

107TH CONGRESS  
1ST SESSION

# H. R. 59

To establish a program of grants for supplemental assistance for elementary and secondary school students of limited English proficiency to ensure that they rapidly develop proficiency in English while not falling behind in their academic studies.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2001

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

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## A BILL

To establish a program of grants for supplemental assistance for elementary and secondary school students of limited English proficiency to ensure that they rapidly develop proficiency in English while not falling behind in their academic studies.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Kids Developing Skills  
5 for Success in the 21st Century Act”.

1 **SEC. 2. GRANTS FOR SUPPLEMENTAL ASSISTANCE FOR**  
2 **LIMITED ENGLISH PROFICIENT STUDENTS.**

3 (a) **IN GENERAL.**—In the case of each State edu-  
4 cational agency that in accordance with subsection (c) sub-  
5 mits to the Secretary an application for a fiscal year, the  
6 Secretary shall make a grant for the year to the agency  
7 for the uses specified in subsection (b). The grant shall  
8 consist of the allotment determined for the State under  
9 section 3.

10 (b) **USES OF FUNDS.**—

11 (1) **IN GENERAL.**—Each State educational  
12 agency receiving a grant under this Act shall use the  
13 funds provided under the grant to assist local edu-  
14 cational agencies in providing supplemental assist-  
15 ance to elementary and secondary school students of  
16 limited English proficiency to ensure that they rap-  
17 idly develop proficiency in English while not falling  
18 behind in their academic studies.

19 (2) **AUTHORIZED ACTIVITIES.**—Supplemental  
20 assistance described in paragraph (1) may, but is  
21 not required to, include individualized tutoring by  
22 regular school instructional staff or by bilingual tu-  
23 tors hired specifically to provide such tutoring. Such  
24 tutoring may take place during school hours, before  
25 or after school hours, or on weekends.

26 (c) **APPLICATION.**—

1           (1) IN GENERAL.—To be eligible to receive a  
2           grant under this Act, a State educational agency  
3           shall submit an application to the Secretary at such  
4           time, in such manner, and containing such informa-  
5           tion as the Secretary may reasonably require.

6           (2) CONTENTS.—Each application under this  
7           subsection shall include a description of how—

8                   (A) the State educational agency intends  
9                   to use the grant funds;

10                   (B) the programs supported by the grant  
11                   will be coordinated with other Federal, State,  
12                   regional, and local programs; and

13                   (C) the State educational agency will  
14                   evaluate program performance.

15           (d) PRIORITY.—In assisting local educational agen-  
16           cies using funds provided under this Act, a State edu-  
17           cational agency shall give priority to local educational  
18           agencies that—

19                   (1) experience a dramatic increase in the num-  
20                   ber or percentage of elementary and secondary  
21                   school students of limited English proficiency;

22                   (2) have a large percentage of elementary and  
23                   secondary school students of limited English pro-  
24                   ficiency enrolled;

1           (3) have a total student enrollment of less than  
2           10,000; or

3           (4) demonstrate a record of success in assisting  
4           students of limited English proficiency achieve aca-  
5           demic success.

6 **SEC. 3. STATE ALLOCATIONS.**

7           (a) ALLOCATIONS.—

8           (1) IN GENERAL.—Except as provided in sub-  
9           sections (b) and (c), of the amount appropriated for  
10          each fiscal year for this Act, each State participating  
11          in the program assisted under this Act shall receive  
12          an allocation equal to the proportion of such State's  
13          number of students of limited English proficiency  
14          who are enrolled in public elementary or secondary  
15          schools under the jurisdiction of each local edu-  
16          cational agency described in paragraph (2) within  
17          such State, and in nonpublic elementary or sec-  
18          ondary schools within the district served by each  
19          such local educational agency, relative to the total  
20          number of such students so enrolled in all the States  
21          participating in the program assisted under this Act.

22          (2) ELIGIBLE LOCAL EDUCATIONAL AGEN-  
23          CIES.—The local educational agencies referred to in  
24          paragraph (1) are those local educational agencies in  
25          which the sum of the number of students of limited

1 English proficiency who are enrolled in public ele-  
2 mentary or secondary schools under the jurisdiction  
3 of such agencies, and in nonpublic elementary or  
4 secondary schools within the districts served by such  
5 agencies, during the fiscal year for which the pay-  
6 ments are to be made under this Act, is equal to—

7 (A) at least 500; or

8 (B) at least 3 percent of the total number  
9 of students enrolled in such public or nonpublic  
10 schools during such fiscal year;

11 whichever number is less.

