

## **Public Law 103-382**

*The Improving America's Schools Act of 1994*

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### **"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 understand 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 extracurricular 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 Secretary 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 consortia 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 inservice 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 instructional 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).

**"PART B--FOREIGN LANGUAGE ASSISTANCE PROGRAM**

**"SEC. 7201. SHORT TITLE.**

"This part may be cited as the `Foreign Language Assistance Act of 1994'.

**"SEC. 7202. FINDINGS.**

"The Congress finds as follows:

"(1) Foreign language proficiency is crucial to our Nation's economic competitiveness and national security. Significant improvement in the quantity

and quality of foreign language instruction offered in our Nation's elementary and secondary schools is necessary.

"(2) All Americans need a global perspective. To understand the world around us, we must acquaint ourselves with the languages, cultures, and history of other nations.

"(3) Proficiency in two or more languages should be promoted for all American students. Multilingualism enhances cognitive and social growth, competitiveness in the global marketplace, national security, and understanding of diverse people and cultures.

"(4) The United States lags behind other developed countries in offering foreign language study to elementary and secondary school students.

"(5) Four out of five new jobs in the United States are created from foreign trade.

"(6) The optimum time to begin learning a second language is in elementary school, when children have the ability to learn and excel in several foreign language acquisition skills, including pronunciation, and when children are most open to appreciating and valuing a culture other than their own.

"(7) Foreign language study can increase childrens' capacity for critical and creative thinking skills and children who study a second language show greater cognitive development in areas such as mental flexibility, creativity, tolerance, and higher order thinking skills.

"(8) Children who have studied a foreign language in elementary school achieve expected gains and score higher on standardized tests of reading, language arts, and mathematics than children who have not studied a foreign language.

#### "SEC. 7203. PROGRAM AUTHORIZED.

##### "(a) Program Authority.--

"(1) In general.--The Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary and secondary school students.

"(2) Duration.--Each grant under paragraph (1) shall be awarded for a period of three years.

##### "(b) Requirements.--

"(1) Grants to state educational agencies.--In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

"(2) Grants to local educational agencies.--In awarding a grant under subsection (a) to a local educational agency, the Secretary shall support programs that--

"(A) show the promise of being continued beyond the grant period;

"(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

"(C) may include a professional development component.

"(c) Federal Share.--

"(1) In general.--The Federal share for each fiscal year shall be 50 percent.

"(2) Waiver.--The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this part.

"(3) Special rule.--Not less than three-fourths of the funds appropriated under section 7206 shall be used for the expansion of foreign language learning in the elementary grades.

"(4) Reservation.--The Secretary may reserve not more than 5 percent of funds appropriated under section 7206 to evaluate the efficacy of programs under this part.

#### "SEC. 7204. APPLICATIONS.

"(a) In General.--Any State educational agency or local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

"(b) Special Consideration.--The Secretary shall give special consideration to applications describing programs that--

"(1) include intensive summer foreign language programs for professional development;

"(2) link non-native English speakers in the community with the schools in order to promote two-way language learning; or

"(3) promote the sequential study of a foreign language for students, beginning in elementary schools.

#### "SEC. 7205. ELEMENTARY SCHOOL FOREIGN LANGUAGE INCENTIVE PROGRAM.

"(a) Incentive Payments.--From amounts appropriated under section 7206 the Secretary shall make an incentive payment for each fiscal year to each public elementary school that provides to students attending such school a program designed to lead to communicative competency in a foreign language.

"(b) Amount.--The Secretary shall determine the amount of the incentive payment under subsection (a) for each public elementary school for each fiscal year on the basis of the number of students participating in a program described in such subsection at such school for such year compared to the total number of such students at all such schools in the United States for such year.

"(c) Requirement.--The Secretary shall consider a program to be designed to lead to communicative competency in a foreign language if such program is comparable to

a program that provides not less than 45 minutes of instruction in a foreign language not less than four days per week throughout an academic year.

**"SEC. 7206. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated \$35,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part, of which not more than \$20,000,000 may be used in each fiscal year to carry out section 7205.

**"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 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; 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.

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