRITORIES AND FREELY ASSOCIATED NATIONS.

[For the purpose of carrying out programs under this part in the outlying areas, the term "local educational agency" shall include public institutions or agencies whose mission is the preservation and maintenance of native languages.

[Subpart 1—Bilingual Education Capacity and Demonstration Grants

[SEC. 7111. FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION.

[The purpose of this subpart is to assist local educational agencies, institutions of higher education, and community-based organizations, through the grants authorized under sections 7112, 7113, 7114, and 7115 to—

[(1) develop and enhance their capacity to provide high-quality instruction through bilingual education or special alternative instruction programs to children and youth of limited English proficiency; and

[(2) to help such children and youth—

[(A) develop proficiency in English, and to the extent possible, their native language; and

[(B) meet the same challenging State content standards and challenging State student performance standards expected for all children and youth as required by section 1111(b).

[SEC. 7112. PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.

[(a) PURPOSE.—The purpose of this section is to develop and implement new comprehensive, coherent, and successful bilingual education or special alternative instructional programs for limited English proficient students, including programs of early childhood education, kindergarten through twelfth grade education, gifted

and talented education, and vocational and applied technology education.

[(b) PROGRAM AUTHORIZED.—

[(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraph (2).

[(B) Each grant under this section shall be awarded for a period of three years.

[(2) AUTHORIZED ACTIVITIES.—(A) Grants awarded under this section shall be used to improve the education of limited English proficient students and their families by—

[(i) developing and implementing comprehensive preschool, elementary, or secondary bilingual education or special alternative instructional programs that are coordinated with other relevant programs and services to meet the full range of educational needs of limited English proficient students; and

[(ii) providing inservice training to classroom teachers, administrators, and other school or community-based organizational personnel to improve the instruction and assessment of language-minority and limited English proficient students.

[(B) Grants under this section may be used to improve the education of limited English proficient students and their families by—

[(i) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

[(ii) improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

[(iii) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency;

[(iv) providing tutorials and academic or career counseling for children and youth of limited-English proficiency; and

[(v) providing such other activities, related to the purposes of this part, as the Secretary may approve.

[(c) ELIGIBLE ENTITY.—For the purpose of this section the term "eligible entity" means—

[(1) one or more local educational agencies;

[(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization or local or State educational agency; or

[(3) a community-based organization or an institution of higher education which has an application approved by the local educational agency to develop and implement early childhood education or family education programs or to conduct an

instructional program which supplements the educational services provided by a local educational agency.

[(d) DUE CONSIDERATION.—In awarding grants under this section, the Secretary shall give due consideration to the need for early childhood education, elementary education, and secondary education programs.

[SEC. 7113. PROGRAM ENHANCEMENT PROJECTS.

[(a) PURPOSE.—The purpose of this section is to carry out highly focused, innovative, locally designed projects to expand or enhance existing bilingual education or special alternative instructional programs for limited English proficient students.

[(b) PROGRAM AUTHORIZED.—

[(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraph (2).

[(B) Each grant under this section shall be awarded for a period of two years.

[(2) AUTHORIZED ACTIVITIES.—(A) Grants under this section shall be used for providing inservice training to classroom teachers, administrators, and other school or community-based organization personnel to improve the instruction and assessment of language-minority and limited English proficient students.

[(B) Grants under this section may be used for—

[(i) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

[(ii) improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

[(iii) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited-English proficiency;

[(iv) providing tutorials and academic or career counseling for children and youth of limited-English proficiency;

[(v) providing intensified instruction; and

[(vi) providing such other activities, related to the purposes of this part, as the Secretary may approve.

[(c) ELIGIBLE ENTITY.—For the purpose of this section the term "eligible entity" means—

[(1) one or more local educational agencies;

[(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization or local or State educational agency; or

[(3) a community-based organization or an institution of higher education which has an application approved by the local educational agency to enhance early childhood education or family education programs or to conduct an instructional

program which supplements the educational services provided by a local educational agency.

[SEC. 7114. COMPREHENSIVE SCHOOL GRANTS.

[(a) PURPOSE.—The purpose of this section is to provide financial assistance to eligible entities to implement schoolwide bilingual education programs or special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve all (or virtually all) children and youth of limited-English proficiency in schools with significant concentrations of such children and youth.

[(b) PROGRAM AUTHORIZED.—

[(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraph (3).

[(B) Each grant under this section shall be awarded for five years.

[(2) TERMINATION.—The Secretary shall terminate grants to eligible entities under this section if the Secretary determines that—

[(A) the program evaluation required by section 7123 indicates that students in the schoolwide program are not being taught to and are not making adequate progress toward achieving challenging State content standards and challenging State student performance standards; or

[(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

[(3) AUTHORIZED ACTIVITIES.—Grants under this section may be used to improve the education of limited English proficient students and their families by—

[(A) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

[(B) improving the instructional program for limited English proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

[(C) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency;

[(D) providing tutorials and academic or career counseling for children and youth of limited-English proficiency;

[(E) providing intensified instruction; and

[(F) providing such other activities, related to the purposes of this part, as the Secretary may approve.

[(4) SPECIAL RULE.—A grant recipient, before carrying out a program assisted under this section, shall plan, train personnel, develop curriculum, and acquire or develop materials.

[(c) ELIGIBLE ENTITIES.—For the purpose of this section the term "eligible entity" means—

[(1) one or more local educational agencies; or

[(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organizations or a local or State educational agency.

[SEC. 7115. SYSTEMWIDE IMPROVEMENT GRANTS.

[(a) PURPOSE.—The purpose of this section is to implement districtwide bilingual education programs or special alternative instruction programs to improve, reform, and upgrade relevant programs and operations, within an entire local educational agency, that serve a significant number of children and youth of limited English proficiency in local educational agencies with significant concentrations of such children and youth.

[(b) PROGRAM AUTHORIZED.—

[(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraphs (3) and (4).

[(B) Each grant under this section shall be awarded for 5 years.

[(2) TERMINATION.—The Secretary shall terminate grants to eligible entities under this section if the Secretary determines that—

[(A) the program evaluation required by section 7123 indicates that students in the program are not being taught to and are not making adequate progress toward achieving challenging State content standards and challenging State student performance standards; or

[(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

[(3) PREPARATION.—Grants under this section may be used during the first 12 months exclusively for activities preparatory to the delivery of services.

[(4) USES.—Grants under this section may be used to improve the education of limited English proficient students and their families by reviewing, restructuring, and upgrading—

[(A) educational goals, curriculum guidelines and content, standards and assessments;

[(B) personnel policies and practices including recruitment, certification, staff development, and assignment;

[(C) student grade-promotion and graduation requirements;

[(D) student assignment policies and practices;

[(E) family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

[(F) the instructional program for limited English proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

[(G) tutorials and academic or career counseling for children and youth of limited-English proficiency; and

[(H) such other activities, related to the purposes of this part, as the Secretary may approve.

[(c) ELIGIBLE ENTITIES.—For the purpose of this section the term "eligible entity" means—

[(1) one or more local educational agencies; or

[(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organizations or a local or State educational agency.

[SEC. 7116. APPLICATIONS.

[(a) IN GENERAL.—

[(1) SECRETARY.—To receive a grant under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

[(2) STATE EDUCATIONAL AGENCY.—An eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of its application under this section to the State educational agency.

[(b) STATE REVIEW AND COMMENTS.—

[(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of an application under this section, shall review the application and transmit such application to the Secretary.

[(2) COMMENTS.—(A) Regarding any application submitted under this title, the State educational agency shall—

[(i) submit to the Secretary written comments regarding all such applications; and

[(ii) submit to each eligible entity the comments that pertain to such entity.

[(B) For purposes of this subpart, such comments shall address how the eligible entity—

[(i) will further the academic achievement of limited English proficient students served pursuant to a grant received under this subpart; and

[(ii) how the grant application is consistent with the State plan submitted under section 1111.

[(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

[(d) COMMENT CONSIDERATION.—In making grants under this subpart the Secretary shall take into consideration comments made by a State educational agency.

[(e) WAIVER.—Notwithstanding subsection (b), the Secretary is authorized to waive the review requirement of subsection (b) if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the State grant program, particularly such agency's data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this Act.

[(f) REQUIRED DOCUMENTATION.—Such application shall include documentation that the applicant has the qualified personnel required to develop, administer, and implement the proposed program.

[(g) CONTENTS.—

[(1) IN GENERAL.—An application for a grant under this subpart shall contain the following:

[(A) A description of the need for the proposed program, including data on the number of children and youth of limited-English proficiency in the school or school district to be served and the characteristics of such children and youth, such as language spoken, dropout rates, proficiency in English and the native language, academic standing in relation to the English-proficient peers of such children and youth, and, where applicable, the recency of immigration.

[(B) A description of the program to be implemented and how such program's design—

[(i) relates to the linguistic and academic needs of the children and youth of limited-English proficiency to be served;

[(ii) is coordinated with other programs under this Act, the Goals 2000: Educate America Act and other Acts, as appropriate, in accordance with section 14306;

[(iii) involves the parents of the children and youth of limited-English proficiency to be served;

[(iv) ensures accountability in achieving high academic standards; and

[(v) promotes coordination of services for the children and youth of limited-English proficiency to be served and their families.

[(C) A description, if appropriate, of the applicant's collaborative activities with institutions of higher education, community-based organizations, local or State educational agencies, private schools, nonprofit organizations, or businesses in carrying out the proposed program.

[(D) An assurance that the applicant will not reduce the level of State and local funds that the applicant expends for bilingual education or special alternative instruction programs if the applicant receives an award under this subpart.

[(E) An assurance that the applicant will employ teachers in the proposed program that, individually or in combination, are proficient in English, including written, as well as oral, communication skills.

[(F) A budget for grant funds.