12 (b) DETERMINATIONS OF NUMBER OF STUDENTS.—

13 (1) IN GENERAL.—Determinations by the Sec-  
14 retary under this section for any period with respect  
15 to the number of students of limited English pro-  
16 ficiency shall be made on the basis of data or esti-  
17 mates provided to the Secretary by each State edu-  
18 cational agency in accordance with criteria estab-  
19 lished by the Secretary, unless the Secretary deter-  
20 mines, after notice and opportunity for a hearing to  
21 the affected State educational agency, that such  
22 data or estimates are clearly erroneous.

23 (2) SPECIAL RULE.—No such determination  
24 with respect to the number of students of limited  
25 English proficiency shall operate because of an un-

1       derestimate or overestimate to deprive any State  
2       educational agency of the allocation under this sec-  
3       tion that such State would otherwise have received  
4       had such determination been made on the basis of  
5       accurate data.

6       (c) REALLOCATION.—Whenever the Secretary deter-  
7       mines that any amount of a payment made to a State  
8       under this Act for a fiscal year will not be used by such  
9       State for carrying out the purpose for which the payment  
10      was made, the Secretary shall make such amount available  
11      for carrying out such purpose to one or more other States  
12      to the extent the Secretary determines that such other  
13      States will be able to use such additional amount for car-  
14      rying out such purpose. Any amount made available to a  
15      State from any appropriation for a fiscal year in accord-  
16      ance with the preceding sentence shall, for purposes of this  
17      Act, be regarded as part of such State’s payment (as de-  
18      termined under subsection (a)) for such year, but shall  
19      remain available until the end of the succeeding fiscal  
20      year.

21   **SEC. 4. ADMINISTRATIVE PROVISIONS.**

22      (a) NOTIFICATION OF AMOUNT.—The Secretary, not  
23      later than June 1 of each year, shall notify each State  
24      educational agency that has an application approved under

1 section 2 of the amount of such agency's allocation under  
2 section 3 for the succeeding year.

3 (b) SERVICES TO CHILDREN ENROLLED IN NON-  
4 PUBLIC SCHOOLS.—

5 (1) IN GENERAL.—No local educational agency  
6 may receive any assistance under this Act for any  
7 fiscal year unless such agency provides to the Sec-  
8 retary assurances—

9 (A) that to the extent consistent with the  
10 number of students of limited English pro-  
11 ficiency who are enrolled in the nonpublic ele-  
12 mentary or secondary schools within the district  
13 served by a local educational agency, such agen-  
14 cy, after consultation with appropriate officials  
15 of such schools, shall provide for the benefit of  
16 such students secular, neutral, and nonideolog-  
17 ical services, materials, and equipment in ac-  
18 cordance with this Act;

19 (B) that the control of funds provided  
20 under this Act to any materials, equipment, and  
21 property repaired, remodeled, or constructed  
22 with those funds shall be in a public agency for  
23 the uses and purposes provided in this Act, and  
24 a public agency shall administer such funds and  
25 property; and

1           (C) that the provision of services pursuant  
2           to this paragraph shall be provided by employ-  
3           ees of a public agency or through contract by  
4           such public agency with a person, association,  
5           agency, or corporation who or which, in the pro-  
6           vision of such services, is independent of such  
7           nonpublic elementary or secondary school and  
8           of any religious organization, and such employ-  
9           ment or contract shall be under the control and  
10          supervision of such public agency, and the  
11          funds provided under this paragraph shall not  
12          be commingled with State or local funds.

13          (2) WAIVERS.—If by reason of any provision of  
14          law a local educational agency is prohibited from  
15          providing educational services for children enrolled  
16          in elementary and secondary nonpublic schools, as  
17          required by paragraph (1), or if the Secretary deter-  
18          mines that a local educational agency has substan-  
19          tially failed or is unwilling to provide for the partici-  
20          pation on an equitable basis of children enrolled in  
21          such schools, the Secretary may waive such require-  
22          ment and shall arrange for the provision of services,  
23          subject to the requirements of this Act, to such chil-  
24          dren. Such waivers shall be subject to consultation,  
25          withholding, notice, and judicial review requirements



1 in accordance with the provisions of title I of the El-  
2 ementary and Secondary Education Act of 1965 (20  
3 U.S.C. 6301 et seq.).

