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1 **TITLE III—EDUCATION OF LIM-**
2 **ITED ENGLISH PROFICIENT AND**
3 **IMMIGRANT CHILDREN; INDIAN**
4 **AND ALASKA NATIVE EDUCATION**

5 **PART A—EDUCATION OF LIMITED ENGLISH**
6 **PROFICIENT AND IMMIGRANT CHILDREN**

7 **SEC. 301. PROGRAMS AUTHORIZED.**

8 (a) TITLE HEADING.—The heading for title III is
9 amended to read as follows:

10 **“TITLE III—EDUCATION OF LIM-**
11 **ITED ENGLISH PROFICIENT**
12 **AND IMMIGRANT CHILDREN;**
13 **INDIAN AND ALASKA NATIVE**
14 **EDUCATION”.**

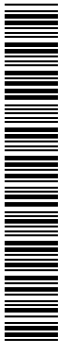
15 (b) SHORT TITLE.—Section 3101 (20 U.S.C. 6801)
16 is repealed.

17 (c) LIMITATION ON AVAILABILITY OF CERTAIN
18 FUNDS FOR SCHOOLS.—Section 3601 (20 U.S.C. 7001)—

19 (1) is transferred to part B of title V (as
20 amended by section 501) and inserted after section
21 5204 (as so amended);

22 (2) is redesignated as section 5205; and

23 (3) is amended by striking “this title” each
24 place such term appears and inserting “this part”.



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1 (d) LIMITED ENGLISH PROFICIENT AND IMMIGRANT
2 CHILDREN.—Parts A through E of title III (20 U.S.C.
3 6811 et seq.) are amended to read as follows:

4 **“PART A—EDUCATION OF LIMITED ENGLISH**
5 **PROFICIENT AND IMMIGRANT CHILDREN**

6 **“Subpart 1—English Language and Academic**
7 **Instructional Programs**

8 **“SEC. 3101. SHORT TITLE.**

9 “This subpart may be cited as the ‘English Language
10 Proficiency and Academic Achievement Act’.

11 **“SEC. 3102. FINDINGS AND PURPOSES.**

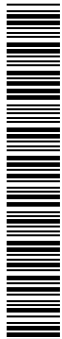
12 “(a) FINDINGS.—The Congress finds as follows:

13 “(1) English is the common language of the
14 United States and every citizen and other person re-
15 siding in the United States should have a command
16 of the English language in order to develop to their
17 full potential.

18 “(2) Limited English proficient children, in-
19 cluding recent immigrant children, must overcome a
20 number of challenges in receiving an education in
21 order to participate fully in American society,
22 including—

23 “(A) segregated educational programs;

24 “(B) disproportionate and improper place-
25 ment in special education and other special pro-



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1 grams due to the use of inappropriate evalua-
2 tion procedures;

3 “(C) the limited English proficiency of
4 their parents, which hinders the parents’ ability
5 to fully participate in the education of their
6 children; and

7 “(D) a need for additional teachers and
8 other staff who are professionally trained and
9 qualified to serve such children.

10 “(3) States and local educational agencies need
11 assistance in developing the capacity to provide pro-
12 grams of instruction that offer and provide an equal
13 educational opportunity to children who need special
14 assistance because English is not their dominant
15 language.

16 “(4) Since 1979, the number of limited English
17 proficient children attending school in the United
18 States has more than doubled to greater than
19 4,000,000, and demographic trends indicate the pop-
20 ulation of limited English proficient children will
21 continue to increase.

22 “(5) Native Americans, including native resi-
23 dents of the outlying areas, and Native American
24 languages (as such terms are defined in section 103
25 of the Native American Languages Act) have a



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1 unique status under Federal law that requires spe-
2 cial policies within the broad purposes of this part
3 to serve the educational needs of language minority
4 students in the United States.

5 “(6) Research, evaluation, and data collection
6 capabilities in the field of instruction for limited
7 English proficient children need to be strengthened
8 so that educators and other staff teaching limited
9 English proficient children in the classroom can bet-
10 ter identify and promote programs, program imple-
11 mentation strategies, and instructional practices that
12 result in the effective education of limited English
13 proficient children.

14 “(7) The Federal Government has a special and
15 continuing obligation to ensure that States and local
16 educational agencies provide children of limited
17 English proficiency the same educational opportuni-
18 ties afforded other children.

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

20 “(1) to help ensure that children who are lim-
21 ited English proficient, including recent immigrant
22 children, attain English proficiency, develop high lev-
23 els of academic attainment in English, and meet the
24 same challenging State academic content standards



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1 and challenging State student academic achievement
2 standards expected of all children;

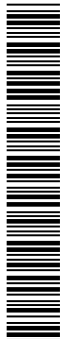
3 “(2) to develop high-quality programs designed
4 to assist local educational agencies in teaching lim-
5 ited English proficient children;

6 “(3) to assist local educational agencies to de-
7 velop and enhance their capacity to provide high-
8 quality instructional programs designed to prepare
9 limited English proficient students, including recent
10 immigrant students, to enter all-English instruc-
11 tional settings within 3 years; and

12 “(4) to provide State educational agencies and
13 local educational agencies with the flexibility to im-
14 plement instructional programs, tied to scientifically
15 based reading research and sound research and the-
16 ory on teaching limited English proficient children,
17 that the agencies believe to be the most effective for
18 teaching English.