[(2) ADDITIONAL INFORMATION.—Each application for a grant under section 7114 or 7115 shall—

[(A) describe—

[(i) current services the applicant provides to children and youth of limited-English proficiency;

[(ii) what services children and youth of limited-English proficiency will receive under the grant that such children or youth will not otherwise receive;

[(iii) how funds received under this subpart will be integrated with all other Federal, State, local, and private resources that may be used to serve children and youth of limited-English proficiency;

[(iv) specific achievement and school retention goals for the children and youth to be served by the proposed program and how progress toward achieving such goals will be measured; and

[(v) current family education programs if applicable; and

[(B) provide assurances that—

[(i) the program funded will be integrated with the overall educational program; and

[(ii) the application has been developed in consultation with an advisory council, the majority of whose members are parents and other representatives of the children and youth to be served in such programs.

[(h) APPROVAL OF APPLICATIONS.—An application for a grant under this subpart may be approved only if the Secretary determines that—

[(1) the program will use qualified personnel, including personnel who are proficient in the language or languages used for instruction;

[(2) in designing the program for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type to those which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children;

[(3) student evaluation and assessment procedures in the program are valid, reliable, and fair for limited English proficient students, and that limited English proficient students who are disabled are identified and served in accordance with the requirements of the Individuals with Disabilities Education Act;

[(4) Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of such Federal funds, would have been expended for special programs for children of limited English proficient individuals and in no case to supplant such State and local funds, except that nothing in this paragraph shall be construed to preclude a local educational agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children;

[(5) the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of students

of limited-English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this subpart is reduced or no longer available; and

[(6) the applicant provides for utilization of the State and national dissemination sources for program design and in dissemination of results and products.

[(i) PRIORITIES AND SPECIAL RULES.—

[(1) PRIORITY.—The Secretary shall give priority to applications which provide for the development of bilingual proficiency both in English and another language for all participating students.

[(2) SPECIAL ALTERNATIVE INSTRUCTIONAL PROGRAM.—Grants for special alternative instructional programs under this subpart shall not exceed 25 percent of the funds provided for any type of grant under any section, or of the total funds provided, under this subpart for any fiscal year.

[(3) SPECIAL RULE.—Notwithstanding paragraph (2), the Secretary may award grants under this subpart for special alternative instructional programs if an applicant has demonstrated that the applicant cannot develop and implement a bilingual education program for the following reasons:

[(A) Where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical.

[(B) Where, despite documented efforts, the applicant has not been able to hire qualified instructional personnel who are able to communicate in the students' native language.

[(4) CONSIDERATION.—In approving applications under this subpart, the Secretary shall give consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate local and State educational agency, or businesses.

[(5) DUE CONSIDERATION.—The Secretary shall give due consideration to applications providing training for personnel participating in or preparing to participate in the program which will assist such personnel in meeting State and local certification requirements and that, to the extent possible, describe how college or university credit will be awarded for such training.

[SEC. 7117. INTENSIFIED INSTRUCTION.

[In carrying out this subpart, each grant recipient may intensify instruction for limited English proficient students by—

[(1) expanding the educational calendar of the school in which such student is enrolled to include programs before and after school and during the summer months;

[(2) expanding the use of professional and volunteer aids;

[(3) applying technology to the course of instruction; and

[(4) providing intensified instruction through supplementary instruction or activities, including educationally enriching ex-

tracurricular activities, during times when school is not routinely in session.

[SEC. 7118. CAPACITY BUILDING.

[Each recipient of a grant under this subpart shall use the grant in ways that will build such recipient's capacity to continue to offer high-quality bilingual and special alternative education programs and services to children and youth of limited-English proficiency once Federal assistance is reduced or eliminated.

[SEC. 7119. SUBGRANTS.

[A local educational agency that receives a grant under this subpart may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out an approved program, including a program to serve out-of-school youth.

[SEC. 7120. PRIORITY ON FUNDING.

[The Secretary shall give priority to applications under this subpart that describe a program that—

[(1) enrolls a large percentage or large number of limited English proficient students;

[(2) takes into account significant increases in limited English proficient children and youth, including such children and youth in areas with low concentrations of such children and youth; and

[(3) ensures that activities assisted under this subpart address the needs of school systems of all sizes and geographic areas, including rural and urban schools.

[SEC. 7121. COORDINATION WITH OTHER PROGRAMS.

[In order to secure the most flexible and efficient use of Federal funds, any State receiving funds under this subpart shall coordinate its program with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with section 14306.

[SEC. 7122. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

[Programs authorized under this part that serve Native American children, Native Pacific Island children, and children in the Commonwealth of Puerto Rico, notwithstanding any other provision of this part, may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for Native American children and youth learning and studying Native American languages and children and youth of limited-Spanish proficiency, except that one outcome of such programs serving Native American children shall be increased English proficiency among such children.

[SEC. 7123. EVALUATIONS.

[(a) EVALUATION.—Each recipient of funds under this subpart shall provide the Secretary with an evaluation, in the form prescribed by the Secretary, of such recipient's program every two years.

[(b) USE OF EVALUATION.—Such evaluation shall be used by a grant recipient—

[(1) for program improvement;

[(2) to further define the program's goals and objectives; and

[(3) to determine program effectiveness.

[(c) EVALUATION COMPONENTS.—Evaluations shall include—

[(1) how students are achieving the State student performance standards, if any, including data comparing children and youth of limited-English proficiency with nonlimited English proficient children and youth with regard to school retention, academic achievement, and gains in English (and, where applicable, native language) proficiency;

[(2) program implementation indicators that provide information for informing and improving program management and effectiveness, including data on appropriateness of curriculum in relationship to grade and course requirements, appropriateness of program management, appropriateness of the program's staff professional development, and appropriateness of the language of instruction;

[(3) program context indicators that describe the relationship of the activities funded under the grant to the overall school program and other Federal, State, or local programs serving children and youth of limited English proficiency; and

[(4) such other information as the Secretary may require.

[SEC. 7124. CONSTRUCTION.

[Nothing in this part shall be construed to prohibit a local educational agency from serving limited English proficient children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

[Subpart 2—Research, Evaluation, and Dissemination

[SEC. 7131. AUTHORITY.

[(a) IN GENERAL.—The Secretary is authorized to conduct data collection, dissemination, research, and ongoing program evaluation activities in accordance with the provisions of this subpart for the purpose of improving bilingual education and special alternative instruction programs for children and youth of limited English proficiency.

[(b) COMPETITIVE AWARDS.—Research and program evaluation activities carried out under this subpart shall be supported through competitive grants, contracts and cooperative agreements awarded institutions of higher education, nonprofit organizations, and State and local educational agencies.

[(c) ADMINISTRATION.—The Secretary shall conduct data collection, dissemination, and ongoing program evaluation activities authorized by this subpart through the Office of Bilingual Education and Minority Language Affairs.

[SEC. 7132. RESEARCH.

[(a) ADMINISTRATION.—The Secretary shall conduct research activities authorized by this subpart through the Office of Educational Research and Improvement in coordination and collaboration with the Office of Bilingual Education and Minority Language Affairs.

[(b) REQUIREMENTS.—Such research activities—

[(1) shall have a practical application to teachers, counselors, paraprofessionals, school administrators, parents, and others involved in improving the education of limited English proficient students and their families;

[(2) may include research on effective instructional practices for multilingual classes, and on effective instruction strategies to be used by teachers and other staff who do not know the native language of a limited English proficient child or youth in their classrooms;

[(3) may include establishing (through the National Center for Education Statistics in consultation with experts in bilingual education, second language acquisition, and English-as-a-second-language) a common definition of "limited English proficient student" for purposes of national data collection; and

[(4) shall be administered by individuals with expertise in bilingual education and the needs of limited English proficient students and their families.

[(c) FIELD-INITIATED RESEARCH.—

[(1) IN GENERAL.—The Secretary shall reserve not less than 5 percent of the funds made available to carry out this section for field-initiated research conducted by current or recent recipients of grants under subpart 1 or 2 who have received such grants within the previous five years. Such research may provide for longitudinal studies of students or teachers in bilingual education, monitoring the education of such students from entry in bilingual education through secondary school completion.

[(2) APPLICATIONS.—Applicants for assistance under this subsection may submit an application for such assistance to the Secretary at the same time as applications are submitted under subpart 1 or 2. The Secretary shall complete a review of such applications on a timely basis to allow research and program grants to be coordinated when recipients are awarded two or more such grants.

[(d) CONSULTATION.—The Secretary shall consult with agencies and organizations that are engaged in bilingual education research and practice, or related research, and bilingual education researchers and practitioners to identify areas of study and activities to be funded under this section.

[(e) DATA COLLECTION.—The Secretary shall provide for the continuation of data collection on limited English proficient students as part of the data systems operated by the Department.

[SEC. 7133. ACADEMIC EXCELLENCE AWARDS.

[(a) AWARDS.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, State and local educational agencies, nonprofit organizations, and institutions of higher education to promote the adoption and implementation of bilingual education, special alternative instruction programs, and professional development programs that demonstrate promise of assisting children and youth of limited English proficiency to meet challenging State standards.

[(b) APPLICATIONS.—

[(1) IN GENERAL.—Each entity desiring an award under this section shall submit an application to the Secretary in such

form, at such time, and containing such information and assurances as the Secretary may reasonably require.

[(2) PEER REVIEW.—The Secretary shall use a peer review process, using effectiveness criteria that the Secretary shall establish, to review applications under this section.

[(c) USE OF FUNDS.—Funds under this section shall be used to enhance the capacity of States and local education agencies to provide high quality academic programs for children and youth of limited English proficiency, which may include—

[(1) completing the development of such programs;

[(2) professional development of staff participating in bilingual education programs;

[(3) sharing strategies and materials; and

[(4) supporting professional networks.

[(d) COORDINATION.—Recipients of funds under this section shall coordinate the activities assisted under this section with activities carried out by comprehensive regional assistance centers assisted under part A of title XIII.

[SEC. 7134. STATE GRANT PROGRAM.

[(a) STATE GRANT PROGRAM.—The Secretary is authorized to make an award to a State educational agency that demonstrates, to the satisfaction of the Secretary, that such agency, through such agency's own programs and other Federal education programs, effectively provides for the education of children and youth of limited English proficiency within the State.

[(b) PAYMENTS.—The amount paid to a State educational agency under subsection (a) shall not exceed 5 percent of the total amount awarded to local educational agencies within the State under subpart 1 for the previous fiscal year, except that in no case shall the amount paid by the Secretary to any State educational agency under this subsection for any fiscal year be less than $100,000.

