To amend the Individuals with Disabilities Education Act to establish a method to provide outcome-based funding increases to States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES
APRIL 2, 2003

Mr. STARK (for himself and Mr. HOLT) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Individuals with Disabilities Education Act to establish a method to provide outcome-based funding increases to States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Realizing the Spirit of IDEA Act”.

SEC. 2. FINDINGS; PURPOSE.

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

(1) Since its enactment, the Individuals with Disabilities Education Act has successfully increased
the access of children with disabilities to a free appropriate public education.

(2) Maintaining the procedural safeguards detailed in such Act is critical to achieving better academic outcomes for children with disabilities.

(3) When compared to children without disabilities, children with disabilities are more likely to drop out of school, complete school without a diploma, not attend school regularly, and have poor academic achievement.

(4) After leaving secondary school, individuals with disabilities frequently do not receive postsecondary education and experience high rates of unemployment.

(5) Despite their disabilities, children with disabilities are capable of learning and becoming productive members of society.

(6) There is evidence that effective interventions are available that will enhance the academic and overall adaptive functioning of children with disabilities.

(b) PURPOSE.—The purpose of this Act is to achieve mandatory maximum funding for the Individuals with Disabilities Education Act, and to require educational agencies to demonstrate improvement in the outcomes of chil-
children with disabilities in order to qualify for Federal funding increases.

SEC. 3. MODIFICATIONS TO FUNDING FOR ASSISTANCE FOR EDUCATION OF CHILDREN WITH DISABILITIES.

(a) Modification to Aggregate Funding.—

(1) In general.—Section 611 of the Individuals with Disabilities Education Act (20 U.S.C. 1411) is amended—

(A) in the section heading, by striking “AUTHORIZATION OF APPROPRIATIONS.” and inserting “FUNDING.”; and

(B) by amending subsection (j) to read as follows:

“(j) FUNDING.—

“(1) In general.—For the purpose of carrying out this part, other than section 619, there is authorized to be appropriated, and there is appropriated, for each fiscal year after fiscal year 2003, the amount determined under paragraph (2) for such year.

“(2) Determination of amounts.—For each fiscal year described in paragraph (1), the amount described in such paragraph shall be determined—

“(A) by multiplying—
“(i) the percentage obtained by dividing the aggregate amount provided by the Secretary to States under this section for fiscal year 2003 by the product of—

“(I) the average per-pupil expenditure in public elementary and secondary schools in the United States in the most recent preceding fiscal year for which satisfactory data are available; and

“(II) the total number of children with disabilities, in all States, receiving special education and related services under this part (other than under section 619) in the most recent preceding fiscal year for which satisfactory data are available;

“(ii) the average per-pupil expenditure in public elementary and secondary schools in the United States in the most recent preceding fiscal year for which satisfactory data are available; and

“(iii) the total number of children with disabilities, in all States, receiving special education and related services
under this part (other than under section 619) in the most recent preceding fiscal year for which satisfactory data are available, except that the number under this clause may not exceed 12 percent of the total number of all children aged 5 through 17 in all States; and

“(B) by adding to the amount derived under subparagraph (A)—

“(i) 1 percent of such amount, which shall be used to permit the Secretary to carry out subsection (b); and

“(ii) 1.24 percent of such amount, which shall be used to provide assistance to the Secretary of the Interior in accordance with subsection (i).”.

(2) CLERICAL AMENDMENT.—The table of contents of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) is amended by amending the item relating to section 611 to read as follows:

“Sec. 611. Authorization; allotment; use of funds; funding.”.

(b) OUTCOME-BASED BONUS PAYMENTS TO STATES.—Section 611(e) of the Individuals with Disabilities Education Act (20 U.S.C. 1411(e)) is amended by adding at the end the following:
“(5) Outcome-based bonus payments.—

“(A) In general.—

“(i) Requirement.—In addition to any amount a State otherwise receives under the preceding provisions of this subsection, each State shall receive a bonus payment determined in accordance with this paragraph.

“(ii) Use of funds.—A State shall expend a bonus payment received under this paragraph for educational purposes, except that funds received under this paragraph shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for educational purposes. Such a payment shall not be subject to the terms and conditions otherwise applicable to the use of State allocations made under this section.