19 **“SEC. 3103. PARENTAL NOTIFICATION AND CONSENT FOR**
20 **ENGLISH LANGUAGE INSTRUCTION.**

21 “(a) NOTIFICATION.—If a local educational agency
22 uses funds under this subpart to provide English language
23 instruction to limited English proficient children, the
24 agency shall inform a parent or the parents of a child par-
25 ticipating in an English language instruction program for



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1 limited English proficient children assisted under this sub-
2 part of—

3 “(1) the reasons for the identification of the
4 child as being in need of English language instruc-
5 tion;

6 “(2) the child’s level of English proficiency, how
7 such level was assessed, and the status of the child’s
8 academic achievement;

9 “(3) how the English language instruction pro-
10 gram will specifically help the child acquire English
11 and meet age-appropriate standards for grade pro-
12 motion and graduation;

13 “(4) what the specific exit requirements are for
14 the program;

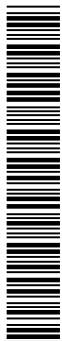
15 “(5) the expected rate of transition from the
16 program into a classroom that is not tailored for
17 limited English proficient children; and

18 “(6) the expected rate of graduation from high
19 school for the program if funds under this subpart
20 are used for children in secondary schools.

21 “(b) CONSENT.—

22 “(1) AGENCY REQUIREMENTS.—

23 “(A) INFORMED CONSENT.—For a child
24 who has been identified as limited English pro-
25 ficient prior to the beginning of the school year,



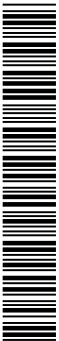
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1 each local educational agency that receives
2 funds under this subpart shall make a reason-
3 able and substantial effort to obtain informed
4 parental consent prior to the placement of a
5 child in an English language instruction pro-
6 gram for limited English proficient children
7 funded under this subpart, if the program does
8 not include classes which exclusively or almost
9 exclusively use the English language in instruc-
10 tion.

11 “(B) WRITTEN CONSENT NOT OB-
12 TAINED.—

13 “(i) IN GENERAL.—If written consent
14 is not obtained, the local educational agen-
15 cy shall maintain a written record that in-
16 cludes the date and the manner in which
17 such informed consent was sought, includ-
18 ing the specific efforts made to obtain such
19 consent.

20 “(ii) PROOF OF EFFORT.—Notice, in
21 an understandable form, of specific efforts
22 made to obtain written consent and a copy
23 of the written record described in clause (i)
24 shall be mailed or delivered in writing to a
25 parent or the parents of a child prior to



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1 placing the child in a program described in
 2 subparagraph (A), and shall include a final
 3 request for parental consent for such serv-
 4 ices. After such notice has been mailed or
 5 delivered in writing, the local educational
 6 agency shall provide appropriate edu-
 7 cational services.

8 “(iii) SPECIAL RULE APPLICABLE
 9 DURING SCHOOL YEAR.—For those chil-
 10 dren who have not been identified as lim-
 11 ited English proficient prior to the begin-
 12 ning of the school year, the local edu-
 13 cational agency shall make a reasonable
 14 and substantial effort to obtain parental
 15 consent under this clause. For such chil-
 16 dren, the agency shall document, in writ-
 17 ing, its specific efforts to obtain such con-
 18 sent prior to placing the child in a pro-
 19 gram described in subparagraph (A). After
 20 such documentation has been made, the
 21 local educational agency shall provide ap-
 22 propriate educational services to such
 23 child. The proof of documentation shall be
 24 mailed or delivered in writing to a parent
 25 or the parents of the child in a timely



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1 manner and shall include information on
2 how to have their child immediately re-
3 moved from the program upon their re-
4 quest. Nothing in this clause shall be con-
5 strued as exempting a local educational
6 agency from complying with the notifica-
7 tion requirements of subsection (a) and the
8 consent requirements of this paragraph.

9 “(2) PARENTAL RIGHTS.—A parent or the par-
10 ents of a child participating in an English language
11 instruction program for limited English proficient
12 children assisted under this subpart—

13 “(A) shall select among methods of in-
14 struction, if more than one method is offered in
15 the program; and

16 “(B) shall have the right to have their
17 child immediately removed from the program
18 upon their request.

19 “(c) RECEIPT OF INFORMATION.—A parent or the
20 parents of a child identified for participation in an English
21 language instruction program for limited English pro-
22 ficient children assisted under this subpart shall receive,
23 in a manner and form understandable to the parent or
24 parents, the information required by this subsection. At
25 a minimum, the parent or parents shall receive—



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1 “(1) timely information about English language
2 instruction programs for limited English proficient
3 children assisted under this part;

4 “(2) if a parent or the parents of a partici-
5 pating child so desire, notice of opportunities for
6 regular meetings for the purpose of formulating and
7 responding to recommendations from the parent or
8 parents; and

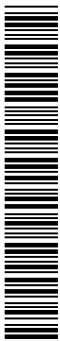
9 “(3) procedural information for removing a
10 child from a program for limited English proficient
11 children.

12 “(d) BASIS FOR ADMISSION OR EXCLUSION.—Stu-
13 dents shall not be admitted to, or excluded from, any fed-
14 erally assisted education program on the basis of a sur-
15 name or language-minority status.

16 **“SEC. 3104. TESTING OF LIMITED ENGLISH PROFICIENT**
17 **CHILDREN.**

18 “(a) IN GENERAL.—Assessments of limited English
19 proficient children participating in programs funded under
20 this subpart, to the extent practicable, shall be in the lan-
21 guage and form most likely to yield accurate and reliable
22 information on what such students know and can do in
23 content areas.

