

105TH CONGRESS
2D SESSION

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.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1998

Mr. RIGGS introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. ENGLISH LANGUAGE EDUCATION.**

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

7 **“PART A—ENGLISH LANGUAGE EDUCATION**

8 **“SEC. 7101. SHORT TITLE.**

9 “This part may be cited as the ‘English Language
10 Fluency Act’.

1 **“SEC. 7102. FINDINGS AND PURPOSE.**

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

3 “(1) English is the common language of the
4 United States and it is imperative that every citizen
5 and other person residing in the United States have
6 a command of the English language in order to de-
7 velop to their full potential.

8 “(2) States and local school districts need as-
9 sistance in developing the capacity to provide pro-
10 grams of instruction that offer and provide an equal
11 educational opportunity to immigrant children and
12 youth and children and youth who need special as-
13 sistance because English is not their dominant lan-
14 guage.

15 “(b) PURPOSE.—The purposes of this part are—

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

20 “(2) to assist eligible local educational agencies
21 that experience unexpectedly large increases in their
22 student population due to immigration to help immi-
23 grant children and youth with their transition into
24 society, including mastery of the English language.

1 **“SEC. 7103. PARENTAL NOTIFICATION AND CONSENT TO**
2 **PARTICIPATE.**

3 “(a) IN GENERAL.—A parent or the parents of a
4 child participating in an English language instruction pro-
5 gram for English language learners assisted under this
6 Act shall be informed of—

7 “(1) the reasons for the identification of the
8 child as being in need of English language instruc-
9 tion;

10 “(2) the child’s level of English proficiency, how
11 such level was assessed, and the status of the child’s
12 academic achievement; and

13 “(3) how the English language instruction pro-
14 gram will specifically help the child acquire English
15 and meet age-appropriate standards for grade-pro-
16 motion and graduation.

17 “(b) PARENTAL CONSENT.—

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

22 “(A) shall sign a form consenting to their
23 child’s placement in such a program prior to
24 such time as their child is enrolled in the pro-
25 gram;

1 “(B) shall select among methods of in-
2 struction, if more than one method is offered in
3 the program; and

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

6 “(2) EFFECT OF LAU DECISION.—A local edu-
7 cational agency shall not be relieved of any of its ob-
8 ligations under the holding in the Supreme Court
9 case of *Lau v. Nichols* (414 U.S. 563) because any
10 parent chooses not to enroll their child in an English
11 language instruction program using their native lan-
12 guage in instruction.

13 “(c) RECEIPT OF INFORMATION.—A parent or the
14 parents of a child identified for participation in an English
15 language instruction program for English language learn-
16 ers assisted under this Act shall receive, in a manner and
17 form understandable to the parent or parents, the infor-
18 mation required by this section. At a minimum, the parent
19 or parents shall receive—

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

23 “(2) if a parent of a participating child so de-
24 sires, notice of opportunities for regular meetings for

1 the purpose of formulating and responding to rec-
2 ommendations from such parents.

3 “(d) SPECIAL RULE.—An individual may not be ad-
4 mitted to, or excluded from, any federally assisted edu-
5 cation program solely on the basis of a surname, language-
6 minority status, or national origin.

7 **“Subpart 1—Grants for English Language**
8 **Acquisition**

9 **“CHAPTER 1—GENERAL PROVISIONS**

10 **“SEC. 7111. FUNDING.**

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

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

22 **“SEC. 7112. NATIVE AMERICAN AND ALASKA NATIVE CHIL-**
23 **DREN IN SCHOOL.**

24 “(a) ELIGIBLE ENTITIES.—For the purpose of carry-
25 ing out programs under this subpart for individuals served

1 by elementary, secondary, and postsecondary schools oper-
2 ated predominately for Native American or Alaska Native
3 children and youth, the following shall be considered to
4 be a local educational agency:

5 “(1) An Indian tribe.

6 “(2) A tribally sanctioned educational author-
7 ity.

8 “(3) A Native Hawaiian or Native American
9 Pacific Islander native language educational organi-
10 zation.

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

14 “(5) An elementary or secondary school oper-
15 ated under a contract or grant with the Bureau of
16 Indian Affairs, in consortium with another such
17 school or a tribal or community organization.

18 “(6) An elementary or secondary school oper-
19 ated by the Bureau of Indian Affairs and an institu-
20 tion of higher education, in consortium with an ele-
21 mentary or secondary school operated under a con-
22 tract or grant with the Bureau of Indian Affairs or
23 a tribal or community organization.