“(iii) Subgrants to local educational agencies.—The State shall distribute some or all of each bonus payment received under this paragraph to local educational agencies. The State may allocate such funds to such agencies based on—
“(I) their respective populations of children living in poverty;

“(II) the severity of their respective special education populations;

“(III) their respective administrative costs;

“(IV) their prevention and remediation efforts; or

“(V) any other factors the State deems relevant to the cost of providing special education and related services to children with disabilities.

“(iv) FUNDING.—For the purpose of carrying out this paragraph, there is authorized to be appropriated, and there is appropriated, for each fiscal year after fiscal year 2003, an amount equal to the sum of the amounts required to be paid to each State under this paragraph for such fiscal year.

“(B) OUTCOME INDICATORS.—

“(i) INDICATORS.—Each local educational agency in a State shall measure the differences between children with disabilities receiving special education and re-
lated services under this part (other than under section 619) from the agency, and other children served by the agency, using the following outcome indicators:

“(I) The academic achievement of students in elementary and secondary schools, as measured by performance on adequate yearly progress assessments carried out under section 1111 of the Elementary and Secondary Act of 1965 (29 U.S.C. 6311).

“(II) The rate of average daily attendance for students in elementary schools and secondary schools.

“(III) The dropout rate for students in secondary schools, as determined under section 612(a)(16).

“(IV) The graduation rate of students in secondary schools, as determined under section 612(a)(16).

“(V) The postsecondary education enrollment, and the employment status, of students who are ceasing to be served by the agency by rea-
son of separation from secondary school.

“(ii) Operational definitions; Test accommodations.—

“(I) Operational definitions.—Each State, in consultation with the Secretary, may develop operational definitions and methods of calculation with respect to each of the outcome indicators described in clause (i), as long as the criteria used are reliable and valid and remain substantially the same from year to year.

“(II) Test accommodations.—To the extent not prohibited under other law, for purposes of computing bonuses under this paragraph, special accommodations in taking tests of academic achievement described in clause (i)(I) may be offered to certain children with disabilities, as long as such accommodations yield results that are reliable and valid. The criteria used for determining appropriate accommodations under this subclause
must be reliable and remain substantially the same from year to year.

“(iii) MEASUREMENT.—A local educational agency shall make the measurement described in clause (i), for each indicator described in clause (i) and each school year, by comparing—

“(I) the performance difference (if any), for the most recent preceding school year, but only if satisfactory data are available for such year; with

“(II) the average of such performance differences (if any) for the 3 school years that precede such most recent preceding year, but only if satisfactory data are available for all such years.

“(iv) PERCENTAGE REDUCTION IN OUTCOME DIFFERENCE.—A local educational agency shall convert each measurement under clause (iii) into a percentage reduction (if there is a reduction), for the most recent preceding school year, in the difference between the outcome for—
“(I) children with disabilities receiving special education and related services under this part (other than under section 619) from the agency; and

“(II) other children served by the agency.

“(v) MINIMUM PARTICIPATION LEVEL.—In order for any measurement made under clause (iii) to be used under this paragraph, it must be based on data for not less than 90 percent of the children with disabilities for whom the applicable local educational agency was providing special education and related services under this part (other than under section 619) during the period measured.

“(vi) STATISTICAL DISAGGREGATION OF SPECIAL EDUCATION STUDENTS.—For the purpose of calculating performance with respect to outcome indicators under this paragraph, data on a child with a disability who receives special education or related services from a local educational agency under this part (other than under
section 619) shall be disaggregated from the general education population of such agency for the remainder of the child’s elementary and secondary education within the jurisdiction of such agency, even if the child ceases to receive special education or related services.

“(C) LOCAL EDUCATIONAL AGENCY CALCULATIONS.—

“(i) IN GENERAL.—For purposes of calculating the payments to States under subparagraph (D), each local educational agency shall receive a credit with respect to performance on the outcome indicators described in subparagraph (B)(i). Such credit shall be calculated in accordance with this subparagraph.