24 “(b) SPECIAL RULE.—Notwithstanding subsection
25 (a), in the case of an assessment of reading or language



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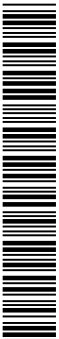
1 arts of any student who has attended school in the United
2 States (excluding Puerto Rico) for 3 or more consecutive
3 school years, the assessment shall be in the form of a test
4 written in English, except that, if the entity administering
5 the assessment determines, on a case-by-case individual
6 basis, that assessments in another language or form would
7 likely yield more accurate and reliable information on what
8 such student knows and can do, the entity may assess
9 such student in such language or form for 1 additional
10 year.

11 **“SEC. 3105. FORMULA GRANTS TO STATES.**

12 “(a) IN GENERAL.—In the case of each State that
13 in accordance with section 3107 submits to the Secretary
14 an application for a fiscal year, the Secretary shall make
15 a grant for the year to the State for the purposes specified
16 in subsection (b). The grant shall consist of the allotment
17 determined for the State under subsection (c).

18 “(b) PURPOSES OF GRANTS.—

19 “(1) REQUIRED EXPENDITURES.—The Sec-
20 retary may make a grant under subsection (a) only
21 if the State involved agrees that the State will ex-
22 pend at least 95 percent of its allotment under sub-
23 section (c) for the purpose of making subgrants to
24 eligible entities to provide assistance to limited



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1 English proficient children in accordance with sec-
2 tions 3108 and 3109.

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

8 “(A) Carrying out—

9 “(i) professional development activi-
10 ties, and other activities, that assist per-
11 sonnel in meeting State and local certifi-
12 cation requirements for teaching limited
13 English proficient children; and

14 “(ii) other activities that provide such
15 personnel with the skills and knowledge
16 necessary to educate limited English pro-
17 ficient children.

18 “(B) Providing scholarships and fellow-
19 ships to students who agree to teach limited
20 English proficient children once they graduate.

21 “(C) Planning, administration, and inter-
22 agency coordination related to the subgrants re-
23 ferred to in paragraph (1).



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1 “(D) Providing technical assistance and
2 other forms of assistance to local educational
3 agencies that—

4 “(i) educate limited English proficient
5 children; and

6 “(ii) are not receiving a subgrant
7 from a State under this subpart.

8 “(E) Providing bonuses to subgrantees
9 whose performance has been exceptional in
10 terms of the speed with which children enrolled
11 in the subgrantee’s programs and activities at-
12 tain English language proficiency and meet
13 challenging State academic content standards
14 and challenging State student academic
15 achievement standards.

16 “(3) LIMITATION ON ADMINISTRATIVE COSTS.—
17 In carrying out paragraph (2), a State that receives
18 a grant under subsection (a) may expend not more
19 than 2 percent of its allotment under subsection (c)
20 for the purposes described in paragraph (2)(C).

21 “(c) DETERMINATION OF ALLOTMENT AMOUNTS.—

22 “(1) RESERVATIONS.—From the amount appro-
23 priated under section 3110 to carry out this subpart
24 for each fiscal year, the Secretary shall reserve—



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1 “(A) .5 percent of such amount for pay-
2 ments to entities that are considered to be local
3 educational agencies under section 3106(a) for
4 activities approved by the Secretary;

5 “(B) .5 percent of such amount for pay-
6 ments to outlying areas, to be allotted in ac-
7 cordance with their respective needs for assist-
8 ance under this subpart, as determined by the
9 Secretary, for activities, approved by the Sec-
10 retary, consistent with this part; and

11 “(C) $\frac{1}{2}$ of 1 percent of such amount for
12 evaluation of the programs under this part and
13 for dissemination of best practices.

14 “(2) CONTINUATION AWARDS.—Before making
15 awards to States under paragraph (3) for any fiscal
16 year, the Secretary shall make continuation awards
17 to recipients of grants under subpart 1 of part A of
18 the Bilingual Education Act, as that Act was in ef-
19 fect on the day before the effective date of the No
20 Child Left Behind Act of 2001, in order to allow
21 such recipients to continue to receive funds in ac-
22 cordance with the terms of their grant until the date
23 on which the grant period otherwise would have ter-
24 minated if the No Child Left Behind Act of 2001
25 had not been enacted.



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1 “(3) STATE ALLOTMENTS.—

2 “(A) IN GENERAL.—From the amount ap-
3 propriated under section 3110 to carry out this
4 subpart for each fiscal year that remains after
5 carrying out paragraphs (1) and (2), the Sec-
6 retary shall allot to each of the 50 States, the
7 District of Columbia, and the Commonwealth of
8 Puerto Rico an amount which bears the same
9 ratio to such amount as the total number of
10 children and youth who are limited English pro-
11 ficient and who reside in such State bears to
12 the total number of such children and youth re-
13 siding in all such States that, in accordance
14 with section 3107, submit to the Secretary an
15 application for the year.