[(c) USE OF FUNDS.—

[(1) IN GENERAL.—A State educational agency shall use funds awarded under this section for programs authorized by this section to—

[(A) assist local educational agencies in the State with program design, capacity building, assessment of student performance, and program evaluation; and

[(B) collect data on the State's limited English proficient populations and the educational programs and services available to such populations.

[(2) EXCEPTION.—States which do not, as of the date of enactment of the Improving America's Schools Act of 1994, have in place a system for collecting the data described in subparagraph (B) of paragraph (1) for all students in such State, are not required to meet the requirement of such subparagraph. In the event such State develops a system for collecting data on the educational programs and services available to all students in the State, then such State shall comply with the requirement of paragraph (1)(B).

[(3) TRAINING.—The State educational agency may also use funds provided under this section for the training of State educational agency personnel in educational issues affecting limited English proficient children and youth.

[(4) SPECIAL RULE.—Recipients of funds under this section shall not restrict the provision of services under this section to federally funded programs.

[(d) STATE CONSULTATION.—A State educational agency receiving funds under this section shall consult with recipients of grants under this title and other individuals or organizations involved in the development or operation of programs serving limited English proficient children or youth to ensure that such funds are used in a manner consistent with the requirements of this title.

[(e) APPLICATIONS.—A State educational agency desiring to receive funds under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may require.

[(f) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase to the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

[(g) REPORT TO THE SECRETARY.—State educational agencies receiving awards under this section shall provide for the annual submission of a summary report to the Secretary describing such State's use of such funds.

[SEC. 7135. NATIONAL CLEARINGHOUSE FOR BILINGUAL EDUCATION.

[(a) ESTABLISHMENT.—The Secretary shall establish and support the operation of a National Clearinghouse for Bilingual Education, which shall collect, analyze, synthesize, and disseminate information about bilingual education and related programs.

[(b) FUNCTIONS.—The National Clearinghouse for Bilingual Education shall—

[(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

[(2) coordinate its activities with Federal data and information clearinghouses and dissemination networks and systems;

[(3) develop a data base management and monitoring system for improving the operation and effectiveness of federally funded bilingual education programs; and

[(4) develop, maintain, and disseminate, through comprehensive regional assistance centers described in part A of title XIII if appropriate, a listing by geographical area of education professionals, parents, teachers, administrators, community members and others who are native speakers of languages other than English for use as a resource by local educational agencies and schools in the development and implementation of bilingual education programs.

[SEC. 7136. INSTRUCTIONAL MATERIALS DEVELOPMENT.

[The Secretary may provide grants for the development, publication, and dissemination of high-quality instructional materials in Native American and Native Hawaiian languages and the language of Native Pacific Islanders and natives of the outlying areas for which instructional materials are not readily available. The Sec-

retary shall give priority to the development of instructional materials in languages indigenous to the United States or the outlying areas. The Secretary shall also accord priority to applications for assistance under this section which provide for developing and evaluating materials in collaboration with activities assisted under subparts 1 and 2 and which are consistent with voluntary national content standards and challenging State content standards.

[Subpart 3—Professional Development

[SEC. 7141. PURPOSE.

[The purpose of this subpart is to assist in preparing educators to improve the educational services for limited English proficient children and youth by supporting professional development programs and the dissemination of information on appropriate instructional practices for such children and youth.

[SEC. 7142. TRAINING FOR ALL TEACHERS PROGRAM.

[(a) PURPOSE.—The purpose of this section is to provide for the incorporation of courses and curricula on appropriate and effective instructional and assessment methodologies, strategies and resources specific to limited English proficient students into preservice and inservice professional development programs for teachers, pupil services personnel, administrators and other education personnel in order to prepare such individuals to provide effective services to limited English proficient students.

[(b) AUTHORIZATION.—

[(1) AUTHORITY.—The Secretary is authorized to award grants to institutions of higher education, local educational agencies, and State educational agencies or to nonprofit organizations which have entered into consortia arrangements with one of such institutions or agencies.

[(2) DURATION.—Each grant under this section shall be awarded for a period of not more than five years.

[(c) PERMISSIBLE ACTIVITIES.—Activities conducted under this section may include the development of training programs in collaboration with other programs such as programs authorized under titles I and II of this Act, and under the Head Start Act.

[SEC. 7143. BILINGUAL EDUCATION TEACHERS AND PERSONNEL GRANTS.

[(a) PURPOSE.—The purpose of this section is to provide for—

[(1) preservice and inservice professional development for bilingual education teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or preparing to be involved in, the provision of educational services for children and youth of limited-English proficiency; and

[(2) national professional development institutes that assist schools or departments of education in institutions of higher education to improve the quality of professional development programs for personnel serving, preparing to serve, or who may serve, children and youth of limited-English proficiency.

[(b) PRIORITY.—The Secretary shall give priority in awarding grants under this section to institutions of higher education, in con-

sortia with local or State educational agencies, that offer degree programs which prepare new bilingual education teachers in order to increase the availability of educators to provide high-quality education to limited English proficient students.

[(c) AUTHORIZATION.—

[(1) The Secretary is authorized to award grants for not more than five years to institutions of higher education which have entered into consortia arrangements with local or State educational agencies to achieve the purposes of this section.

[(2) The Secretary is authorized to make grants for not more than five years to State and local educational agencies for in-service professional development programs.

[SEC. 7144. BILINGUAL EDUCATION CAREER LADDER PROGRAM.

[(a) PURPOSE.—The purpose of this section is—

[(1) to upgrade the qualifications and skills of noncertified educational personnel, especially educational paraprofessionals, to meet high professional standards, including certification and licensure as bilingual education teachers and other educational personnel who serve limited English proficient students, through collaborative training programs operated by institutions of higher education and local and State educational agencies; and

[(2) to help recruit and train secondary school students as bilingual education teachers and other educational personnel to serve limited English proficient students.

[(b) AUTHORIZATION.—

[(1) IN GENERAL.—The Secretary is authorized to award grants for bilingual education career ladder programs to institutions of higher education applying in consortia with local or State educational agencies, which consortia may include community-based organizations or professional education organizations.

[(2) DURATION.—Each grant under this section shall be awarded for a period of not more than five years.

[(c) PERMISSIVE ACTIVITIES.—Grants awarded under this section may be used—

[(1) for the development of bilingual education career ladder program curricula appropriate to the needs of the consortium participants;

[(2) to provide assistance for stipends and costs related to tuition, fees and books for enrolling in courses required to complete the degree and certification requirements to become bilingual education teachers; and

[(3) for programs to introduce secondary school students to careers in bilingual education teaching that are coordinated with other activities assisted under this section.

[(d) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications under this section which provide for—

[(1) participant completion of baccalaureate and master's degree teacher education programs, and certification requirements and may include effective employment placement activities;

[(2) development of teacher proficiency in English a second language, including demonstrating proficiency in the instruc-

tional use of English and, as appropriate, a second language in classroom contexts;

[(3) coordination with the Federal TRIO programs under chapter 1 of part A of title IV of the Higher Education Act of 1965, the National Mini Corps under subpart 1 of part F of title V of such Act, the Teacher Corps program under subpart 3 of part C of title V of such Act, and the National Community and Service Trust Act of 1993 programs, and other programs for the recruitment and retention of bilingual students in secondary and postsecondary programs to train to become bilingual educators; and

[(4) the applicant's contribution of additional student financial aid to participating students.

[SEC. 7145. GRADUATE FELLOWSHIPS IN BILINGUAL EDUCATION PROGRAM.

[(a) AUTHORIZATION.—

[(1) IN GENERAL.—The Secretary may award fellowships for masters, doctoral, and post-doctoral study related to instruction of children and youth of limited-English proficiency in such areas as teacher training, program administration, research and evaluation, and curriculum development, and for the support of dissertation research related to such study.

[(2) NUMBER.—For fiscal year 1994 not less than 500 fellowships leading to a master's or doctorate degree shall be awarded under this section.

[(3) INFORMATION.—The Secretary shall include information on the operation and the number of fellowships awarded under the fellowship program in the evaluation required under section 7149.

[(b) FELLOWSHIP REQUIREMENTS.—

[(1) IN GENERAL.—Any person receiving a fellowship under this section shall agree to—

[(A) work in an activity related to the program or in an activity such as an activity authorized under this part, including work as a bilingual education teacher, for a period of time equivalent to the period of time during which such person receives assistance under this section; or

[(B) repay such assistance.

[(2) REGULATIONS.—The Secretary shall establish in regulations such terms and conditions for such agreement as the Secretary deems reasonable and necessary and may waive the requirement of paragraph (1) in extraordinary circumstances.

[(c) PRIORITY.—In awarding fellowships under this section the Secretary may give priority to institutions of higher education that demonstrate experience in assisting fellowship recipients find employment in the field of bilingual education.

[SEC. 7146. APPLICATION.

[(a) IN GENERAL.—

[(1) SECRETARY.—To receive an award under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

[(2) CONSULTATION AND ASSESSMENT.—Each such application shall contain a description of how the applicant has consulted with, and assessed the needs of, public and private schools serving children and youth of limited-English proficiency to determine such school's need for, and the design of, the program for which funds are sought.

[(3) SPECIAL RULE.—(A) An application for a grant under subsection (a) from an applicant who proposes to conduct a master's- or doctoral-level program with funds received under this section shall provide an assurance that such program will include, as a part of the program, a training practicum in a local school program serving children and youth of limited-English proficiency.

[(B) A recipient of a grant under subsection (a) may waive the requirement of a training practicum for a degree candidate with significant experience in a local school program serving children and youth of limited-English proficiency.

[(4) STATE EDUCATIONAL AGENCY.—An eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of the application under this subsection to the State educational agency.

[(b) STATE REVIEW AND COMMENTS.—

[(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of such application copy, shall review the application and transmit such application to the Secretary.

[(2) COMMENTS.—(A) Regarding any application submitted under this subpart, the State educational agency shall—

[(i) submit to the Secretary written comments regarding all such applications; and

[(ii) submit to each eligible entity the comments that pertain to such entity.