24 “(b) SUBMISSION OF APPLICATIONS FOR ASSIST-
25 ANCE.—Notwithstanding any other provision of this sub-

1 part, an entity that is considered to be a local educational
2 agency under subsection (a), and that desires to submit
3 an application for Federal financial assistance under this
4 subpart, shall submit the application to the Secretary. In
5 all other respects, such an entity shall be eligible for a
6 grant under this subpart on the same basis as any other
7 local educational agency.

8 **“CHAPTER 2—GRANTS FOR ENGLISH**
9 **LANGUAGE ACQUISITION**

10 **“SEC. 7121. FORMULA GRANTS TO STATES.**

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

17 “(b) PURPOSES OF GRANTS.—

18 “(1) REQUIRED EXPENDITURES.—The Sec-
19 retary may make a grant under subsection (a) only
20 if the State involved agrees that the State will ex-
21 pend at least 90 percent of the amount of the funds
22 provided under the grant for the purpose of making
23 subgrants to eligible entities to provide assistance to
24 children and youth who are English language learn-

1 ers and immigrant children and youth in accordance
2 with section 7123.

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

8 “(A) Professional development and activi-
9 ties that assist personnel in meeting State and
10 local certification requirements for English lan-
11 guage instruction.

12 “(B) Planning, administration, and inter-
13 agency coordination related to the subgrants re-
14 ferred to in paragraph (1).

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

18 “(i) educate children and youth who
19 are English language learners and immi-
20 grant children and youth; and

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

23 “(D) Providing bonuses to subgrantees
24 whose performance has been exceptional in
25 terms of the speed with which children and

1 youth enrolled in the subgrantee's programs
2 and activities attain English language pro-
3 ficiency.

4 “(3) LIMITATION ON ADMINISTRATIVE COSTS.—
5 In carrying out paragraph (2), a State that receives
6 a grant under subsection (a) may expend not more
7 than 2 percent of the amount of the funds provided
8 under the grant for the purposes described in para-
9 graph (2)(B).

10 **“SEC. 7122. APPLICATIONS BY STATES.**

11 “For purposes of section 7121, an application sub-
12 mitted by a State for a grant under such section for a
13 fiscal year is in accordance with this section if the applica-
14 tion—

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

18 “(2) contains an agreement that the State an-
19 nually will submit to the Secretary a summary re-
20 port, describing the State's use of the funds pro-
21 vided under the grant;

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

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

5 “(ii) addresses a need brought about
6 through a significant increase, as compared to
7 the previous 2 years, in the percentage or num-
8 ber of children and youth who are English lan-
9 guage learners in a school or school district, in-
10 cluding schools and school districts in areas
11 with low concentrations of such children and
12 youth; or

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

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

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

22 “(4) contains an agreement that, in carrying
23 out this chapter, the State will address the needs of
24 school systems of all sizes and geographic areas, in-
25 cluding rural and urban schools;

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

5 “(6) contains an agreement that the State will
6 monitor the progress of students enrolled in pro-
7 grams and activities receiving assistance under this
8 chapter in attaining English proficiency and with-
9 draw funding from such programs and activities in
10 cases where—

11 “(A) students enrolling when they are in
12 kindergarten are not mastering the English lan-
13 guage by the end of the first grade; and

14 “(B) other students are not mastering the
15 English language after 2 academic years of en-
16 rollment.

17 **“SEC. 7123. SUBGRANTS TO ELIGIBLE ENTITIES.**

18 “(a) PURPOSES OF SUBGRANTS.—A State may make
19 a subgrant to an eligible entity of funds received by the
20 State under this chapter only if the entity agrees to ex-
21 pend the funds for one of the following purposes:

22 “(1) Developing and implementing new English
23 language instructional programs for children and
24 youth who are English language learners, including

1 programs of early childhood education and kinder-
2 garten through 12th grade education.

3 “(2) Carrying out locally designed projects to
4 expand or enhance existing English language in-
5 struction programs for children and youth who are
6 English language learners.

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

10 “(b) AUTHORIZED SUBGRANTEE ACTIVITIES.—

11 “(1) IN GENERAL.—Subject to paragraph (2), a
12 State may make a subgrant to an eligible entity
13 from funds received by the State under this chapter
14 in order that the eligible entity may achieve one of
15 the purposes described in subsection (a) by under-
16 taking one or more of the following activities to im-
17 prove the understanding, and use, of the English
18 language, based on a child’s learning skills:

19 “(A) Developing and implementing com-
20 prehensive preschool or elementary or secondary
21 school English language instructional programs
22 that are coordinated with other relevant pro-
23 grams and services.