16 “(B) REALLOTMENT.—

17 “(i) IN GENERAL.—If any State de-
18 scribed in subparagraph (A) does not sub-
19 mit to the Secretary an application for a
20 fiscal year, or submits an application (or
21 any modification to an application) that
22 the Secretary, after reasonable notice and
23 opportunity for a hearing, determines does
24 not satisfy the requirements of this sub-
25 part, the Secretary—



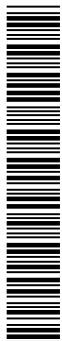
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1 “(I) shall endeavor to make the
2 State’s allotment available on a com-
3 petitive basis to specially qualified
4 agencies within the State that satisfy
5 the requirements applicable to eligible
6 entities under section 3108 and any
7 additional requirements that may be
8 imposed by the Secretary; and

9 “(II) shall reallocate any portion of
10 such allotment remaining after the
11 application of subclause (I) to the re-
12 maining States in accordance with
13 subparagraph (A).

14 “(ii) REQUIREMENTS ON SPECIALLY
15 QUALIFIED AGENCIES.—If a specially
16 qualified agency receives funds under this
17 subparagraph, the requirements of sub-
18 section (b) shall not apply to the agency.
19 In lieu of those requirements, the specially
20 qualified agency shall expend the funds for
21 the authorized activities described in sec-
22 tion 3108(b) and otherwise shall satisfy
23 the requirements of section 3108.

24 “(C) SPECIAL RULE FOR PUERTO RICO.—
25 The total amount allotted to Puerto Rico for



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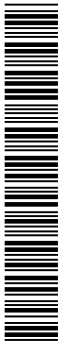
1 any fiscal year under subparagraph (A) shall
2 not exceed .5 percent of the total amount allot-
3 ted to all States for that fiscal year.

4 “(4) USE OF DATA FOR DETERMINATIONS.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), for the purpose of deter-
7 mining the number of children and youth who
8 are limited English proficient and reside in a
9 State and in all States for each fiscal year, the
10 Secretary shall use the most recent satisfactory
11 data available from the Bureau of the Census
12 and the American Community Survey available
13 from the Department of Commerce.

14 “(B) EXCEPTION.—If the data described
15 in subparagraph (A) are more than 4 years old
16 or unavailable, the Secretary shall use the most
17 recent satisfactory data provided by the States,
18 such as enrollment data and data that reflect
19 the number of students taking the English pro-
20 ficiency assessments in the States.

21 “(5) NO REDUCTION PERMITTED BASED ON
22 TEACHING METHOD.—The Secretary may not reduce
23 a State’s allotment based on the State’s selection of
24 any method of instruction as its preferred method of



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1 teaching the English language to children who are
2 limited English proficient.

3 **“SEC. 3106. NATIVE AMERICAN AND ALASKA NATIVE CHIL-**
4 **DREN IN SCHOOL.**

5 “(a) ELIGIBLE ENTITIES.—For the purpose of car-
6 rying out programs under this part for individuals served
7 by elementary, secondary, and postsecondary schools oper-
8 ated predominately for Native American or Alaska Native
9 children, the following shall be considered to be a local
10 educational agency:

11 “(1) An Indian tribe.

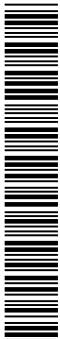
12 “(2) A tribally sanctioned educational author-
13 ity.

14 “(3) A Native Hawaiian or Native American
15 Pacific Islander native language educational organi-
16 zation.

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

20 “(5) An elementary or secondary school oper-
21 ated under a contract with or grant from the Bu-
22 reau of Indian Affairs, in consortium with another
23 such school or a tribal or community organization.

24 “(6) An elementary or secondary school oper-
25 ated by the Bureau of Indian Affairs and an institu-



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1 tion of higher education, in consortium with an ele-
2 mentary or secondary school operated under a con-
3 tract with or grant from the Bureau of Indian Af-
4 fairs or a tribal or community organization.

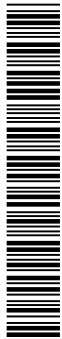
5 “(b) SUBMISSION OF APPLICATIONS FOR ASSIST-
6 ANCE.—Notwithstanding any other provision of this part,
7 an entity that is considered to be a local educational agen-
8 cy under subsection (a), and that desires to submit an ap-
9 plication for Federal financial assistance under this sub-
10 part, shall submit the application to the Secretary. In all
11 other respects, such an entity shall be eligible for a
12 subgrant under this subpart on the same basis as any
13 other local educational agency.

14 **“SEC. 3107. APPLICATIONS BY STATES.**

15 “For purposes of section 3105, an application sub-
16 mitted by a State for a grant under such section for a
17 fiscal year is in accordance with this section if the
18 application—

19 “(1) describes the process that the State will
20 use in making competitive subgrants to eligible enti-
21 ties under section 3109(c);

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



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1 “(3) contains an agreement that competitive
2 subgrants to eligible entities under section 3109(c)
3 shall be of sufficient size and scope to allow such en-
4 tities to carry out high quality education programs
5 for limited English proficient children;

6 “(4) contains an agreement that the State will
7 coordinate its programs and activities under this
8 subpart with its other programs and activities under
9 this Act and other Acts, as appropriate;

10 “(5) contains an agreement that the State—

11 “(A) shall monitor the progress of students
12 enrolled in programs and activities receiving as-
13 sistance under this subpart in attaining English
14 proficiency and in attaining challenging State
15 academic content standards and challenging
16 State student academic achievement standards;

17 “(B) shall establish standards and bench-
18 marks for English language development that
19 are aligned with State academic content and
20 achievement standards; and

21 “(C) will ensure that eligible entities com-
22 ply with section 3104 to annually test children
23 in English who have been in the United States
24 for 3 or more consecutive years;