4 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated to carry out  
6 this Act \$250,000,000 for each of fiscal years 2002  
7 through 2006.

8 **SEC. 6. DEFINITIONS.**

9 For purposes of this Act, the following terms have  
10 the following meanings:

11 (1) **ELEMENTARY SCHOOL.**—The term “elemen-  
12 tary school” means a nonprofit institutional day or  
13 residential school, including a public elementary  
14 charter school, that provides elementary education,  
15 as determined under State law.

16 (2) **LIMITED ENGLISH PROFICIENCY.**—The  
17 term “limited English proficiency”, when used with  
18 reference to an individual, means an individual—

19 (A) who—

20 (i) was not born in the United States  
21 or whose native language is a language  
22 other than English and comes from an en-  
23 vironment where a language other than  
24 English is dominant; or

1 (ii) is a Native American or Alaska  
2 Native or who is a native resident of the  
3 outlying areas and comes from an environ-  
4 ment where a language other than English  
5 has had a significant impact on such indi-  
6 vidual's level of English language pro-  
7 ficiency; or

8 (iii) is migratory and whose native  
9 language is other than English and comes  
10 from an environment where a language  
11 other than English is dominant; and

12 (B) who has sufficient difficulty speaking,  
13 reading, writing, or understanding the English  
14 language and whose difficulties may deny such  
15 individual the opportunity to learn successfully  
16 in classrooms where the language of instruction  
17 is English or to participate fully in our society.

18 (3) LOCAL EDUCATIONAL AGENCY.—(A) The  
19 term “local educational agency” means a public  
20 board of education or other public authority legally  
21 constituted within a State for either administrative  
22 control or direction of, or to perform a service func-  
23 tion for, public elementary or secondary schools in a  
24 city, county, township, school district, or other polit-  
25 ical subdivision of a State, or for such combination

1 of school districts or counties as are recognized in a  
2 State as an administrative agency for its public ele-  
3 mentary or secondary schools.

4 (B) The term includes any other public institu-  
5 tion or agency having administrative control and di-  
6 rection of a public elementary or secondary school.

7 (C) The term includes an elementary or sec-  
8 ondary school funded by the Bureau of Indian Af-  
9 fairs but only to the extent that such inclusion  
10 makes such school eligible for programs for which  
11 specific eligibility is not provided to such school in  
12 another provision of law and such school does not  
13 have a student population that is smaller than the  
14 student population of the local educational agency  
15 receiving assistance under this Act with the smallest  
16 student population, except that such school shall not  
17 be subject to the jurisdiction of any State edu-  
18 cational agency other than the Bureau of Indian Af-  
19 fairs.

20 (4) NATIVE AMERICAN AND NATIVE AMERICAN  
21 LANGUAGE.—The terms “Native American” and  
22 “Native American language” shall have the same  
23 meaning given such terms in section 103 of the Na-  
24 tive American Languages Act of 1990.

1           (5) NATIVE LANGUAGE.—The term “native lan-  
2           guage”, when used with reference to an individual of  
3           limited English proficiency, means the language nor-  
4           mally used by such individual, or in the case of a  
5           child or youth, the language normally used by the  
6           parents of the child or youth.

7           (6) OUTLYING AREA.—The term “outlying  
8           area” means the Virgin Islands, Guam, American  
9           Samoa, the Commonwealth of the Northern Mariana  
10          Islands, the Republic of the Marshall Islands, the  
11          Federated States of Micronesia, and the Republic of  
12          Palau.

13          (7) SECONDARY SCHOOL.—The term “sec-  
14          ondary school” means a nonprofit institutional day  
15          or residential school, including a public secondary  
16          charter school, that provides secondary education, as  
17          determined under State law, except that such term  
18          does not include any education beyond grade 12.

19          (8) SECRETARY.—The term “Secretary” means  
20          the Secretary of Education.

21          (9) STATE.—The term “State” means each of  
22          the 50 States, the District of Columbia, the Com-  
23          monwealth of Puerto Rico, and each of the outlying  
24          areas.

1           (10) STATE EDUCATIONAL AGENCY.—The term  
2           “State educational agency” means the agency pri-  
3           marily responsible for the State supervision of public  
4           elementary and secondary schools.

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