24 “(B) Providing training to classroom
25 teachers, administrators, and other school or

1 community-based organizational personnel to
2 improve the instruction and assessment of chil-
3 dren and youth who are English language
4 learners, immigrant children and youth, or
5 both.

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

9 “(D) Providing for the acquisition or devel-
10 opment of education technology or instructional
11 materials, access to and participation in elec-
12 tronic networks for materials, providing train-
13 ing and communications, and incorporation of
14 such resources in curricula and programs, such
15 as those funded under this subpart.

16 “(E) Such other activities, related to the
17 purpose of the subgrant, as the State may ap-
18 prove.

19 “(2) MOVING CHILDREN OUT OF SPECIALIZED
20 CLASSROOMS.—Any program or activity undertaken
21 by an eligible entity using a subgrant from a State
22 under this chapter shall be designed to assist stu-
23 dents enrolled in the program or activity to move
24 into a classroom where instruction is not tailored for

1 English language learners or immigrant children and
2 youth—

3 “(A) by the end of the first grade, in the
4 case of students enrolling when they are in kin-
5 dergarten; or

6 “(B) by the end of their second academic
7 year of enrollment, in the case of other stu-
8 dents.

9 “(3) MAXIMUM ENROLLMENT PERIOD.—An eli-
10 gible entity may not use funds received from a State
11 under this chapter to provide instruction or assist-
12 ance to any individual who has been enrolled for a
13 period exceeding 3 years in a program or activity
14 undertaken by the eligible entity under this section.

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

23 “(d) DURATION OF SUBGRANTS.—The duration of a
24 subgrant made by a State under this section shall be de-
25 termined by the State in its discretion.

1 “(e) APPLICATIONS BY ELIGIBLE ENTITIES.—

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

7 “(2) REQUIRED DOCUMENTATION.—The appli-
8 cation shall describe the programs and activities pro-
9 posed to be developed, implemented, and adminis-
10 tered under the subgrant and shall provide an assur-
11 ance that the applicant will only employ teachers
12 and other personnel for the proposed programs and
13 activities who are proficient in English, including
14 written and oral communication skills.

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

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

24 “(B) in designing the programs and activi-
25 ties proposed in the application, the needs of

1 children enrolled in any private elementary and
2 secondary schools have been taken into account
3 through consultation with appropriate private
4 school officials;

5 “(C) the eligible entity has provided for the
6 participation of children enrolled in any private
7 elementary and secondary schools in the pro-
8 grams and activities proposed in the application
9 on a basis comparable to that provided for chil-
10 dren enrolled in public school;

11 “(D) the eligible entity has based its pro-
12 posal on sound research and theory; and

13 “(E) the eligible entity has described in the
14 application how students enrolled in the pro-
15 grams and activities proposed in the application
16 will be taught English—

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

20 “(ii) by the end of their second aca-
21 demic year of enrollment, in the case of
22 other students.

23 “(4) QUALITY.—In determining which applica-
24 tions to select for approval, a State shall consider
25 the quality of each application.

1 “(f) EVALUATION.—

2 “(1) IN GENERAL.—Each eligible entity that re-
3 ceives a subgrant from a State under this chapter
4 shall provide the State, at the conclusion of every
5 second fiscal year during which the grant is received,
6 with an evaluation, in a form prescribed by the
7 State, of—

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

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

14 “(2) USE OF EVALUATION.—An evaluation pro-
15 vided by an eligible entity under paragraph (1) shall
16 be used by the entity and the State—

17 “(A) for improvement of programs and ac-
18 tivities;

19 “(B) to determine the effectiveness of pro-
20 grams and activities in assisting children and
21 youth who are English language learners to
22 master the English language; and

23 “(C) in determining whether or not to con-
24 tinue funding for specific programs or projects.