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1 “(6) contains an assurance that the State will
2 develop high-quality annual assessments to measure
3 English language proficiency and require eligible en-
4 tities receiving a subgrant under this subpart annu-
5 ally to assess the English proficiency of all children
6 with limited English proficiency participating in a
7 program funded under this subpart;

8 “(7) contains an agreement that the State will
9 develop annual performance objectives for raising
10 the level of English proficiency of each limited
11 English proficient student, and that these objectives
12 shall include percentage increases in performance on
13 annual assessments in reading, writing, speaking,
14 and listening comprehension as compared to the pre-
15 ceding school year; and

16 “(8) contains an agreement that the State will
17 require eligible entities receiving a subgrant under
18 this subpart to use the subgrant in ways that will
19 build such recipient’s capacity to continue to offer
20 high-quality English language instruction and pro-
21 grams which assist limited English proficient chil-
22 dren in attaining challenging State academic content
23 standards and challenging State student academic
24 achievement standards once assistance under this
25 subpart is no longer available.



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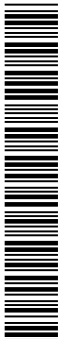
1 **“SEC. 3108. SUBGRANTS TO ELIGIBLE ENTITIES.**

2 “(a) PURPOSES OF SUBGRANTS.—A State may make
3 a subgrant to an eligible entity from funds received by
4 the State under this subpart only if the entity agrees to
5 expend the funds to improve the education of limited
6 English proficient children and their families, through the
7 acquisition of English and the attainment of challenging
8 State academic content standards and challenging State
9 student academic achievement standards, using ap-
10 proaches and methodologies based on scientifically based
11 reading research and sound research and theory on teach-
12 ing limited English proficient children, by—

13 “(1) developing and implementing new English
14 language and academic content instructional pro-
15 grams for children who are limited English pro-
16 ficient, including programs of early childhood edu-
17 cation and kindergarten through 12th grade edu-
18 cation;

19 “(2) carrying out highly focused, innovative, lo-
20 cally designed projects to expand or enhance existing
21 English language and academic content instruction
22 programs for limited English proficient children;

23 “(3) implementing, within an individual school,
24 schoolwide programs for restructuring, reforming,
25 and upgrading all relevant programs and operations
26 relating to English language and academic content



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1 instruction for limited English proficient students;
2 or

3 “(4) implementing, within the entire jurisdic-
4 tion of a local educational agency, agencywide pro-
5 grams for restructuring, reforming, and upgrading
6 all relevant programs and operations relating to
7 English language and academic content instruction
8 for limited English proficient students.

9 “(b) AUTHORIZED SUBGRANTEE ACTIVITIES.—

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

21 “(A) Upgrading program objectives and ef-
22 fective instructional strategies.

23 “(B) Improving the instruction program
24 for limited English proficient students by iden-
25 tifying, acquiring, and upgrading curricula, in-



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1 instructional materials, educational software, and
2 assessment procedures.

3 “(C) Providing—

4 “(i) tutorials and academic or voca-
5 tional education for limited English pro-
6 ficient children; and

7 “(ii) intensified instruction.

8 “(D) Developing and implementing elemen-
9 tary or secondary school English language in-
10 structional programs that are coordinated with
11 other relevant programs and services.

12 “(E) Providing professional development to
13 classroom teachers, principals, administrators,
14 and other school or community-based organiza-
15 tional personnel to improve the instruction and
16 assessment of children who are limited English
17 proficient children.

18 “(F) Improving the English language pro-
19 ficiency and academic performance of limited
20 English proficient children.

21 “(G) Improving the instruction of limited
22 English proficient children by providing for the
23 acquisition or development of education tech-
24 nology or instructional materials, access to and
25 participation in electronic networks for mate-



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1 rials, training and communications, and incor-
2 poration of such resources in curricula and pro-
3 grams, such as those funded under this sub-
4 part.

5 “(H) Developing tutoring programs for
6 limited English proficient children that provide
7 early intervention and intensive instruction in
8 order to improve academic achievement, to in-
9 crease graduation rates among limited English
10 proficient children, and to prepare students for
11 transition as soon as possible into classrooms
12 where instruction is not tailored for limited
13 English proficient children.

14 “(I) Providing family literacy services and
15 parent outreach and training activities to lim-
16 ited English proficient children and their fami-
17 lies to improve their English language skills and
18 assist parents in helping their children to im-
19 prove their academic performance.

20 “(J) Other activities that are consistent
21 with the purposes of this part.

22 “(2) MOVING CHILDREN OUT OF SPECIALIZED
23 CLASSROOMS.—Any program or activity undertaken
24 by an eligible entity using a subgrant from a State
25 under this subpart shall be designed to assist stu-



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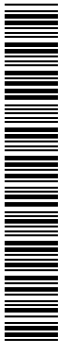
1 dents enrolled in the program or activity to attain
2 English proficiency and meet challenging State aca-
3 demic content standards and challenging State stu-
4 dent academic achievement standards as soon as
5 possible, but not later than after 3 consecutive years
6 of attendance in United States schools (excluding
7 schools in Puerto Rico), and to move into a class-
8 room where instruction is not tailored for limited
9 English proficient children.

10 “(c) SELECTION OF METHOD OF INSTRUCTION.—To
11 receive a subgrant from a State under this subpart, an
12 eligible entity shall select one or more methods or forms
13 of instruction to be used in the programs and activities
14 undertaken by the entity to assist limited English pro-
15 ficient children to attain English proficiency and meet
16 challenging State academic content standards and chal-
17 lenging State student academic achievement standards.
18 Such selection shall be consistent with sections 3134 and
19 3135.