“(ii) REDUCTION IN OUTCOME DIFFERENCE.—

“(I) IN GENERAL.—With respect to each outcome indicator described in subparagraph (B)(i) and each fiscal year, the local educational agency shall determine, in accordance with subparagraph (B), the applicable per-
percentage reduction, if any, in the difference between the outcome for children with disabilities and children without disabilities.

“(II) MAXIMUM.—The maximum percentage reduction which may be credited for any local education agency under this clause with respect to any individual outcome indicator is 5 percent.

“(III) HIGH-PERFORMING AGENCIES.—If the local educational agency determines, in accordance with subparagraph (B), that there is no measurable difference with respect to an outcome indicator between the outcome for children with disabilities and children without disabilities for the most recent preceding fiscal year, the local education agency shall be credited as if its percentage reduction under subclause (I) were 5 percent.

“(IV) MINIMALLY-PERFORMING AGENCIES.—If the percentage reduction that otherwise would be credited
for a local educational agency under this clause is greater than zero but less than 1 percent, the local education agency shall be credited as if its percentage reduction under subclause (I) were 1 percent.

“(V) SPECIAL RULE FOR LEAS WITH FEW STUDENTS WITH DISABILITIES.—In the case of a local educational agency enrolling less than 10 children with disabilities for the fiscal year concerned, the local educational agency may elect to make the determinations under subparagraph (B) and this subparagraph using aggregated data reflecting performance by all local educational agencies in the State.

“(iii) DETERMINATION OF FUNDING PROPORTION.—The local educational agency shall determine a funding proportion, based on a percentage reduction calculated under clause (ii), which shall be used by the agency. The maximum funding proportion shall be 1 percent, which shall be used
only in the case of the maximum percentage reduction under clause (ii) of 5 percent. All other funding proportions shall be ratably reduced below 1 percent. In any case in which a percentage reduction under clause (ii) is zero or less, the funding proportion determined under this clause shall be zero.

“(iv) Average per-pupil expenditure.—The local educational agency shall multiply the funding proportion determined under clause (iii) by the average per-pupil expenditure in public elementary and secondary schools in the United States.

“(v) Population of children receiving services.—The local educational agency shall multiply the product determined under clause (iv) by the number of children with disabilities receiving special education and related services from the local educational agency for the most recent preceding year for which satisfactory data are available.

“(vi) Credit.—The local educational agency shall receive a dollar amount credit
with respect to performance on each outcome indicator described in subparagraph (B)(i). Such credit shall equal the product determined under clause (v) with respect to such indicator.

“(vii) Special rules for leasing serving only elementary school students.—In the case of a local educational agency that does not provide secondary education (as determined under State law), at the option of the State—

“(I) the maximum funding proportion described in clause (iii) shall be 2.5 percent in lieu of 1 percent, and the local educational agency may receive a dollar amount credit under this subparagraph with respect to performance only on the outcome indicators described in subclauses (I) and (II) of subparagraph (B)(i); or

“(III) the maximum funding proportion described in clause (iii) shall be 1 2/3 percent in lieu of 1 percent, and the local educational agency may receive a dollar amount credit under
this subparagraph with respect to performance only on the outcome indicators described in subclauses (I) and (II) of subparagraph (B)(i) and an additional outcome indicator that measures the differences between children with disabilities receiving special education and related services under this part (other than under section 619) from the agency, and other children served by the agency, with respect to grade-to-grade retention rates.

“(viii) LEA REPORTS TO STATES.—
Each local educational agency annually shall submit to the State a report, at such time and in such manner as the State shall specify, containing the data, measurements, and calculations of the agency pursuant to subparagraph (B) and this subparagraph.

“(D) BONUS PAYMENTS TO STATES.—

“(i) STATE REPORTS TO SECRETARY.—Each State annually shall submit to the Secretary a report, at such time
and in such manner as the Secretary shall specify, containing the data, measurements, and calculations of each local educational agency in the State pursuant to subparagraphs (B) and (C).

“(ii) Calculation of payment amount.—Subject to clauses (iii) and (iv), each State shall receive a bonus payment for a fiscal year equal to—

“(I) the sum of all dollar amount credits determined under subparagraph (C) for such year for all local educational agencies in the State; plus

“(II) the bonus payment received by the State for the preceding fiscal year.