1 “(3) EVALUATION COMPONENTS.—An evalua-
2 tion provided by an eligible entity under paragraph
3 (1) shall include—

4 “(A) an evaluation of whether students en-
5 rolling in a program or activity conducted by
6 the entity with funds received under this chap-
7 ter—

8 “(i) are mastering the English lan-
9 guage—

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

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

16 “(ii) have achieved a working knowl-
17 edge of the English language that is suffi-
18 cient to permit them to perform, in
19 English, regular classroom work; and

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

22 **“SEC. 7124. DETERMINATION OF AMOUNT OF ALLOTMENT.**

23 “(a) IN GENERAL.—Except as provided in sub-
24 sections (b) and (c), from the sum available for the pur-
25 pose of making grants to States under this chapter for

1 any fiscal year, the Secretary shall allot to each State an
2 amount which bears the same ratio to such sum as the
3 total number of children and youth who are English lan-
4 guage learners and immigrant children and youth and who
5 reside in the State bears to the total number of such chil-
6 dren and youth residing in all States (excluding the Com-
7 monwealth of Puerto Rico and the outlying areas) that,
8 in accordance with section 7122, submit to the Secretary
9 an application for the year.

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

15 “(c) OUTLYING AREAS.—

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

23 “(2) DETERMINATION OF INDIVIDUAL AREA
24 AMOUNTS.—From the total amount determined
25 under paragraph (1), the Secretary shall allot to

1 each outlying area an amount which bears the same
2 ratio to such amount as the total number of children
3 and youth who are English language learners and
4 immigrant children and youth and who reside in the
5 outlying area bears to the total number of such chil-
6 dren and youth residing in all outlying areas that,
7 in accordance with section 7122, submit to the Sec-
8 retary an application for the year.

9 “(d) POPULATION COUNTING.—The Secretary shall
10 determine when and how children and youth will be count-
11 ed for purposes of subsections (a) and (c).

12 “(e) NO REDUCTION PERMITTED BASED ON TEACH-
13 ING METHOD.—The Secretary may not reduce a State’s
14 allotment based on the State’s selection of the immersion
15 method of instruction as its preferred method of teaching
16 the English language to children and youth who are
17 English language learners or immigrant children and
18 youth.

19 **“SEC. 7125. CONSTRUCTION.**

20 “Nothing in this chapter shall be construed as requir-
21 ing a State or a local educational agency to establish or
22 continue a program of native language instruction.

1 **“Subpart 2—Research and Dissemination**

2 **“SEC. 7141. AUTHORITY.**

3 “The Secretary may conduct, through the Office of
4 Educational Research and Improvement, research for the
5 purpose of improving English language instruction for
6 children and youth who are English language learners and
7 immigrant children and youth. Activities under this sec-
8 tion shall be limited to research to identify successful mod-
9 els for teaching children English and distribution of re-
10 search results to States for dissemination to schools with
11 populations of students who are English language learn-
12 ers. Research conducted under this section may not focus
13 on any one method of instruction.”.

14 **SEC. 2. REPEAL OF EMERGENCY IMMIGRANT EDUCATION**
15 **PROGRAM.**

16 Part C of title VII of the Elementary and Secondary
17 Education Act of 1965 (20 U.S.C. 7541 et seq.) is re-
18 pealed.

19 **SEC. 3. ADMINISTRATION.**

20 Part D of title VII of the Elementary and Secondary
21 Education Act of 1965 (20 U.S.C. 7571 et seq.) is redesi-
22 gnated as part C of such title and amended to read as fol-
23 lows:

1 **“PART C—ADMINISTRATION**

2 **“SEC. 7301. REPORTING REQUIREMENTS.**

3 “(a) STATES.—Based upon the evaluations provided
4 to a State under section 7123(f), each State receiving a
5 grant under this title annually shall report to the Sec-
6 retary of Education on programs and activities under-
7 taken by the State under this title and the effectiveness
8 of such programs and activities in improving the education
9 provided to children and youth who are English language
10 learners and immigrant children and youth.

11 “(b) SECRETARY.—Every other year, the Secretary
12 shall prepare and submit to the Committee on Education
13 and the Workforce of the House of Representatives and
14 the Committee on Labor and Human Resources of the
15 Senate a report on programs and activities undertaken by
16 States under this title and the effectiveness of such pro-
17 grams and activities in improving the education provided
18 to children and youth who are English language learners
19 and immigrant children and youth.

20 **“SEC. 7302. COMMINGLING OF FUNDS.**

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

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

10 **SEC. 4. GENERAL PROVISIONS.**

11 Part E of title VII of the Elementary and Secondary
 12 Education Act of 1965 (20 U.S.C. 7601 et seq.) is redesi-
 13 gnated as part D of such title and amended to read as fol-
 14 lows:

15 **“PART D—GENERAL PROVISIONS**

16 **“SEC. 7401. DEFINITIONS.**

17 “For purposes of this title:

18 “(1) CHILDREN AND YOUTH.—The term ‘chil-
 19 dren and youth’ means individuals aged 3 through
 20 21.