20 “(d) DURATION OF SUBGRANTS.—The duration of a
21 competitive subgrant made by a State under section
22 3109(c) shall be determined by the State in its discretion.

23 “(e) APPLICATIONS BY ELIGIBLE ENTITIES.—

24 “(1) IN GENERAL.—To receive a subgrant from
25 a State under this subpart, an eligible entity shall



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1 submit an application to the State at such time, in
2 such form, and containing such information as the
3 State may require.

4 “(2) REQUIRED DOCUMENTATION.—The appli-
5 cation shall—

6 “(A) describe the programs and activities
7 proposed to be developed, implemented, and ad-
8 ministered under the subgrant;

9 “(B) describe how the eligible entity will
10 use the subgrant funds to satisfy the require-
11 ment in subsection (b)(2); and

12 “(C) describe how the eligible entity, using
13 the disaggregated results of the student assess-
14 ments required under section 1111(b)(4) and
15 other measures available, will annually review
16 the progress of elementary and secondary
17 schools within its jurisdiction, or served by it,
18 to determine if such schools are making the
19 adequate yearly progress necessary to ensure
20 that limited English proficient students attend-
21 ing the schools will meet the State’s proficient
22 level of performance on the State assessment
23 described in section 1111(b)(4), and will hold
24 such schools accountable for making such
25 progress.



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1 “(3) REQUIREMENTS FOR APPROVAL.—The ap-
2 plication shall contain assurances that—

3 “(A) the eligible entity will use qualified
4 personnel who have appropriate training and
5 professional credentials in teaching English to
6 children who are limited English proficient, and
7 who are proficient in English, including written
8 and oral communication skills;

9 “(B) if the eligible entity includes one or
10 more local educational agencies, each such
11 agency is complying with section 3103(b) prior
12 to, and throughout, each school year;

13 “(C) the eligible entity annually will assess
14 the English proficiency of all children with lim-
15 ited English proficiency participating in pro-
16 grams funded under this subpart;

17 “(D) the eligible entity has based its pro-
18 posal on scientifically based reading research
19 and sound research and theory on teaching lim-
20 ited English proficient children;

21 “(E) the eligible entity has described in the
22 application how students enrolled in the pro-
23 grams and activities proposed in the application
24 will be proficient in English after 3 academic
25 years of enrollment;



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1 “(1) RESERVATION.—75 percent of the amount
2 expended by a State for subgrants under this sub-
3 part shall be reserved for subgrants to eligible enti-
4 ties described in subsection (a) in which, during the
5 fiscal year for which the subgrant is to be made, the
6 number of limited English proficient children and
7 youth who are enrolled in public and nonpublic ele-
8 mentary or secondary schools located in geographic
9 areas under the jurisdiction of, or served by, such
10 entities is equal to at least 500 students, or 3 per-
11 cent of the total number of children and youth en-
12 rolled in such schools during such fiscal year, which-
13 ever is less.

14 “(2) ALLOTMENT.—From the amount reserved
15 under paragraph (1), the State shall allot to each el-
16 igible entity described in such paragraph a percent-
17 age based on the ratio of—

18 “(A) the number of limited English pro-
19 ficient children and youth who are enrolled in
20 public and nonpublic elementary or secondary
21 schools located in geographic areas under the
22 jurisdiction of, or served by, such entity during
23 the fiscal year for which the allotment is to be
24 made; to



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1 “(B) the number of such children and
2 youth in all such eligible entities.

3 “(3) REALLOTMENT.—Whenever a State deter-
4 mines that an allotment made to an eligible entity
5 under this subsection for a fiscal year will not be
6 used by the entity for the purpose for which it was
7 made, the State shall, in accordance with such rules
8 as it deems appropriate, reallocate such amount, con-
9 sistent with paragraph (2), to other eligible entities
10 in the State for carrying out that purpose.

11 “(c) COMPETITIVE SUBGRANTS.—25 percent of the
12 amount expended by a State for subgrants under this sub-
13 part shall be reserved for competitive subgrants to eligible
14 entities described in subsection (a) that the State
15 determines—

16 “(1) have experienced significant increases, as
17 compared to the previous 2 years, in the percentage
18 or number of children with limited English pro-
19 ficiency that have enrolled in public and nonpublic
20 elementary or secondary schools in the geographic
21 areas under the jurisdiction of, or served by, such
22 entities during the fiscal year for which the subgrant
23 is to be made; or



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1 “(2) do not satisfy the requirements of sub-
2 section (b)(1) but have significant needs for pro-
3 grams under this subpart.

4 **“SEC. 3110. AUTHORIZATION OF APPROPRIATIONS.**

5 “For the purpose of carrying out this subpart, there
6 are authorized to be appropriated \$460,000,000 for fiscal
7 year 2002 and such sums as may be necessary for each
8 of the 4 succeeding fiscal years.