[(B) For purposes of this subpart, comments shall address how the eligible entity—

[(i) will further the academic achievement of limited English proficient students served pursuant to a grant received under this subpart; and

[(ii) how the grant application is consistent with the State plan submitted under section 1111.

[(3) WAIVER.—Notwithstanding paragraphs (1) and (2), the Secretary is authorized to waive the review requirement if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the State grant program, particularly such agency's data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this Act.

[(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

[(d) COMMENT CONSIDERATION.—In making awards under this subpart the Secretary shall take into consideration comments made by a State educational agency.

[(e) SPECIAL RULE.—

[(1) OUTREACH AND TECHNICAL ASSISTANCE.—The Secretary shall provide for outreach and technical assistance to institutions of higher education eligible for assistance under title III of the Higher Education Act of 1965 and institutions of higher education that are operated or funded by the Bureau of Indian Affairs to facilitate the participation of such institutions in activities under this part.

[(2) DISTRIBUTION RULE.—In making awards under this subpart, the Secretary, consistent with subsection (d), shall ensure adequate representation of Hispanic-serving institutions that demonstrate competence and experience in the programs and activities authorized under this subpart and are otherwise qualified.

[SEC. 7147. PROGRAM REQUIREMENTS.

[Activities conducted under this subpart shall assist educational personnel in meeting State and local certification requirements for bilingual education and, wherever possible, shall lead toward the awarding of college or university credit.

[SEC. 7148. STIPENDS.

[The Secretary shall provide for the payment of such stipends (including allowances for subsistence and other expenses for such persons and their dependents), as the Secretary determines to be appropriate, to persons participating in training programs under this subpart.

[SEC. 7149. PROGRAM EVALUATIONS.

[Each recipient of funds under this subpart shall provide the Secretary with an evaluation of the program assisted under this subpart every two years. Such evaluation shall include data on—

[(1) post-program placement of persons trained in a program assisted under this subpart;

[(2) how the training relates to the employment of persons served by the program;

[(3) program completion; and

[(4) such other information as the Secretary may require.

[SEC. 7150. USE OF FUNDS FOR SECOND LANGUAGE COMPETENCE.

[Awards under this subpart may be used to develop a program participant's competence in a second language for use in instructional programs.

[Subpart 4—Transition

[SEC. 7161. SPECIAL RULE.

[Notwithstanding any other provision of law, no recipient of a grant under title VII of this Act (as such title was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be eligible for fourth- and fifth-year renewals authorized by section 7021(d)(1)(C) of such title (as such section was in effect on the day preceding the date of enactment of such Act).]

TITLE VII—ENGLISH LANGUAGE FLUENCY AND FOREIGN LANGUAGE ACQUISITION PROGRAMS

PART A—ENGLISH LANGUAGE EDUCATION

SEC. 7101. SHORT TITLE.

This part may be cited as the "English Language Fluency Act".

SEC. 7102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds as follows:

(1) English is the common language of the United States and every citizen and other person residing in the United States should have a command of the English language in order to develop to their full potential.

(2) States and local school districts need assistance in developing the capacity to provide programs of instruction that offer and provide an equal educational opportunity to immigrant children and youth and children and youth who need special assistance because English is not their dominant language.

(b) PURPOSES.—The purposes of this part are—

(1) to help ensure that children and youth who are English language learners master English and develop high levels of academic attainment in English; and

(2) to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to help immigrant children and youth with their transition into society, including mastery of the English language.

SEC. 7103. PARENTAL NOTIFICATION AND CONSENT TO PARTICIPATE.

(a) IN GENERAL.—A parent or the parents of a child participating in an English language instruction program for English language learners assisted under this Act shall be informed of—

(1) the reasons for the identification of the child as being in need of English language instruction;

(2) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement; and

(3) how the English language instruction program will specifically help the child acquire English and meet age-appropriate standards for grade promotion and graduation.

(b) PARENTAL CONSENT.—

(1) IN GENERAL.—A parent or the parents of a child who is an English language learner and is identified for participation in an English language instruction program assisted under this Act—

(A) shall sign a form consenting to their child's placement in such a program prior to such time as their child is enrolled in the program;

(B) shall select among methods of instruction, if more than one method is offered in the program; and

(C) shall have their child removed from the program upon their request.

(2) EFFECT OF LAU DECISION.—A local educational agency shall not be relieved of any of its obligations under the holding in the Supreme Court case of Lau v. Nichols, 414 U.S. 563 (1974), because any parent chooses not to enroll their child in an English language instruction program using their native language in instruction.

(c) RECEIPT OF INFORMATION.—A parent or the parents of a child identified for participation in an English language instruction program for English language learners assisted under this Act shall receive, in a manner and form understandable to the parent or parents, the information required by this section. At a minimum, the parent or parents shall receive—

(1) timely information about English language instruction programs for English language learners assisted under this Act; and

(2) if a parent of a participating child so desires, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents.

(d) SPECIAL RULE.—An individual may not be admitted to, or excluded from, any federally assisted education program solely on the basis of a surname, language-minority status, or national origin.

Subpart 1—Grants for English Language Acquisition

CHAPTER 1—GENERAL PROVISIONS

SEC. 7111. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

(b) RESERVATION FOR ENTITIES SERVING NATIVE AMERICANS AND ALASKA NATIVES.—From the sums appropriated under subsection (a) for any fiscal year, the Secretary shall reserve not less than .5 percent to provide Federal financial assistance under this subpart to entities that are considered to be a local educational agency under section 7112(a).

SEC. 7112. NATIVE AMERICAN AND ALASKA NATIVE CHILDREN IN SCHOOL.

(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this subpart for individuals served by elementary, secondary, and postsecondary schools operated predominately for Native American or Alaska Native children and youth, the following shall be considered to be a local educational agency:

(1) An Indian tribe.

(2) A tribally sanctioned educational authority.

(3) A Native Hawaiian or Native American Pacific Islander native language educational organization.

(4) An elementary or secondary school that is operated or funded by the Bureau of Indian Affairs, or a consortium of such schools.

(5) An elementary or secondary school operated under a contract with or grant from the Bureau of Indian Affairs, in con-

sortium with another such school or a tribal or community organization.

(6) An elementary or secondary school operated by the Bureau of Indian Affairs and an institution of higher education, in consortium with an elementary or secondary school operated under a contract with or grant from the Bureau of Indian Affairs or a tribal or community organization.

(b) SUBMISSION OF APPLICATIONS FOR ASSISTANCE.—Notwithstanding any other provision of this subpart, an entity that is considered to be a local educational agency under subsection (a), and that desires to submit an application for Federal financial assistance under this subpart, shall submit the application to the Secretary. In all other respects, such an entity shall be eligible for a grant under this subpart on the same basis as any other local educational agency.

CHAPTER 2—GRANTS FOR ENGLISH LANGUAGE ACQUISITION

SEC. 7121. FORMULA GRANTS TO STATES.

(a) IN GENERAL.—In the case of each State that in accordance with section 7122 submits to the Secretary an application for a fiscal year, the Secretary shall make a grant for the year to the State for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the State under section 7124.

(b) PURPOSES OF GRANTS.—

(1) REQUIRED EXPENDITURES.—The Secretary may make a grant under subsection (a) only if the State involved agrees that the State will expend at least 90 percent of the amount of the funds provided under the grant for the purpose of making subgrants to eligible entities to provide assistance to children and youth who are English language learners and immigrant children and youth in accordance with section 7123.

(2) AUTHORIZED EXPENDITURES.—Subject to paragraph (3), a State that receives a grant under subsection (a) may expend not more than 10 percent of the amount of the funds provided under the grant for one or more of the following purposes:

(A) Professional development and activities that assist personnel in meeting State and local certification requirements for English language instruction.

(B) Planning, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

(C) Providing technical assistance and other forms of assistance to local educational agencies that—

(i) educate children and youth who are English language learners and immigrant children and youth; and

(ii) are not receiving a subgrant from a State under this chapter.

(D) Providing bonuses to subgrantees whose performance has been exceptional in terms of the speed with which children and youth enrolled in the subgrantee's programs and activities attain English language proficiency.

(3) LIMITATION ON ADMINISTRATIVE COSTS.—In carrying out paragraph (2), a State that receives a grant under subsection (a) may expend not more than 2 percent of the amount of the

funds provided under the grant for the purposes described in paragraph (2)(B).

SEC. 7122. APPLICATIONS BY STATES.

For purposes of section 7121, an application submitted by a State for a grant under such section for a fiscal year is in accordance with this section if the application—

(1) describes the process that the State will use in making subgrants to eligible entities under this chapter;

(2) contains an agreement that the State annually will submit to the Secretary a summary report, describing the State's use of the funds provided under the grant;

(3) contains an agreement that the State will give special consideration to applications for a subgrant under section 7123 from eligible entities that describe a program that—

(A)(i) enrolls a large percentage or large number of children and youth who are English language learners and immigrant children and youth; and

(ii) addresses a need brought about through a significant increase, as compared to the previous 2 years, in the percentage or number of children and youth who are English language learners in a school or school district, including schools and school districts in areas with low concentrations of such children and youth; or

(B) on the day preceding the date of the enactment of this section, was receiving funding under a grant—

(i) awarded by the Secretary under subpart 1 or 3 of part A of the Bilingual Education Act (as such Act was in effect on such day); and

(ii) that was not due to expire before a period of one year or more had elapsed;

(4) contains an agreement that, in carrying out this chapter, the State will address the needs of school systems of all sizes and in all geographic areas, including rural and urban schools;

(5) contains an agreement that the State will coordinate its programs and activities under this chapter with its other programs and activities under this Act and other Acts, as appropriate; and

(6) contains an agreement that the State will monitor the progress of students enrolled in programs and activities receiving assistance under this chapter in attaining English proficiency and withdraw funding from such programs and activities in cases where—

(A) students enrolling when they are in kindergarten are not mastering the English language by the end of the first grade; and

(B) other students are not mastering the English language after 2 academic years of enrollment.

SEC. 7123. SUBGRANTS TO ELIGIBLE ENTITIES.

(a) PURPOSES OF SUBGRANTS.—A State may make a subgrant to an eligible entity from funds received by the State under this chapter only if the entity agrees to expend the funds for one of the following purposes:

(1) Developing and implementing new English language instructional programs for children and youth who are English language learners, including programs of early childhood education and kindergarten through 12th grade education.