21 “(2) COMMUNITY-BASED ORGANIZATION.—The
 22 term ‘community-based organization’ means a pri-
 23 vate nonprofit organization of demonstrated effec-
 24 tiveness or Indian tribe or tribally sanctioned edu-
 25 cational authority which is representative of a com-

1 munity or significant segments of a community and
2 which provides educational or related services to in-
3 dividuals in the community. Such term includes a
4 Native Hawaiian or Native American Pacific Is-
5 lander native language educational organization.

6 “(3) ELIGIBLE ENTITY.—The term ‘eligible en-
7 tity’ means—

8 “(A) one or more local educational agen-
9 cies;

10 “(B) one or more local educational agen-
11 cies in collaboration with—

12 “(i) an institution of higher education;

13 “(ii) a community-based organization;

14 “(iii) a local educational agency; or

15 “(iv) a State; or

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

21 “(4) ENGLISH LANGUAGE LEARNER.—The term
22 ‘English language learner’, when used with reference
23 to an individual, means an individual—

24 “(A) aged 3 through 21;

25 “(B) who—

1 “(i) was not born in the United
2 States; or

3 “(ii) comes from an environment
4 where a language other than English is
5 dominant and who normally uses a lan-
6 guage other than English; and

7 “(C) who has sufficient difficulty speaking,
8 reading, writing, or understanding the English
9 language that the difficulty may deny the indi-
10 vidual the opportunity—

11 “(i) to learn successfully in a class-
12 room where the language of instruction is
13 English; or

14 “(ii) to participate fully in society.

15 “(5) IMMIGRANT CHILDREN AND YOUTH.—The
16 term ‘immigrant children and youth’ means individ-
17 uals who—

18 “(A) are aged 3 through 21;

19 “(B) were not born in any State; and

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

22 “(6) INDIAN TRIBE.—The term ‘Indian tribe’
23 means any Indian tribe, band, nation, or other orga-
24 nized group or community, including any Alaska Na-
25 tive village or regional corporation as defined in or

1 established pursuant to the Alaska Native Claims
2 Settlement Act (43 U.S.C. 1601 et seq.), which is
3 recognized as eligible for the special programs and
4 services provided by the United States to Indians be-
5 cause of their status as Indians.

6 “(7) NATIVE AMERICAN AND NATIVE AMERICAN
7 LANGUAGE.—The terms ‘Native American’ and ‘Na-
8 tive American language’ have the meaning given
9 such terms in section 103 of the Native American
10 Languages Act (25 U.S.C. 2902).

11 “(8) NATIVE HAWAIIAN OR NATIVE AMERICAN
12 PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL
13 ORGANIZATION.—The term ‘Native Hawaiian or Na-
14 tive American Pacific Islander native language edu-
15 cational organization’ means a nonprofit organiza-
16 tion—

17 “(A) a majority of whose governing board,
18 and a majority of whose employees, are fluent
19 speakers of the traditional Native American
20 languages used in the organization’s edu-
21 cational programs; and

22 “(B) that has not less than five years of
23 successful experience in providing educational
24 services in traditional Native American lan-
25 guages.

1 “(9) NATIVE LANGUAGE.—The term ‘native
2 language’, when used with reference to an individual
3 who is an English language learner, means the lan-
4 guage normally used by such individual.

5 “(10) OUTLYING AREA.—The term ‘outlying
6 area’ means any of the following:

7 “(A) The Virgin Islands of the United
8 States.

9 “(B) Guam.

10 “(C) American Samoa.

11 “(D) The Commonwealth of the Northern
12 Mariana Islands.

13 “(11) STATE.—The term ‘State’ means any of
14 the several States, the District of Columbia, the
15 Commonwealth of Puerto Rico, or any outlying area.

16 “(12) TRIBALLY SANCTIONED EDUCATIONAL
17 AUTHORITY.—The term ‘tribally sanctioned edu-
18 cational authority’ means—

19 “(A) any department or division of edu-
20 cation operating within the administrative
21 structure of the duly constituted governing body
22 of an Indian tribe; and

23 “(B) any nonprofit institution or organiza-
24 tion that is—

1 “(i) chartered by the governing body
2 of an Indian tribe to operate a school de-
3 scribed in section 7112(a) or otherwise to
4 oversee the delivery of educational services
5 to members of the tribe; and

6 “(ii) approved by the Secretary for
7 the purpose of carrying out programs
8 under subpart 1 of part A for individuals
9 served by a school described in section
10 7112(a).

