

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 3892  
OFFERED BY MR. RIGGS**

Strike all after the enacting clause and insert the following:

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

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

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

6 **“SEC. 7101. SHORT TITLE.**

7 “This part may be cited as the ‘English Language  
8 Fluency Act’.

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

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

11 “(1) English is the common language of the  
12 United States and it is imperative that every citizen  
13 and other person residing in the United States have  
14 a command of the English language in order to de-  
15 velop to their full potential.

16 “(2) States and local school districts need as-  
17 sistance in developing the capacity to provide pro-  
18 grams of instruction that offer and provide an equal  
19 educational opportunity to immigrant children and

1 youth and children and youth who need special as-  
2 sistance because English is not their dominant lan-  
3 guage.

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

5 “(1) to help ensure that children and youth who  
6 are English language learners master English and  
7 develop high levels of academic attainment in Eng-  
8 lish; and

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

14 **“SEC. 7103. PARENTAL NOTIFICATION AND CONSENT TO**  
15 **PARTICIPATE.**

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

20 “(1) the reasons for the identification of the  
21 child as being in need of English language instruc-  
22 tion;

23 “(2) the child’s level of English proficiency, how  
24 such level was assessed, and the status of the child’s  
25 academic achievement; and

1           “(3) how the English language instruction pro-  
2           gram will specifically help the child acquire English  
3           and meet age-appropriate standards for grade-pro-  
4           motion and graduation.

5           “(b) PARENTAL CONSENT.—

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

10           “(A) shall sign a form consenting to their  
11           child’s placement in such a program prior to  
12           such time as their child is enrolled in the pro-  
13           gram;

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

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

19           “(2) EFFECT OF LAU DECISION.—A local edu-  
20           cational agency shall not be relieved of any of its ob-  
21           ligations under the holding in the Supreme Court  
22           case of *Lau v. Nichols*, 414 U.S. 563 (1974), be-  
23           cause any parent chooses not to enroll their child in  
24           an English language instruction program using their  
25           native language in instruction.

1       “(c) RECEIPT OF INFORMATION.—A parent or the  
2 parents of a child identified for participation in an English  
3 language instruction program for English language learn-  
4 ers assisted under this Act shall receive, in a manner and  
5 form understandable to the parent or parents, the infor-  
6 mation required by this section. At a minimum, the parent  
7 or parents shall receive—

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

11               “(2) if a parent of a participating child so de-  
12 sires, notice of opportunities for regular meetings for  
13 the purpose of formulating and responding to rec-  
14 ommendations from such parents.

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

19               **“Subpart 1—Grants for English Language**  
20                               **Acquisition**

21               **“CHAPTER 1—GENERAL PROVISIONS**

22               **“SEC. 7111. FUNDING.**

23               “(a) AUTHORIZATION OF APPROPRIATIONS.—For the  
24 purpose of carrying out this subpart, there are authorized

1 to be appropriated such sums as may be necessary for fis-  
2 cal year 1999 and each of the 4 succeeding fiscal years.

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

10 **“SEC. 7112. NATIVE AMERICAN AND ALASKA NATIVE CHIL-**  
11 **DREN IN SCHOOL.**

12 “(a) ELIGIBLE ENTITIES.—For the purpose of carry-  
13 ing out programs under this subpart for individuals served  
14 by elementary, secondary, and postsecondary schools oper-  
15 ated predominately for Native American or Alaska Native  
16 children and youth, the following shall be considered to  
17 be a local educational agency:

18 “(1) An Indian tribe.

19 “(2) A tribally sanctioned educational author-  
20 ity.

21 “(3) A Native Hawaiian or Native American  
22 Pacific Islander native language educational organi-  
23 zation.

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

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

8           “(6) An elementary or secondary school oper-  
9           ated by the Bureau of Indian Affairs and an institu-  
10          tion of higher education, in consortium with an ele-  
11          mentary or secondary school operated under a con-  
12          tract or grant with the Bureau of Indian Affairs or  
13          a tribal or community organization.