9 **“Subpart 2—Administration**

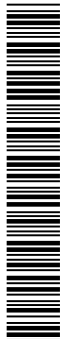
10 **“SEC. 3121. EVALUATIONS.**

11 “(a) IN GENERAL.—Each eligible entity that receives
12 a subgrant from a State under subpart 1 shall provide
13 the State, at the conclusion of every second fiscal year
14 during which the subgrant is received, with an evaluation,
15 in a form prescribed by the State, of—

16 “(1) the programs and activities conducted by
17 the entity with funds received under subpart 1 dur-
18 ing the 2 immediately preceding fiscal years;

19 “(2) the progress made by students in learning
20 the English language and meeting challenging State
21 academic content standards and challenging State
22 student academic achievement standards;

23 “(3) the number and percentage of students in
24 the programs and activities attaining English lan-
25 guage proficiency by the end of each school year, as



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1 determined by a valid and reliable assessment of
2 English proficiency; and

3 “(4) the progress made by students in meeting
4 challenging State academic content standards and
5 challenging State student academic achievement
6 standards for each of the 2 years after such students
7 are no longer receiving services under this part.

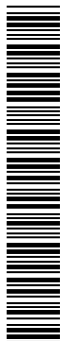
8 “(b) USE OF EVALUATION.—An evaluation provided
9 by an eligible entity under subsection (a) shall be used
10 by the entity and the State—

11 “(1) for improvement of programs and activi-
12 ties;

13 “(2) to determine the effectiveness of programs
14 and activities in assisting children who are limited
15 English proficient to attain English proficiency (as
16 measured consistent with subsection (d)) and meet
17 challenging State academic content standards and
18 challenging State student academic achievement
19 standards; and

20 “(3) in determining whether or not to continue
21 funding for specific programs or projects.

22 “(c) EVALUATION COMPONENTS.—An evaluation
23 provided by an eligible entity under subsection (a) shall
24 include—



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1 “(1) an evaluation of whether students enrolling
2 in a program or activity conducted by the entity
3 with funds received under subpart 1—

4 “(A) have attained English proficiency and
5 are meeting challenging State academic content
6 academic and challenging State student aca-
7 demic achievement standards; and

8 “(B) have achieved a working knowledge of
9 the English language that is sufficient to per-
10 mit them to perform, in English, in a classroom
11 that is not tailored to limited English proficient
12 children; and

13 “(2) such other information as the State may
14 require.

15 “(d) EVALUATION MEASURES.—In prescribing the
16 form of an evaluation provided by an entity under sub-
17 section (a), a State shall approve evaluation measures, as
18 applicable, for use under subsection (c) that are designed
19 to assess—

20 “(1) oral language proficiency in kindergarten;

21 “(2) oral language proficiency, including speak-
22 ing and listening skills, in first grade;

23 “(3) both oral language proficiency, including
24 speaking and listening skills, and reading and writ-
25 ing proficiency in grades 2 and higher; and



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1 “(4) attainment of challenging State student
2 academic achievement standards.

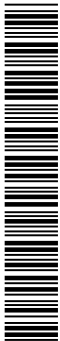
3 **“SEC. 3122. REPORTING REQUIREMENTS.**

4 “(a) STATES.—Based upon the evaluations provided
5 to a State under section 3121, each State that receives
6 a grant under subpart 1 shall prepare and submit every
7 second year to the Secretary a report on programs and
8 activities undertaken by the State under such subpart and
9 the effectiveness of such programs and activities in im-
10 proving the education provided to children who are limited
11 English proficient.

12 “(b) SECRETARY.—Every second year, the Secretary
13 shall prepare and submit to the Committee on Education
14 and the Workforce of the House of Representatives and
15 the Committee on Health, Education, Labor, and Pen-
16 sions of the Senate a report on—

17 “(1) programs and activities undertaken by
18 States under subpart 1 and the effectiveness of such
19 programs and activities in improving the education
20 provided to children who are limited English pro-
21 ficient;

22 “(2) the types of instructional programs used
23 under subpart 1 to teach limited English proficient
24 children;



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1 “(3) the number of programs or projects, if
2 any, that were terminated because they were not
3 able to reach program goals;

4 “(4) the number of limited English proficient
5 children served under subpart 1 who were
6 transitioned out of special instructional programs
7 funded under such subpart into classrooms where in-
8 struction is not tailored for limited English pro-
9 ficient children; and

10 “(5) other information gathered from the re-
11 ports submitted under subsection (a).

12 **“SEC. 3123. COORDINATION WITH RELATED PROGRAMS.**

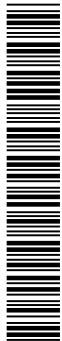
13 “In order to maximize Federal efforts aimed at serv-
14 ing the educational needs of children and youth of limited
15 English proficiency, the Secretary shall coordinate and en-
16 sure close cooperation with other programs serving lan-
17 guage-minority and limited English proficient students
18 that are administered by the Department and other agen-
19 cies.

20 **“Subpart 3—General Provisions**

21 **“SEC. 3131. DEFINITIONS.**

22 “For purposes of this part:

23 “(1) CHILDREN AND YOUTH.—The term ‘chil-
24 dren and youth’ means individuals aged 3 through
25 21.



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1 “(2) COMMUNITY-BASED ORGANIZATION.—The
2 term ‘community-based organization’ means a pri-
3 vate nonprofit organization of demonstrated effec-
4 tiveness or Indian tribe or tribally sanctioned edu-
5 cational authority which is representative of a com-
6 munity or significant segments of a community and
7 which provides educational or related services to in-
8 dividuals in the community. Such term includes a
9 Native Hawaiian or Native American Pacific Is-
10 lander native language educational organization.

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

13 “(A) one or more local educational agen-
14 cies; or

15 “(B) one or more local educational agen-
16 cies in collaboration with an institution of high-
17 er education, community-based organization, or
18 State educational agency.