11 **“SEC. 7402. LIMITATION ON FEDERAL REGULATIONS.**

12 “The Secretary shall issue regulations under this title
13 only to the extent that such regulations are necessary to
14 ensure compliance with the specific requirements of this
15 title.

16 **“SEC. 7403. LEGAL AUTHORITY UNDER STATE LAW.**

17 “Nothing under this title shall be construed to negate
18 or supersede the legal authority, under State law of any
19 State agency, State entity, or State public official over
20 programs that are under the jurisdiction of the agency,
21 entity, or official.

22 **“SEC. 7404. RELEASE FROM DECREE.**

23 “Notwithstanding section 7403, any consent decree
24 entered into between a State, locality, or local educational
25 agency and the Department of Health, Education and

1 Welfare or the Department of Education, that requires
2 such State, locality, or local educational agency to develop,
3 implement, provide, or maintain any form of bilingual edu-
4 cation, is void.

5 **“SEC. 7405. OFFICE OF CIVIL RIGHTS GUIDELINES AND**
6 **COMPLIANCE STANDARDS.**

7 “(a) IN GENERAL.—The Secretary shall publish in
8 the Federal Register the enforcement guidelines and com-
9 pliance standards of the Office of Civil Rights of the De-
10 partment of Education that apply to a program or activity
11 to provide English language instruction to English lan-
12 guage learners that is undertaken by a State, locality, or
13 local educational agency.

14 “(b) CONGRESSIONAL APPROVAL.—The Secretary
15 may not enter into any consent decree after the date of
16 the enactment of this section pursuant to a guideline or
17 standard described in subsection (a) with an entity de-
18 scribed in such subsection until the Congress has enacted
19 legislation approving the guideline or standard or other-
20 wise authorizing the Secretary to implement it.

21 **“SEC. 7406. REQUIREMENT FOR STATE STANDARDIZED**
22 **TESTING IN ENGLISH.**

23 “(a) REQUIREMENT.—In the case of a State receiving
24 a grant under this title that administers a State standard-
25 ized test to elementary or secondary school children in the

1 State, the State shall not exempt a child from the require-
2 ment that the test be administered in English, on the
3 ground that the child is an English language learner, if
4 the child—

5 “(1) has resided, throughout the 2-year period
6 ending on the date the test is administered, in a geo-
7 graphic area that is under the jurisdiction of only
8 one local educational agency; and

9 “(2) has received educational services from such
10 local educational agency throughout such 2-year pe-
11 riod (excluding any period in which such services are
12 not provided in the ordinary course).

13 “(b) IN GENERAL.—Notwithstanding any other pro-
14 vision of this title, if a State fails to fulfill the requirement
15 of subsection (a), the Secretary shall withhold, in accord-
16 ance with section 455 of the General Education Provisions
17 Act, all funds otherwise made available to the State under
18 this title, until the State remedies such failure.”.

19 **SEC. 5. CONFORMING AMENDMENTS.**

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

1 **“TITLE VII—ENGLISH LANGUAGE**
2 **FLUENCY AND FOREIGN LAN-**
3 **GUAGE ACQUISITION PRO-**
4 **GRAMS”.**

5 (b) ELEMENTARY AND SECONDARY EDUCATION
6 ACT.—The Elementary and Secondary Education Act of
7 1965 is amended—

8 (1) in section 2209(b)(1)(C)(iii) (20 U.S.C.
9 6649(b)(1)(C)(iii)), by striking “Bilingual Education
10 Programs under part A of title VII.” and inserting
11 “English language education programs under part A
12 of title VII.”; and

13 (2) in section 14307(b)(1)(E) (20 U.S.C.
14 8857(b)(1)(E)), by striking “Subpart 1 of part A of
15 title VII (bilingual education).” and inserting
16 “Chapter 2 of subpart 1 of part A of title VII
17 (English language education).”.

18 (c) DEPARTMENT OF EDUCATION ORGANIZATION
19 ACT.—The Department of Education Organization Act is
20 amended by striking “Office of Bilingual Education and
21 Minority Languages Affairs” each place such term ap-
22 pears and inserting “Office of English Language Acquisi-
23 tion”.

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