14          “(b) SUBMISSION OF APPLICATIONS FOR ASSIST-  
15          ANCE.—Notwithstanding any other provision of this sub-  
16          part, an entity that is considered to be a local educational  
17          agency under subsection (a), and that desires to submit  
18          an application for Federal financial assistance under this  
19          subpart, shall submit the application to the Secretary. In  
20          all other respects, such an entity shall be eligible for a  
21          grant under this subpart on the same basis as any other  
22          local educational agency.

1           **“CHAPTER 2—GRANTS FOR ENGLISH**  
2                           **LANGUAGE ACQUISITION**

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

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

10          “(b) PURPOSES OF GRANTS.—

11               “(1) REQUIRED EXPENDITURES.—The Sec-  
12 retary may make a grant under subsection (a) only  
13 if the State involved agrees that the State will ex-  
14 pend at least 90 percent of the amount of the funds  
15 provided under the grant for the purpose of making  
16 subgrants to eligible entities to provide assistance to  
17 children and youth who are English language learn-  
18 ers and immigrant children and youth in accordance  
19 with section 7123.

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

1           “(A) Professional development and activi-  
2           ties that assist personnel in meeting State and  
3           local certification requirements for English lan-  
4           guage instruction.

5           “(B) Planning, administration, and inter-  
6           agency coordination related to the subgrants re-  
7           ferred to in paragraph (1).

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

11                   “(i) educate children and youth who  
12                   are English language learners and immi-  
13                   grant children and youth; and

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

16          “(D) Providing bonuses to subgrantees  
17          whose performance has been exceptional in  
18          terms of the speed with which children and  
19          youth enrolled in the subgrantee’s programs  
20          and activities attain English language pro-  
21          ficiency.

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

1 under the grant for the purposes described in para-  
2 graph (2)(B).

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

4 “For purposes of section 7121, an application sub-  
5 mitted by a State for a grant under such section for a  
6 fiscal year is in accordance with this section if the applica-  
7 tion—

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

11 “(2) contains an agreement that the State an-  
12 nually will submit to the Secretary a summary re-  
13 port, describing the State’s use of the funds pro-  
14 vided under the grant;

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

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

23 “(ii) addresses a need brought about  
24 through a significant increase, as compared to  
25 the previous 2 years, in the percentage or num-

1           ber of children and youth who are English lan-  
2           guage learners in a school or school district, in-  
3           cluding schools and school districts in areas  
4           with low concentrations of such children and  
5           youth; or

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

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

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

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

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

23                   “(6) contains an agreement that the State will  
24           monitor the progress of students enrolled in pro-  
25           grams and activities receiving assistance under this

1 chapter in attaining English proficiency and with-  
2 draw funding from such programs and activities in  
3 cases where—

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

7 “(B) other students are not mastering the  
8 English language after 2 academic years of en-  
9 rollment.

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

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

15 “(1) Developing and implementing new English  
16 language instructional programs for children and  
17 youth who are English language learners, including  
18 programs of early childhood education and kinder-  
19 garten through 12th grade education.

20 “(2) Carrying out locally designed projects to  
21 expand or enhance existing English language in-  
22 struction programs for children and youth who are  
23 English language learners.

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

4           “(b) AUTHORIZED SUBGRANTEE ACTIVITIES.—

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

13           “(A) Developing and implementing com-  
14 prehensive preschool or elementary or secondary  
15 school English language instructional programs  
16 that are coordinated with other relevant pro-  
17 grams and services.

18           “(B) Providing training to classroom  
19 teachers, administrators, and other school or  
20 community-based organizational personnel to  
21 improve the instruction and assessment of chil-  
22 dren and youth who are English language  
23 learners, immigrant children and youth, or  
24 both.

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

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

11          “(E) Such other activities, related to the  
12          purpose of the subgrant, as the State may ap-  
13          prove.

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

22                 “(A) by the end of the first grade, in the  
23                 case of students enrolling when they are in kin-  
24                 dergarten; or

1           “(B) by the end of their second academic  
2           year of enrollment, in the case of other stu-  
3           dents.