(2) Carrying out locally designed projects to expand or enhance existing English language instruction programs for children and youth who are English language learners.

(3) Assisting a local educational agency in providing enhanced instructional opportunities for immigrant children and youth.

(b) AUTHORIZED SUBGRANTEE ACTIVITIES.—

(1) IN GENERAL.—Subject to paragraph (2), a State may make a subgrant to an eligible entity from funds received by the State under this chapter in order that the eligible entity may achieve one of the purposes described in subsection (a) by undertaking one or more of the following activities to improve the understanding, and use, of the English language, based on a child's learning skills:

(A) Developing and implementing comprehensive preschool or elementary or secondary school English language instructional programs that are coordinated with other relevant programs and services.

(B) Providing training to classroom teachers, administrators, and other school or community-based organizational personnel to improve the instruction and assessment of children and youth who are English language learners, immigrant children and youth, or both.

(C) Improving the program for children and youth who are English language learners, immigrant children and youth, or both.

(D) Providing for the acquisition or development of education technology or instructional materials, access to and participation in electronic networks for materials, providing training and communications, and incorporation of such resources in curricula and programs, such as those funded under this subpart.

(E) Such other activities, related to the purpose of the subgrant, as the State may approve.

(2) MOVING CHILDREN OUT OF SPECIALIZED CLASSROOMS.—Any program or activity undertaken by an eligible entity using a subgrant from a State under this chapter shall be designed to assist students enrolled in the program or activity to move into a classroom where instruction is not tailored for English language learners or immigrant children and youth—

(A) by the end of the first grade, in the case of students enrolling when they are in kindergarten; or

(B) by the end of their second academic year of enrollment, in the case of other students.

(3) MAXIMUM ENROLLMENT PERIOD.—An eligible entity may not use funds received from a State under this chapter to provide instruction or assistance to any individual who has been enrolled for a period exceeding 3 years in a program or activity undertaken by the eligible entity under this section.

(c) SELECTION OF METHOD OF INSTRUCTION.—To receive a subgrant from a State under this chapter, an eligible entity shall select one or more methods or forms of English language instruction to be used in the programs and activities undertaken by the entity to assist English language learners and immigrant children and youth to achieve English fluency. Such selection shall be consistent with the State's law, including State constitutional law.

(d) DURATION OF SUBGRANTS.—The duration of a subgrant made by a State under this section shall be determined by the State in its discretion.

(e) APPLICATIONS BY ELIGIBLE ENTITIES.—

(1) IN GENERAL.—To receive a subgrant from a State under this chapter, an eligible entity shall submit an application to the State at such time, in such form, and containing such information as the State may require.

(2) REQUIRED DOCUMENTATION.—The application shall describe the programs and activities proposed to be developed, implemented, and administered under the subgrant and shall provide an assurance that the applicant will only employ teachers and other personnel for the proposed programs and activities who are proficient in English, including written and oral communication skills.

(3) REQUIREMENTS FOR APPROVAL.—A State may approve an application submitted by an eligible entity for a subgrant under this chapter only if the State determines that—

(A) the eligible entity will use qualified personnel who have appropriate training and professional credentials in teaching English to children and youth who are English language learners and immigrant children and youth;

(B) in designing the programs and activities proposed in the application, the needs of children enrolled in private elementary and secondary schools have been taken into account through consultation with appropriate private school officials;

(C) the eligible entity has provided for the participation of children enrolled in private elementary and secondary schools in the programs and activities proposed in the application on a basis comparable to that provided for children enrolled in public school;

(D) the eligible entity has based its proposal on sound research and theory; and

(E) the eligible entity has described in the application how students enrolled in the programs and activities proposed in the application will be taught English—

(i) by the end of the first grade, in the case of students enrolling when they are in kindergarten; or

(ii) by the end of their second academic year of enrollment, in the case of other students.

(4) QUALITY.—In determining which applications to select for approval, a State shall consider the quality of each application.

(f) EVALUATION.—

(1) IN GENERAL.—Each eligible entity that receives a subgrant from a State under this chapter shall provide the State, at the conclusion of every second fiscal year during which the grant is

received, with an evaluation, in a form prescribed by the State, of—

(A) the programs and activities conducted by the entity with funds received under this chapter during the two immediately preceding fiscal years; and

(B) the progress made by students in learning the English language.

(2) USE OF EVALUATION.—An evaluation provided by an eligible entity under paragraph (1) shall be used by the entity and the State—

(A) for improvement of programs and activities;

(B) to determine the effectiveness of programs and activities in assisting children and youth who are English language learners to master the English language; and

(C) in determining whether or not to continue funding for specific programs or projects.

(3) EVALUATION COMPONENTS.—An evaluation provided by an eligible entity under paragraph (1) shall include—

(A) an evaluation of whether students enrolling in a program or activity conducted by the entity with funds received under this chapter—

(i) are mastering the English language—

(I) by the end of the first grade, in the case of students enrolling when they are in kindergarten; or

(II) by the end of their second academic year of enrollment, in the case of other students; and

(ii) have achieved a working knowledge of the English language that is sufficient to permit them to perform, in English, regular classroom work; and

(B) such other information as the State may require.

SEC. 7124. DETERMINATION OF AMOUNT OF ALLOTMENT.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), from the sum available for the purpose of making grants to States under this chapter for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sum as the total number of children and youth who are English language learners and immigrant children and youth and who reside in the State bears to the total number of such children and youth residing in all States (excluding the Commonwealth of Puerto Rico and the outlying areas) that, in accordance with section 7122, submit to the Secretary an application for the year.

(b) PUERTO RICO.—From the sum available for the purpose of making grants to States under this chapter for any fiscal year, the Secretary shall allot to the Commonwealth of Puerto Rico an amount equal to 1.5 percent of the sums appropriated under section 7111(a).

(c) OUTLYING AREAS.—

(1) TOTAL AVAILABLE FOR ALLOTMENT.—From the sum available for the purpose of making grants to States under this chapter for any fiscal year, the Secretary shall allot to the outlying areas, in accordance with paragraph (2), a total amount equal to .5 percent of the sums appropriated under section 7111(a).

(2) DETERMINATION OF INDIVIDUAL AREA AMOUNTS.—From the total amount determined under paragraph (1), the Secretary shall allot to each outlying area an amount which bears the same ratio to such amount as the total number of children and youth who are English language learners and immigrant children and youth and who reside in the outlying area bears to the total number of such children and youth residing in all outlying areas that, in accordance with section 7122, submit to the Secretary an application for the year.

(d) USE OF STATE DATA FOR DETERMINATIONS.—For purposes of subsections (a) and (c), any determination of the number of children and youth who are English language learners and reside in a State shall be made using the most recent English language learner school enrollment data available to, and reported to the Secretary by, the State. For purposes of such subsections, any determination of the number of immigrant children and youth who reside in a State shall made using the most recent data available to, and reported to the Secretary by, the State.

(e) NO REDUCTION PERMITTED BASED ON TEACHING METHOD.—The Secretary may not reduce a State's allotment based on the State's selection of the immersion method of instruction as its preferred method of teaching the English language to children and youth who are English language learners or immigrant children and youth.

SEC. 7125. CONSTRUCTION.

Nothing in this chapter shall be construed as requiring a State or a local educational agency to establish, continue, or eliminate a program of native language instruction.

Subpart 2—Research and Dissemination

SEC. 7141. AUTHORITY.

The Secretary may conduct, through the Office of Educational Research and Improvement, research for the purpose of improving English language instruction for children and youth who are English language learners and immigrant children and youth. Activities under this section shall be limited to research to identify successful models for teaching children English and distribution of research results to States for dissemination to schools with populations of students who are English language learners. Research conducted under this section may not focus solely on any one method of instruction.

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[PART C—EMERGENCY IMMIGRANT EDUCATION PROGRAM

[SEC. 7301. FINDINGS AND PURPOSE.

[(a) FINDINGS.—The Congress finds that—

[(1) the education of our Nation's children and youth is one of the most sacred government responsibilities;

[(2) local educational agencies have struggled to fund adequately education services;

[(3) in the case of Plyler v. Doe, the Supreme Court held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status; and

[(4) immigration policy is solely a responsibility of the Federal Government.

[(b) PURPOSE.—The purpose of this part is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to—

[(1) provide high-quality instruction to immigrant children and youth; and

[(2) help such children and youth—

[(A) with their transition into American society; and

[(B) meet the same challenging State performance standards expected of all children and youth.

[SEC. 7302. STATE ADMINISTRATIVE COSTS.

[For any fiscal year, a State educational agency may reserve not more than 1.5 percent of the amount allocated to such agency under section 7304 to pay the costs of performing such agency's administrative functions under this part.

[SEC. 7303. WITHHOLDING.

[Whenever the Secretary, after providing reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirement of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

[SEC. 7304. STATE ALLOCATIONS.

[(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1995 through 1999 for the purpose set forth in section 7301(b).

[(b) ALLOCATIONS.—

[(1) IN GENERAL.—Except as provided in subsections (c) and (d), of the amount appropriated for each fiscal year for this part, each State participating in the program assisted under this part shall receive an allocation equal to the proportion of such State's number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of each local educational agency described in paragraph (2) within such State, and in nonpublic elementary or secondary schools within the district served by each such local educational agency, relative to the total number of immigrant

children and youth so enrolled in all the States participating in the program assisted under this part.

[(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of such agencies, and in nonpublic elementary or secondary schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

[(A) at least 500; or

[(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year,

whichever number is less.

[(c) DETERMINATIONS OF NUMBER OF CHILDREN AND YOUTH.—

[(1) IN GENERAL.—Determinations by the Secretary under this section for any period with respect to the number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

[(2) SPECIAL RULE.—No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or overestimate to deprive any State educational agency of the allocation under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

[(d) REALLOCATION.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from any appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

[(e) RESERVATION OF FUNDS.—

[(1) IN GENERAL.—Notwithstanding any other provision of this part, if the amount appropriated to carry out this part exceeds $50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this part for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

[(A) At least one-half of such grants shall be made available to eligible local educational agencies (as described in

subsection (b)(2)) within the State with the highest numbers and percentages of immigrant children and youth.