“(iii) Limitation.—In no case may a State receive a bonus payment under this paragraph for a fiscal year that would cause the State to receive an amount under this section for the year that exceeds the maximum amount described in subsection (a)(2). The Secretary shall reduce the bonus payment to such a State until
the State receives an amount under this section that equals such maximum amount.

“(iv) Redeterminations.—In any case in which a local educational agency has made an error, has used data improperly, or has used data that are not satisfactory, Secretary shall redetermine any determination made by such agency under this paragraph.

“(E) Reports to Congress.—The Secretary shall submit to the Congress an annual report describing—

“(i) the most recent bonus payments made to States under this paragraph; and

“(ii) the data, measurements, and calculations that were the basis for such payments.”.

SEC. 4. MODIFICATIONS TO FUNDING FOR PRESCHOOL GRANTS.

Section 619(j) of the Individuals with Disabilities Education Act (20 U.S.C. 1419(j)) is amended to read as follows:

“(j) Funding.—

“(1) In general.—For the purpose of carrying out this section, there is authorized to be ap-
appropriated, and there is appropriated, for each fiscal year after fiscal year 2003, the amount determined under paragraph (2) for such year.

“(2) Determination of amounts.—For each fiscal year described in paragraph (1), the amount described in such paragraph shall be determined by increasing the aggregate amount provided by the Secretary to States under this section for the preceding fiscal year by the product of—

“(A) such aggregate amount; and

“(B) the percentage increase in the aggregate amount provided by the Secretary to States under section 611 for such fiscal year over the aggregate amount provided by the Secretary to States under such section for the preceding fiscal year.”.

SEC. 5. MODIFICATIONS TO FUNDING FOR INFANTS AND TODDLERS WITH DISABILITIES.

(a) In General.—Section 645 of the Individuals with Disabilities Education Act (20 U.S.C. 1445) is amended to read as follows:

“SEC. 645. FUNDING.

“(a) In General.—For the purpose of carrying out this part, there is authorized to be appropriated, and there
is appropriated, for each fiscal year after fiscal year 2003, the amount determined under subsection (b) for such year.

“(b) Determination of Amounts.—For each fiscal year described in subsection (a), the amount described in such subsection shall be determined by increasing the aggregate amount provided by the Secretary to States under this part for the preceding fiscal year by the product of—

“(1) such aggregate amount; and

“(2) the percentage increase in the aggregate amount provided by the Secretary to States under section 611 for such fiscal year over the aggregate amount provided by the Secretary to States under such section for the preceding fiscal year.”.

(b) Clerical Amendment.—The table of contents of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) is amended by amending the item relating to section 645 to read as follows:

“Sec. 645. Funding.”.

SEC. 6. MODIFICATIONS TO FUNDING FOR STATE PROGRAM IMPROVEMENT GRANTS FOR CHILDREN WITH DISABILITIES.

(a) In General.—Section 656 of the Individuals with Disabilities Education Act (20 U.S.C. 1456) is amended to read as follows:
“SEC. 656. FUNDING.

“(a) IN GENERAL.—For the purpose of carrying out this subpart, there is authorized to be appropriated, and there is appropriated, for each fiscal year after fiscal year 2003, the amount determined under subsection (b) for such year.

“(b) DETERMINATION OF AMOUNTS.—For each fiscal year described in subsection (a), the amount described in such subsection shall be determined by increasing the aggregate amount provided by the Secretary to State educational agencies under this subpart for the preceding fiscal year by the product of—

“(1) such aggregate amount; and

“(2) the percentage increase in the aggregate amount provided by the Secretary to States under section 611 for such fiscal year over the aggregate amount provided by the Secretary to States under such section for the preceding fiscal year.”.