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

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

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

21          “(e) APPLICATIONS BY ELIGIBLE ENTITIES.—

22                  “(1) IN GENERAL.—To receive a subgrant from  
23                  a State under this chapter, an eligible entity shall  
24                  submit an application to the State at such time, in

1 such form, and containing such information as the  
2 State may require.

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

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

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

20 “(B) in designing the programs and activi-  
21 ties proposed in the application, the needs of  
22 children enrolled in any private elementary and  
23 secondary schools have been taken into account  
24 through consultation with appropriate private  
25 school officials;

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

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

9           “(E) the eligible entity has described in the  
10 application how students enrolled in the pro-  
11 grams and activities proposed in the application  
12 will be taught English—

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

16           “(ii) by the end of their second aca-  
17 demic year of enrollment, in the case of  
18 other students.

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

22           “(f) EVALUATION.—

23           “(1) IN GENERAL.—Each eligible entity that re-  
24 ceives a subgrant from a State under this chapter  
25 shall provide the State, at the conclusion of every

1 second fiscal year during which the grant is received,  
2 with an evaluation, in a form prescribed by the  
3 State, of—

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

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

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

13 “(A) for improvement of programs and ac-  
14 tivities;

15 “(B) to determine the effectiveness of pro-  
16 grams and activities in assisting children and  
17 youth who are English language learners to  
18 master the English language; and

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

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

24 “(A) an evaluation of whether students en-  
25 rolling in a program or activity conducted by

1 the entity with funds received under this chap-  
2 ter—

3 “(i) are mastering the English lan-  
4 guage—

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

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

11 “(ii) have achieved a working knowl-  
12 edge of the English language that is suffi-  
13 cient to permit them to perform, in Eng-  
14 lish, regular classroom work; and

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

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

18 “(a) IN GENERAL.—Except as provided in sub-  
19 sections (b) and (c), from the sum available for the pur-  
20 pose of making grants to States under this chapter for  
21 any fiscal year, the Secretary shall allot to each State an  
22 amount which bears the same ratio to such sum as the  
23 total number of children and youth who are English lan-  
24 guage learners and immigrant children and youth and who  
25 reside in the State bears to the total number of such chil-

1 dren and youth residing in all States (excluding the Com-  
2 monwealth of Puerto Rico and the outlying areas) that,  
3 in accordance with section 7122, submit to the Secretary  
4 an application for the year.

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

10 “(c) OUTLYING AREAS.—

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

18 “(2) DETERMINATION OF INDIVIDUAL AREA  
19 AMOUNTS.—From the total amount determined  
20 under paragraph (1), the Secretary shall allot to  
21 each outlying area an amount which bears the same  
22 ratio to such amount as the total number of children  
23 and youth who are English language learners and  
24 immigrant children and youth and who reside in the  
25 outlying area bears to the total number of such chil-

1       dren and youth residing in all outlying areas that,  
2       in accordance with section 7122, submit to the Sec-  
3       retary an application for the year.

4       “(d) USE OF STATE DATA FOR DETERMINATIONS.—  
5 For purposes of subsections (a) and (c), any determination  
6 of the number of children and youth who are English lan-  
7 guage learners and reside in a State shall be made using  
8 the most recent English language learner school enroll-  
9 ment data available to, and reported to the Secretary by,  
10 the State. For purposes of such subsections, any deter-  
11 mination of the number of immigrant children and youth  
12 who reside in a State shall made using the most recent  
13 data available to, and reported to the Secretary by, the  
14 State.

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

21       **“SEC. 7125. CONSTRUCTION.**

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

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

2   **“SEC. 7141. AUTHORITY.**

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

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

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

19   **SEC. 3. ADMINISTRATION.**

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

1                                   **“PART C—ADMINISTRATION**

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

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

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

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

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

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

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

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

15                   **“PART D—GENERAL PROVISIONS**

16 **“SEC. 7401. DEFINITIONS.**

17           “For purposes of this title:

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

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

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

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

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

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

12 “(i) an institution of higher education;

13 “(ii) a community-based organization;

14 “(iii) a local educational agency; or

15 “(iv) a State; or

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

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

24 “(A) aged 3 through 21;

25 “(B) who—

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

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

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

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

14                  “(ii) to participate fully in society.