[(B) Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State experiencing a sudden influx of immigrant children and youth which are otherwise not eligible for assistance under this part.

[(2) USE OF GRANT FUNDS.—Each local educational agency receiving a grant under paragraph (1) shall use such grant funds to carry out the activities described in section 7307.

[(3) INFORMATION.—Local educational agencies with the highest number of immigrant children and youth receiving funds under paragraph (1) may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children.

[SEC. 7305. STATE APPLICATIONS.

[(a) SUBMISSION.—No State educational agency shall receive any payment under this part for any fiscal year unless such agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

[(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

[(2) provide assurances that payments under this part will be used for purposes set forth in sections 7301 and 7307, including a description of how local educational agencies receiving funds under this part will use such funds to meet such purposes and will coordinate with other programs assisted under this Act, the Goals 2000: Educate America Act, and other Acts as appropriate;

[(3) provide an assurance that local educational agencies receiving funds under this part will coordinate the use of such funds with programs assisted under part A or title I;

[(4) provide assurances that such payments, with the exception of payments reserved under section 7304(e), will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth counted with respect to each such local educational agency under section 7304(b)(1);

[(5) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

[(6) provide for making such reports as the Secretary may reasonably require to perform the Secretary's functions under this part;

[(7) provide assurances—

[(A) that to the extent consistent with the number of immigrant children and youth enrolled in the nonpublic elementary or secondary schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for

the benefit of such children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

[(B) that the control of funds provided under this part to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

[(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such nonpublic elementary or secondary school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds;

[(8) provide that funds reserved under subsection (e) of section 7304 be awarded on a competitive basis based on merit and need in accordance with such subsection; and

[(9) provide an assurance that State and local educational agencies receiving funds under this part will comply with the requirements of section 1120(b).

[(b) APPLICATION REVIEW.—

[(1) IN GENERAL.—The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

[(2) APPROVAL.—The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

[(3) DISAPPROVAL.—The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, but shall not finally disapprove an application except after providing reasonable notice, technical assistance, and an opportunity for a hearing to the State.

[SEC. 7306. ADMINISTRATIVE PROVISIONS.

[(a) NOTIFICATION OF AMOUNT.—The Secretary, not later than June 1 of each year, shall notify each State educational agency that has an application approved under section 7305 of the amount of such agency's allocation under section 7304 for the succeeding year.

[(b) SERVICES TO CHILDREN ENROLLED IN NONPUBLIC SCHOOLS.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 7305(a)(7), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services, subject to the requirements of this part, to such children. Such waivers shall be

subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of title I.

[SEC. 7307. USES OF FUNDS.

[(a) USE OF FUNDS.—Funds awarded under this part shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

[(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

[(2) salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

[(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

[(4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program;

[(5) basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

[(6) such other activities, related to the purposes of this part, as the Secretary may authorize.

[(b) CONSORTIA.—A local educational agency that receives a grant under this part may collaborate or form a consortium with one or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out the program described in an application approved under this part.

[(c) SUBGRANTS.—A local educational agency that receives a grant under this part may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out a program described in an application approved under this part, including a program to serve out-of-school youth.

[(d) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local educational agency from serving immigrant children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

[SEC. 7308. REPORTS.

[(a) BIENNIAL REPORT.—Each State educational agency receiving funds under this part shall submit, once every two years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

[(b) REPORT TO CONGRESS.—The Secretary shall submit, once every two years, a report to the appropriate committees of the Congress concerning programs assisted under this part in accordance with section 14701.

[SEC. 7309. AUTHORIZATION OF APPROPRIATIONS.

[For the purpose of carrying out this part, there are authorized to be appropriated $100,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[PART D—ADMINISTRATION

[SEC. 7401. RELEASE TIME.

[The Secretary shall allow professional development programs funded under part A to use funds provided under part A for professional release time to enable individuals to participate in programs assisted under part A.

[SEC. 7402. EDUCATION TECHNOLOGY.

[Funds made available under part A may be used to provide for the acquisition or development of education technology or instructional materials, including authentic materials in languages other than English, access to and participation in electronic networks for materials, training and communications, and incorporation of such resources in curricula and programs such as those funded under this title.

[SEC. 7403. NOTIFICATION.

[The State educational agency, and when applicable, the State board for postsecondary education, shall be notified within three working days of the date an award under part A is made to an eligible entity within the State.

[SEC. 7404. CONTINUED ELIGIBILITY.

[Entities receiving grants under this title shall remain eligible for grants for subsequent activities which extend or expand and do not duplicate those activities supported by a previous grant under this title. In considering applications for grants under this title, the Secretary shall take into consideration the applicant's record of accomplishments under previous grants under this title.

[SEC. 7405. COORDINATIONS AND REPORTING REQUIREMENTS.

[(a) COORDINATION WITH RELATED PROGRAMS.—In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited-English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient students that are administered by the Department and other agencies. The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Agriculture, the Attorney General and the heads of other relevant agencies to identify and eliminate barriers to appropriate coordination of programs that affect language-minority and limited English proficient students and their families. The Secretary shall provide for continuing consultation and collaboration, between the Office and relevant programs operated by the Department, including programs under title I and other programs under this Act, in planning, contracts, providing joint technical assistance, providing joint field monitoring activities and in other relevant activities to ensure effective program coordination to provide high quality education opportunities to all language-minority and limited English proficient students.

[(b) DATA.—The Secretary shall, to the extent feasible, ensure that all data collected by the Department shall include the collection and reporting of data on limited English proficient students.

[(c) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals for programs funded under part A.

[(d) REPORT.—The Director shall prepare and, not later than February 1 of every other year, shall submit to the Secretary and to the Committee on Labor and Human Resources of the Senate and to the Committee on Education and Labor of the House of Representatives a report on—

[(1) the activities carried out under this title and the effectiveness of such activities in improving the education provided to limited English proficient children and youth;

[(2) a critical synthesis of data reported by the States pursuant to section 7134;

[(3) an estimate of the number of certified bilingual education personnel in the field and an estimate of the number of bilingual education teachers which will be needed for the succeeding five fiscal years;

[(4) the major findings of research carried out under this title; and

[(5) recommendations for further developing the capacity of our Nation's schools to educate effectively limited English proficient students.

[PART E—GENERAL PROVISIONS

[SEC. 7501. DEFINITIONS; REGULATIONS.

[Except as otherwise provided, for purposes of this title—

[(1) BILINGUAL EDUCATION PROGRAM.—The term "bilingual education program" means an educational program for limited English proficient students that—

[(A) makes instructional use of both English and a student's native language;

[(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, so as to meet age-appropriate grade-promotion and graduation standards in concert with the National Education Goals;

[(C) may also develop the native language skills of limited English proficient students, or ancestral languages of American Indians, Alaska Natives, Native Hawaiians and native residents of the outlying areas; and

[(D) may include the participation of English-proficient students if such program is designed to enable all enrolled students to become proficient in English and a second language.

[(2) CHILDREN AND YOUTH.—The term "children and youth" means individuals aged 3 through 21.

[(3) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" means a private nonprofit organization of demonstrated effectiveness or Indian tribe or tribally

sanctioned educational authority which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community. Such term includes Native Hawaiian organizations including Native Hawaiian Educational Organizations as such term is defined in section 4009 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4901 et seq.), as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994.

[(4) COMMUNITY COLLEGE.—The term "community college" means an institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965 which provides not less than a two-year program which is acceptable for full credit toward a bachelor's degree, including institutions receiving assistance under the Tribally Controlled Community College Assistance Act of 1978.

[(5) DIRECTOR.—The term "Director" means the Director of the Office of Bilingual Education and Minority Languages Affairs established under section 210 of the Department of Education Organization Act.

[(6) FAMILY EDUCATION PROGRAM.—(A) The term "family education program" means a bilingual education or special alternative instructional program that—

[(i) is designed—

[(I) to help limited English proficient adults and out-of-school youths achieve proficiency in the English language; and

[(II) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

[(ii) when feasible, uses instructional programs such as the models developed under the Even Start Family Literacy Programs, which promote adult literacy and train parents to support the educational growth of their children and the Parents as Teachers Program and the Home Instruction Program for Preschool Youngsters; and

[(iii) gives preference to participation by parents and immediate family members of children attending school.

[(B) Such term may include programs that provide instruction to facilitate higher education and employment outcomes.

[(7) IMMIGRANT CHILDREN AND YOUTH.—The term "immigrant children and youth" means individuals who—

[(A) are aged 3 through 21;

[(B) were not born in any State; and

[(C) have not been attending one or more schools in any one or more States for more than three full academic years.

[(8) LIMITED ENGLISH PROFICIENCY AND LIMITED ENGLISH PROFICIENT.—The terms "limited English proficiency" and "limited English proficient", when used with reference to an individual, mean an individual—

[(A) who—

[(i) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or

[(ii) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or

[(iii) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant; and

[(B) who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

[(9) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms "Native American" and "Native American language" shall have the same meaning given such terms in section 103 of the Native American Languages Act of 1990.

[(10) NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.—The term "Native Hawaiian or Native American Pacific Islander native language educational organization" means a nonprofit organization with a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in their educational programs and with not less than five years successful experience in providing educational services in traditional Native American languages.

[(11) NATIVE LANGUAGE.—The term "native language", when used with reference to an individual of limited-English proficiency, means the language normally used by such individual, or in the case of a child or youth, the language normally used by the parents of the child or youth.

[(12) OFFICE.—The term "Office" means the Office of Bilingual Education and Minority Languages Affairs.

[(13) OTHER PROGRAMS FOR PERSONS OF LIMITED-ENGLISH PROFICIENCY.—The term "other programs for persons of limited-English proficiency" means any programs administered by the Secretary that serve persons of limited-English proficiency.

[(14) PARAPROFESSIONAL.—The term "paraprofessional" means an individual who is employed in preschool, elementary or secondary school under the supervision of a certified or licensed teacher, including individuals employed in bilingual education, special education and migrant education.