19 “(4) NATIVE HAWAIIAN OR NATIVE AMERICAN
20 PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL
21 ORGANIZATION.—The term ‘Native Hawaiian or Na-
22 tive American Pacific Islander native language edu-
23 cational organization’ means a nonprofit organiza-
24 tion with a majority of its governing board and em-
25 ployees consisting of fluent speakers of the tradi-



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1 tional Native American languages used in their edu-
2 cational programs and with not less than 5 years
3 successful experience in providing educational serv-
4 ices in traditional Native American languages.

5 “(5) NATIVE LANGUAGE.—The term ‘native
6 language’, when used with reference to an individual
7 who is limited English proficient, means the lan-
8 guage normally used by such individual.

9 “(6) SPECIALLY QUALIFIED AGENCY.—The
10 term ‘specially qualified agency’, when used with re-
11 spect to a fiscal year, means an eligible entity lo-
12 cated in a State that, for that year—

13 “(A) does not submit to the Secretary an
14 application under sections 3105(a) and 3107;
15 or

16 “(B) submits an application (or any modi-
17 fication to an application) that the Secretary,
18 after reasonable notice and opportunity for a
19 hearing, determines does not satisfy the re-
20 quirements of subpart 1.

21 “(7) TRIBALLY SANCTIONED EDUCATIONAL AU-
22 THORITY.—The term ‘tribally sanctioned educational
23 authority’ means—

24 “(A) any department or division of edu-
25 cation operating within the administrative



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1 structure of the duly constituted governing body
2 of an Indian tribe; and

3 “(B) any nonprofit institution or organiza-
4 tion that is—

5 “(i) chartered by the governing body
6 of an Indian tribe to operate a school de-
7 scribed in section 3106(a) or otherwise to
8 oversee the delivery of educational services
9 to members of the tribe; and

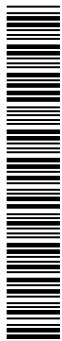
10 “(ii) approved by the Secretary for
11 the purpose of carrying out programs
12 under subpart 1 for individuals served by
13 a school described in section 3106(a).

14 **“SEC. 3132. RULES OF CONSTRUCTION.**

15 “Nothing in subpart 1 shall be construed—

16 “(1) to prohibit a local educational agency from
17 serving limited English proficient children and youth
18 simultaneously with students with similar edu-
19 cational needs, in the same educational settings
20 where appropriate;

21 “(2) to require a State or a local educational
22 agency to establish, continue, or eliminate any par-
23 ticular type of instructional program for limited
24 English proficient children; or



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1 “(3) to limit the preservation or use of Native
2 American languages as defined in the Native Amer-
3 ican Languages Act of 1990.

4 **“SEC. 3133. LIMITATION ON FEDERAL REGULATIONS.**

5 “The Secretary shall issue regulations under this part
6 only to the extent that such regulations are necessary to
7 ensure compliance with the specific requirements of this
8 part.

9 **“SEC. 3134. LEGAL AUTHORITY UNDER STATE LAW.**

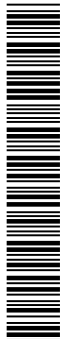
10 “Nothing in this part shall be construed to negate
11 or supersede State law, or the legal authority under State
12 law of any State agency, State entity, or State public offi-
13 cial, over programs that are under the jurisdiction of the
14 State agency, entity, or official.

15 **“SEC. 3135. CIVIL RIGHTS.**

16 “Nothing in this part shall be construed in a manner
17 inconsistent with any Federal law guaranteeing a civil
18 right.

19 **“SEC. 3136. PROGRAMS FOR NATIVE AMERICANS AND**
20 **PUERTO RICO.**

21 “Programs authorized under subpart 1 that serve
22 Native American children, Native Pacific Island children,
23 and children in the Commonwealth of Puerto Rico, not-
24 withstanding any other provision of subpart 1, may in-
25 clude programs of instruction, teacher training, cur-



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1 riculum development, evaluation, and testing designed for
 2 Native American children learning and studying Native
 3 American languages and children of limited Spanish pro-
 4 ficiency, except that a primary outcome of programs serv-
 5 ing such children shall be increased English proficiency
 6 among such children.”.

7 **SEC. 302. CONFORMING AMENDMENT TO DEPARTMENT OF**
 8 **EDUCATION ORGANIZATION ACT.**

9 (a) IN GENERAL.—The Department of Education
 10 Organization Act is amended by striking “Office of Bilin-
 11 gual Education and Minority Languages Affairs” each
 12 place such term appears in the text and inserting “Office
 13 of Educational Services for Limited English Proficient
 14 Children”.

15 (b) CLERICAL AMENDMENTS.—

16 (1) SECTION 209.—The section heading for sec-
 17 tion 209 of the Department of Education Organiza-
 18 tion Act is amended to read as follows:

19 “OFFICE OF EDUCATIONAL SERVICES FOR LIMITED
 20 ENGLISH PROFICIENT CHILDREN”.

21 (2) SECTION 216.—The section heading for sec-
 22 tion 216 of the Department of Education Organiza-
 23 tion Act is amended to read as follows:

24 **“SEC. 216. OFFICE OF EDUCATIONAL SERVICES FOR LIM-**
 25 **ITED ENGLISH PROFICIENT CHILDREN.”.**

26 (3) TABLE OF CONTENTS.—



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

“Sec. 209. Office of Educational Services for Limited English Proficient Children.”.

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

“Sec. 216. Office of Educational Services for Limited English Proficient Children.”.