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

18                  “(A) are aged 3 through 21;

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

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

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

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

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

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

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

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

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

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

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

9                   “(B) Guam.

10                   “(C) American Samoa.

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

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

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

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

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

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

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

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

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

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

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

22 **“SEC. 7404. RELEASE FROM COMPLIANCE AGREEMENTS.**

23          “Notwithstanding section 7403, any compliance  
24 agreement entered into between a State, locality, or local  
25 educational agency and the Department of Health, Edu-

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

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

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

10 “(1) shall publish in the Federal Register a no-  
11 tice of proposed rule making with respect to the en-  
12 forcement guidelines and compliance standards of  
13 the Office of Civil Rights of the Department of Edu-  
14 cation that apply to a program or activity to provide  
15 English language instruction to English language  
16 learners that is undertaken by a State, locality, or  
17 local educational agency;

18 “(2) shall undertake a rule making pursuant to  
19 such notice; and

20 “(3) shall promulgate a final rule pursuant to  
21 such rule making on the record after opportunity for  
22 an agency hearing.

23 “(b) EFFECT OF RULE MAKING ON COMPLIANCE  
24 AGREEMENTS.—The Secretary may not enter into any  
25 compliance agreement after the date of the enactment of

1 this section pursuant to a guideline or standard described  
2 in subsection (a)(1) with an entity described in such sub-  
3 section until the Secretary has promulgated the final rule  
4 described in subsection (a)(3).

5 **“SEC. 7406. REQUIREMENT FOR STATE STANDARDIZED**  
6 **TESTING IN ENGLISH.**

7 “(a) REQUIREMENT.—In the case of a State receiving  
8 a grant under this title that administers a State standard-  
9 ized test to elementary or secondary school children in the  
10 State, the State shall not exempt a child from the require-  
11 ment that the test be administered in English, on the  
12 ground that the child is an English language learner, if  
13 the child—

14 “(1) has resided, throughout the 3-year period  
15 ending on the date the test is administered, in a geo-  
16 graphic area that is under the jurisdiction of only  
17 one local educational agency; and

18 “(2) has received educational services from such  
19 local educational agency throughout such 3-year pe-  
20 riod (excluding any period in which such services are  
21 not provided in the ordinary course).

22 “(b) IN GENERAL.—Notwithstanding any other pro-  
23 vision of this title, if a State fails to fulfill the requirement  
24 of subsection (a), the Secretary shall withhold, in accord-  
25 ance with section 455 of the General Education Provisions

1 Act, all funds otherwise made available to the State under  
2 this title, until the State remedies such failure.”.

3 **SEC. 5. CONFORMING AMENDMENTS.**

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

7 **“TITLE VII—ENGLISH LANGUAGE**  
8 **FLUENCY AND FOREIGN LAN-**  
9 **GUAGE ACQUISITION PRO-**  
10 **GRAMS”.**

11 (b) ELEMENTARY AND SECONDARY EDUCATION  
12 ACT.—The Elementary and Secondary Education Act of  
13 1965 is amended—

14 (1) in section 2209(b)(1)(C)(iii) (20 U.S.C.  
15 6649(b)(1)(C)(iii)), by striking “Bilingual Education  
16 Programs under part A of title VII.” and inserting  
17 “English language education programs under part A  
18 of title VII.”; and

19 (2) in section 14307(b)(1)(E) (20 U.S.C.  
20 8857(b)(1)(E)), by striking “Subpart 1 of part A of  
21 title VII (bilingual education).” and inserting  
22 “Chapter 2 of subpart 1 of part A of title VII (Eng-  
23 lish language education).”.

24 (c) DEPARTMENT OF EDUCATION ORGANIZATION  
25 ACT.—The Department of Education Organization Act is

1 amended by striking “Office of Bilingual Education and  
2 Minority Languages Affairs” each place such term ap-  
3 pears and inserting “Office of English Language Acquisi-  
4 tion”.

5 **SEC. 6. EFFECTIVE DATE.**

6       The amendments made by this Act shall take effect  
7 on the date of the enactment of this Act, or October 1,  
8 1998, whichever occurs later.