[(15) SPECIAL ALTERNATIVE INSTRUCTIONAL PROGRAM.—The term "special alternative instructional program" means an educational program for limited English proficient students that—

[(A) utilizes specially designed English language curricula and services but does not use the student's native language for instructional purposes;

[(B) enables limited English proficient students to achieve English proficiency and academic mastery of sub-

ject matter content and higher order skills, including critical thinking so as to meet age-appropriate grade-promotion and graduation standards in concert with the National Education Goals; and

[(C) is particularly appropriate for schools where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical and where there is a critical shortage of bilingual education teachers.

[SEC. 7502. REGULATIONS AND NOTIFICATION.

[(a) REGULATION RULE.—In developing regulations under this title, the Secretary shall consult with State and local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in bilingual education.

[(b) PARENTAL NOTIFICATION.—

[(1) IN GENERAL.—Parents of children and youth participating in programs assisted under part A shall be informed of—

[(A) a student's level of English proficiency, how such level was assessed, the status of a student's academic achievement and the implications of a student's educational strengths and needs for age and grade appropriate academic attainment, promotion, and graduation;

[(B) what programs are available to meet the student's educational strengths and needs and how the programs differ in content and instructional goals, and in the case of a student with a disability, how the program meets the objectives of a student's individualized education program; and

[(C) the instructional goals of the bilingual education or special alternative instructional program, and how the program will specifically help the limited English proficient student acquire English and meet age-appropriate standards for grade-promotion and graduation, including—

[(i) the benefits, nature, and past academic results of the bilingual educational program and of the instructional alternatives; and

[(ii) the reasons for the selection of their child as being in need of bilingual education.

[(2) OPTION TO DECLINE.—(A) Such parents shall also be informed that such parents have the option of declining enrollment of their children and youth in such programs and shall be given an opportunity to so decline if such parents so choose.

[(B) A local educational agency shall not be relieved of any of its obligations under title VI of the Civil Rights Act of 1964 because parents choose not to enroll their children in bilingual education programs.

[(3) RECEIPT OF INFORMATION.—Such parents shall receive, in a manner and form understandable to such parents, including, if necessary and to the extent feasible, in the native language of such parents, the information required by this subsection. At a minimum, such parents shall receive—

[(A) timely information about projects funded under part A; and

[(B) if the parents of participating children so desire, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents.

[(4) SPECIAL RULE.—Students shall not be admitted to or excluded from any federally assisted education program merely on the basis of a surname or language-minority status.]

PART C—ADMINISTRATION

SEC. 7301. REPORTING REQUIREMENTS.

(a) STATES.—Based upon the evaluations provided to a State under section 7123(f), each State receiving a grant under this title annually shall report to the Secretary on programs and activities undertaken by the State under this title and the effectiveness of such programs and activities in improving the education provided to children and youth who are English language learners and immigrant children and youth.

(b) SECRETARY.—Every other year, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on programs and activities undertaken by States under this title and the effectiveness of such programs and activities in improving the education provided to children and youth who are English language learners and immigrant children and youth.

SEC. 7302. COMMINGLING OF FUNDS.

(a) ESEA FUNDS.—A person who receives Federal funds under subpart 1 of part A may commingle such funds with other funds the person receives under this Act so long as the person satisfies the requirements of this Act.

(b) STATE AND LOCAL FUNDS.—Except as provided in section 14503, a person who receives Federal funds under subpart 1 of part A may commingle such funds with funds the person receives under State or local law for the purpose of teaching English to children and youth who are English language learners and immigrant children and youth, to the extent permitted under such State or local law, so long as the person satisfies the requirements of this title and such law.

PART D—GENERAL PROVISIONS

SEC. 7401. DEFINITIONS.

For purposes of this title:

(1) CHILDREN AND YOUTH.—The term "children and youth" means individuals aged 3 through 21.

(2) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" means a private nonprofit organization of demonstrated effectiveness or Indian tribe or tribally sanctioned educational authority which is representative of a community or significant segments of a community and which

provides educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander native language educational organization.

(3) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) one or more local educational agencies;

(B) one or more local educational agencies in collaboration with—

(i) an institution of higher education;

(ii) a community-based organization;

(iii) a local educational agency; or

(iv) a State; or

(C) a community-based organization or an institution of higher education which has an application approved by a local educational agency to enhance an early childhood education program or a family education program.

(4) ENGLISH LANGUAGE LEARNER.—The term "English language learner", when used with reference to an individual, means an individual—

(A) aged 3 through 21;

(B) who—

(i) was not born in the United States; or

(ii) comes from an environment where a language other than English is dominant and who normally uses a language other than English; and

(C) who has sufficient difficulty speaking, reading, writing, or understanding the English language that the difficulty may deny the individual the opportunity—

(i) to learn successfully in a classroom where the language of instruction is English; or

(ii) to participate fully in society.

(5) IMMIGRANT CHILDREN AND YOUTH.—The term "immigrant children and youth" means individuals who—

(A) are aged 3 through 21;

(B) were not born in any State; and

(C) have not attended school in any State for more than three full academic years.

(6) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(7) NATIVE AMERICAN; NATIVE AMERICAN LANGUAGE.—The terms "Native American" and "Native American language" have the meanings given such terms in section 103 of the Native American Languages Act (25 U.S.C. 2902).

(8) NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.—The term "Native Hawaiian or Native American Pacific Islander native language educational organization" means a nonprofit organization—

(A) a majority of whose governing board, and a majority of whose employees, are fluent speakers of the traditional Native American languages used in the organization's educational programs; and

(B) that has not less than five years of successful experience in providing educational services in traditional Native American languages.

(9) NATIVE LANGUAGE.—The term "native language", when used with reference to an individual who is an English language learner, means the language normally used by such individual.

(10) OUTLYING AREA.—The term "outlying area" means any of the following:

(A) The Virgin Islands of the United States.

(B) Guam.

(C) American Samoa.

(D) The Commonwealth of the Northern Mariana Islands.

(11) STATE.—The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any outlying area.

(12) TRIBALLY SANCTIONED EDUCATIONAL AUTHORITY.—The term "tribally sanctioned educational authority" means—

(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

(B) any nonprofit institution or organization that is—

(i) chartered by the governing body of an Indian tribe to operate a school described in section 7112(a) or otherwise to oversee the delivery of educational services to members of the tribe; and

(ii) approved by the Secretary for the purpose of carrying out programs under subpart 1 of part A for individuals served by a school described in section 7112(a).

SEC. 7402. LIMITATION ON FEDERAL REGULATIONS.

The Secretary shall issue regulations under this title only to the extent that such regulations are necessary to ensure compliance with the specific requirements of this title.

SEC. 7403. LEGAL AUTHORITY UNDER STATE LAW.

Nothing in this title shall be construed to negate or supersede the legal authority, under State law, of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official.

SEC. 7404. RELEASE FROM COMPLIANCE AGREEMENTS.

Notwithstanding section 7403, any compliance agreement entered into between a State, locality, or local educational agency and the Department of Health, Education, and Welfare or the Department of Education, that requires such State, locality, or local educational agency to develop, implement, provide, or maintain any form of bilingual education, is void.

SEC. 7405. RULEMAKING ON OFFICE OF CIVIL RIGHTS GUIDELINES AND COMPLIANCE STANDARDS.

(a) IN GENERAL.—In accordance with subchapter II of chapter 5 of part I of title 5, United States Code, the Secretary—

(1) shall publish in the Federal Register a notice of proposed rulemaking with respect to the enforcement guidelines and compliance standards of the Office of Civil Rights of the Department of Education that apply to a program or activity to provide English language instruction to English language learners that is undertaken by a State, locality, or local educational agency;

(2) shall undertake a rulemaking pursuant to such notice; and

(3) shall promulgate a final rule pursuant to such rulemaking on the record after opportunity for an agency hearing.

(b) EFFECT OF RULEMAKING ON COMPLIANCE AGREEMENTS.—The Secretary may not enter into any compliance agreement after the date of the enactment of this section pursuant to a guideline or standard described in subsection (a)(1) with an entity described in such subsection until the Secretary has promulgated the final rule described in subsection (a)(3).

SEC. 7406. REQUIREMENT FOR STATE STANDARDIZED TESTING IN ENGLISH.

(a) REQUIREMENT.—In the case of a State receiving a grant under this title that administers a State standardized test to elementary or secondary school children in the State, the State shall not exempt a child from the requirement that the test be administered in English, on the ground that the child is an English language learner, if the child—

(1) has resided, throughout the 3-year period ending on the date the test is administered, in a geographic area that is under the jurisdiction of only one local educational agency; and

(2) has received educational services from such local educational agency throughout such 3-year period (excluding any period in which such services are not provided in the ordinary course).

(b) IN GENERAL.—Notwithstanding any other provision of this title, if a State fails to fulfill the requirement of subsection (a), the Secretary shall withhold, in accordance with section 455 of the General Education Provisions Act, all funds otherwise made available to the State under this title, until the State remedies such failure.

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TITLE XIV—GENERAL PROVISIONS

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PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

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SEC. 14307. RELATIONSHIP OF STATE AND LOCAL PLANS TO PLANS UNDER THE GOALS 2000: EDUCATE AMERICA ACT.

(a) * * *

(b) LOCAL PLANS.—

(1) IN GENERAL.—Each local educational agency plan submitted under the following programs shall be integrated with each other and its local improvement plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act:

(A) Part A of title I (helping disadvantaged children meet high standards).

(B) Title II (professional development).

(C) Title IV (safe and drug-free schools).

(D) Subpart 4 of part A of title IX (Indian education).

(E) [Subpart 1 of part A of title VII (bilingual education).] *Chapter 2 of subpart 1 of part A of title VII (English language education).*

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DEPARTMENT OF EDUCATION ORGANIZATION ACT

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[OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS] *OFFICE OF ENGLISH LANGUAGE ACQUISITION*

SEC. 209. There shall be in the Department an [Office of Bilingual Education and Minority Languages Affairs] *Office of English Language Acquisition*, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department and shall consult with the Secretary concerning policy decisions affecting bilingual education and minority languages affairs. The Director shall report directly to the Secretary, and shall perform such additional functions as the Secretary may prescribe.