(b) CLERICAL AMENDMENT.—The table of contents of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) is amended by amending the item relating to section 656 to read as follows:

“Sec. 656. Funding.”.
SEC. 7. MODIFICATIONS TO FUNDING FOR RESEARCH AND
INNOVATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

Section 672(g) of the Individuals with Disabilities Education Act (20 U.S.C. 1472(g)) is amended to read as follows:

“(g) FUNDING.—

“(1) IN GENERAL.—For the purpose of carrying out this section, there is authorized to be appropriated, and there is appropriated, for each fiscal year after fiscal year 2003, the amount determined under paragraph (2) for such year.

“(2) DETERMINATION OF AMOUNTS.—For each fiscal year described in paragraph (1), the amount described in such paragraph shall be determined by increasing the aggregate amount provided by the Secretary to eligible entities under this section for the preceding fiscal year by the product of—

“(A) such aggregate amount; and

“(B) the percentage increase in the aggregate amount provided by the Secretary to States under section 611 for such fiscal year over the aggregate amount provided by the Secretary to States under such section for the preceding fiscal year.”.
SEC. 8. MODIFICATIONS TO FUNDING FOR PERSONNEL PREPARATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

Section 673(j) of the Individuals with Disabilities Education Act (20 U.S.C. 1473(j)) is amended to read as follows:

“(j) FUNDING.—

“(1) IN GENERAL.—For the purpose of carrying out this section, there is authorized to be appropriated, and there is appropriated, for each fiscal year after fiscal year 2003, the amount determined under paragraph (2) for such year.

“(2) DETERMINATION OF AMOUNTS.—For each fiscal year described in paragraph (1), the amount described in such paragraph shall be determined by increasing the aggregate amount provided by the Secretary to eligible entities under this section for the preceding fiscal year by the product of—

“(A) such aggregate amount; and

“(B) the percentage increase in the aggregate amount provided by the Secretary to States under section 611 for such fiscal year over the aggregate amount provided by the Secretary to States under such section for the preceding fiscal year.”.
SEC. 9. MODIFICATIONS TO FUNDING FOR IMPROVING EARLY INTERVENTION, EDUCATIONAL, AND TRANSITIONAL SERVICES.

(a) IN GENERAL.—Section 686 of the Individuals with Disabilities Education Act (20 U.S.C. 1486) is amended to read as follows:

“SEC. 686. FUNDING.

“(a) IN GENERAL.—For the purpose of carrying out sections 681 through 685, there is authorized to be appropriated, and there is appropriated, for each fiscal year after fiscal year 2003, the amount determined under subsection (b) for such year.

“(b) DETERMINATION OF AMOUNTS.—For each fiscal year described in subsection (a), the amount described in such subsection shall be determined by increasing the aggregate amount provided by the Secretary under sections 681 through 685 for the preceding fiscal year by the product of—

“(1) such aggregate amount; and

“(2) the percentage increase in the aggregate amount provided by the Secretary to States under section 611 for such fiscal year over the aggregate amount provided by the Secretary to States under such section for the preceding fiscal year.”.

(b) CLERICAL AMENDMENT.—The table of contents of the Individuals with Disabilities Education Act (20
U.S.C. 1400 et seq.) is amended by amending the item relating to section 686 to read as follows:

“Sec. 686. Funding.”.

SEC. 10. MODIFICATIONS TO FUNDING FOR TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION; AND MEDIA SERVICES.

Section 687(e) of the Individuals with Disabilities Education Act (20 U.S.C. 1487(e)) is amended to read as follows:

“(e) Funding.—

“(1) In general.—For the purpose of carrying out this section, there is authorized to be appropriated, and there is appropriated, for each fiscal year after fiscal year 2003, the amount determined under paragraph (2) for such year.

“(2) Determination of amounts.—For each fiscal year described in paragraph (1), the amount described in such paragraph shall be determined by increasing the aggregate amount provided by the Secretary to eligible entities under this section for the preceding fiscal year by the product of—

“(A) such aggregate amount; and

“(B) the percentage increase in the aggregate amount provided by the Secretary to States under section 611 for such fiscal year over the aggregate amount provided by the Sec-
retary to States under such section for the pre-
ceeding fiscal year.”.

SEC. 11. EFFECTIVE DATE.

The amendments made by this Act shall take effect
on October 1, 2003, or the date of the enactment of this
Act, whichever occurs later.