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SEC. 216. [OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS] *OFFICE OF ENGLISH LANGUAGE ACQUISITION.*

(a) ESTABLISHMENT.—There shall be, in the Department, an [Office of Bilingual Education and Minority Languages Affairs] *Office*

of English Language Acquisition through which the Secretary shall carry out functions relating to bilingual education.

(b) DIRECTOR.—

(1) IN GENERAL.—The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for recommending improvements and providing technical assistance to other Federal programs serving language-minority and limited-English-proficient students and their families and for assisting the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of language-minority and limited-English language proficient students.

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SUPPLEMENTAL VIEWS OF CONGRESSMAN RON PAUL

Members of Congress who believe in restoring constitutional government and local control over educational should support the English Language Fluency Act (HR 3892), if for no other reason than HR 3892's provisions void compliance agreements between the Department of Education and local school districts. Contrary to what the name implies, compliance agreements are the means by which the federal government has forced 288 schools to adopt the model of bilingual education favored by the federal bureaucrats in complete disregard of the wishes of the people in those communities.

The English Language Fluency Act also improves current law by changing the formula by which schools receive federal bilingual funds from a competitive to a formula grant. Competitive grants are a fancy term for forcing states and localities to conform to federal dictates before the federal government returns to them some of the monies unjustly taken from the American people. Formula grants allow states and localities greater flexibility in designing their own education programs and thus are preferable to competitive grants.

However, believers in constitutional government should offer only qualified support for HR 3892 since this bill does continue the federal government's unconstitutional involvement in bilingual education as well as impose unconstitutional directives on the states. For example, the English Language Fluency Act requires states to monitor and file biannual reports to the Federal Government on the progress of students in federally-funded bilingual education programs. Furthermore, localities receiving monies under this program must submit evaluations to the states. Treating the states as mere administrative units of the federal government blatantly ignores the 10th amendment to the United States Constitution.

Despite these reservations, the English Language Fluency Act deserves the support of those who wish to reduce federal micromanagement of America's schools, as it does repeal those federal laws and mandates which force states and localities to adopt a specific bilingual education program. However, this legislation is merely the first step toward restoring the constitutional autonomy of states and local governments to best decide how to educate students for whom English is a second language.

RON PAUL.

MINORITY VIEWS

Since 1969, the Bilingual Education Act has enabled thousands of schools to create, improve, and sustain instructional programs for LEP (limited English proficiency) students. The success is attributable to both direct grants to LEAs and from grants to SEAs which have enabled states to establish offices concerned with improving services to LEP students.

Studies demonstrate that the Act has succeeded in boosting academic services after federal funding ends, because states have adopted assessment procedures, hired instructional aids, and sustained support for promoting student-directed learning. Currently, some 25 states now have laws requiring appropriate services for LEP students, and 22 other states encourage districts to provide special instructional services.

Many states have used Federal bilingual education assistance to create successful projects. For example:

Project Wolf at White Oak Public Schools in Oklahoma has produced dramatic gains in scores on the Iowa Test of Basic Skills. One class of third graders had ranked so low on these tests for two years that the State educational agency was poised to intervene. However, the project succeeded in raising scores of these students to the 60th percentile on this nationally normed test, eliminating the need for intervention.

Project Access at San Dieguito Union High School District in Encinitas, California serves 120 limited English proficient students in grades 7–12. Approximately 75 percent of the formerly LEP students who graduated from the high school will be attending college.

Project Mariposa at Ysleta Independent School District in Texas has been so successful in its two-way bilingual program, which develops proficiency in both English and Spanish, that the board of trustees and superintendent changed the district's vision statement to read, "all students who enroll in our schools will graduate from high school fully bilingual and prepared to enter a four-year college or university." Ysleta has succeeded in boosting the passage rates for all students in the district on statewide reading and math exams from 26 percent to 55 percent over the past three years.

We believe that the ability to speak the English language is vitally important for all individuals to have an opportunity to succeed in today's American society. Without a good command of the English language, individuals are more likely to become reliant on our social welfare system, and may significantly limit their educational and economic opportunities.

We believe that H.R. 3892 weakens federal support for local bilingual education programs and jeopardizes the civil rights of limited English proficient (LEP) individuals. We note that the Majority made no effort to consult members of the Minority in drafting the bill, and made no effort to work in a bipartisan manner. This

hastily drafted measure, approved on June 4th to coincide with the passage of California's bilingual education initiative, is more about political grandstanding instead of a serious effort to reform.

We also note that in a May 20th letter to the Committee, the Hispanic Education Coalition expressed its opposition to the bill: "H.R. 3892 would severely jeopardize the efforts of hundreds of school districts with successful innovative and effective programs that help language-minority children excel in all of their subjects while they learn the English language."

Education issues

This legislation restructures the current competitive grant into a block grant program to the States. Education Secretary Riley has sharply criticized this change:

> The bill would replace the current competitive bilingual education program with a formula-based, State block grant. This block grant approach is problematic because funds would not be targeted, as is now the case, on the school districts with the greatest need for funds and the highest quality programs. In addition, reliable data for an equitable allocation formula do not currently exist, and there are no provisions (such as maintenance of effort of supplanting provisions) to prevent States and school districts from simply reducing their financial support for these students because of the availability of Federal funds (June 4 letter from Secretary Riley to Chairman Goodling).

In addition to these concerns, we question the feasibility of this change to ensure positive programmatic outcomes, given the current underfunding of Title VI. Mr. Anthony Trujillo, Superintendent, Ysleta IAD, testified during the second of only two hearings on this subject, that H.R. 3892 would negatively impact districts such as his and jeopardize the enormously positive efforts many districts have made towards educating LEP children. Ysleta IAD has outscored all the urban school districts in Texas on the Texas Assessment of Academic Skills Test (TAAS), despite their high percentage of LEP children.

H.R. 3892 would also eliminate professional development programs from the current Title VII statute and require parents to sign a permission form prior to their child receiving bilingual instruction. By eliminating programs that focus on the preparation of teachers, the bill could exacerbate the current shortage of qualified bilingual and English-as-a-second language teachers nationwide. In addition, the requirement that parents sign a "permission form" before their child receives bilingual instruction eradicates local control and will leave the children of absentee parents—those who are not engaged in their child's education—out in the cold.

H.R. 3892 also eliminates the current focus of Title VII on LEP students meeting challenging State academic and performance standards. In a time when we should be concerned with all students achieving challenging State academic and performance standards, we find it especially troubling that we are debating a bill which would eliminate this focus for LEP children. We believe that LEP children should be held to the same high academic standards as all other children and bilingual education programs should be designed to ensure children meet these standards.

H.R. 3892 also establishes time limits on Federally funded bilingual education programs. As we noted above, H.R. 3892 was introduced and hastily approved by the Committee during the day just before and after the passage of California's ballot initiaitve—Proposition 227. This ballot initiative restructures California's bilingual education programs to force local school districts to use one particular instructional method—English immersion—and to limit the time an LEP child can receive instruction utilizing immersion to one year. Clearly, there is no research that points towards capping the amount of time an LEP child can receive bilingual instruction as an effective method of ensuring English language acquisition.

Secretary Riley has also strongly criticized this arbitrary time limitation:

> The bill is neither programmatically nor administratively sound for several reasons. First, the bill would require States to withdraw funding from local programs and activities if students in those programs or activities are not "mastering" English within two years and would also limit any student's participation in such programs or activities to three years. These provisions are vague and seemingly inconsistent. They would set artificial and arbitrary deadlines that would prevent classroom teachers and local administrators from doing what is best for each child. They are contrary to research on the time needed for children with limited English proficiency to achieve the mastery of English required for academic success, and could require the termination of program funding for many school districts.

The imposition of time limits do not recognize the fact that children at different ages have different needs, nor does it take into account that some children learn faster than others. This type of emphasis completely ignores the vast amount of research on LEP children and the speed with which they learn English. This time limit, as proposed, will create an "educational straitjacket" for teachers, parents, and most importantly, children.

Civil rights

We object to the inclusion of language in H.R. 3892 which voids all of the voluntary Compliance Agreements entered into by the Department of Education, Office of Civil Rights (OCR), and local school districts found out of compliance with Title VI of the Civil Rights Act. This provision is an unprecedented and shameful effort to gut enforcement of the Civil Rights Act of 1964, as it applies to the education of language minority students.

Secretary Riley has also expressed his vigorous opposition to this provision:

> Plainly, the purpose of these provisions is to stop OCR's enforcement of Title VI of the Civil Rights Act of 1964, as it applies to the education of language minority children, through the use of voluntary compliance agreements. This is very troubling because the use of compliance agreements is one of OCR's most important (and, by far, the most commonly used) enforcement tools regarding the provision of appropriate educational programs for such children.

The Department of Education estimates that there are 288 voluntary compliance agreements currently in place. During Committee consideration of this legislation, the majority was unable to provide us with any substantive policy reason as to why these agreements should be terminated. In fact, when questioned as to their knowledge of which school districts were actually affected and what affect this would have on the LEP children in these districts, the Majority was unable to respond.

The Majority views contain a number of misperceptions about OCR. First, the Majority implies that OCR mandates the curriculum to be used in bilingual education programs in local school districts. Furthermore, the Majority implies that OCR forces the use of transitional bilingual education (programs that use a child's native language) when it engages local school districts in voluntary compliance agreements aimed at ensuring compliance with Title VI of the Civil Rights Act. both of these implications are completely false. OCR, in efforts to work with local school districts, does not mandate or require particular instructional methods. Rather, OCR, consistent with the reasoning of *Lau* **v.** *Nichols*, seeks to ensure LEP children receive meaningful access to an education through allowing local school districts to choose from a variety of instruction methods which are recognized as sound by educational experts. The goal of these voluntary compliance agreements is to ensure full implementation of the instructional method chosen by local school districts and that they result in LEP children being academically successful.

In conclusion, we support a critical look at our Federal support of bilingual education. However, we oppose this bill because it would substantially undermine our Federal bilingual education programs. This bill should not move forward without further deliberation within the context of efforts next Congress to reauthorize our elementary and secondary programs. With its dire implications for bilingual education programs, this legislation will only harm our efforts to ensure that LEP children have the ability to learn the English language.

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