

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 `State and Local Education Flexibility Act of 2005'.

SEC. 2. AMENDMENTS TO ESEA.

(a) Limited English Proficient Students- Section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)) is amended--

(1) in paragraph (2)(C)--

(A) in clause (vi), by striking `and' at the end;

(B) in clause (vii), by striking the period at the end and inserting `; and' ; and

(C) by adding at the end the following:

(viii)
at the State's discretion on a case-by-case basis, may not include the performance of any limited English proficient student if--

(l) the student has not been enrolled for 3 full school years in an elementary school or secondary school in the State; and

`(II) the parents of the student, and the school administrator or team of educators designated by the student's school for making limited English proficiency placement and assessment decisions, agree that such an exclusion is educationally appropriate for the student.';

(2) in clause (ii) of paragraph (2)(I), by inserting `is subject to paragraph (3)(C)(xvi),' after `except that the 95 percent requirement described in this clause';

(3) in paragraph (3)(C)--

striking `and' at the end; (A) in clause (xiv), by

clause (xv), by striking the period at the end and inserting `; and' ; and (B) in

(C) by adding at the end the following:

`(xvi) notwithstanding clause (ix)(III), at the State's discretion on a case-by-case basis, not include any limited English proficient student if--

`(I) the student is enrolled in his or her first full school year in an elementary school or secondary school in the State; and

`(II) the parents of the student, and the school administrator or team of educators designated by the student's school for making limited English proficiency placement and assessment decisions, agree that such an exclusion is educationally appropriate for the student.'; and

(4) in paragraph (7), by adding at the end the following: `Notwithstanding the preceding sentence, a State plan may provide for the exclusion from such annual assessment of English proficiency of any limited English proficient student if (A) the student is enrolled in his or her first full school year in an elementary or secondary school in the State; and (B) the parents of the student, and the school administrator or team of educators designated by the student's school for making limited English proficiency placement and assessment decisions, agree that such an exclusion is educationally appropriate for the student.'

(b) Consideration of Graduation Rates in AYP-
Clause (vi) of section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)) is amended by inserting ` , except that, at the discretion of the State, such graduation rates may include (I) any student who has exceptional circumstances and graduates from secondary school with a regular diploma in not more than 5 years, (II) any qualified child with a disability (as that term is defined in paragraph (3)(C)(11)) who graduates from secondary school with a regular diploma before attaining an age established by State law, and (III) any qualified child with a disability (as that term is defined in paragraph (3)(C)(11)) who satisfies such alternative challenging academic content and achievement standards as the State may establish for the child to complete secondary school in a reasonable period of time' after `in the standard number of years'.

(c) Children With Disabilities- Subsection (b)
of section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311) is amended--

(1) in subparagraph (B) of
paragraph (1), by striking `The academic standards' and inserting `Subject to paragraph (11),
the academic standards';

(2) in clause (i) of paragraph (2)(C), by striking `applies the same high standards' and inserting `subject to paragraph (11), applies the same high standards';

(3) in clause (i) of paragraph (3)(C), by striking `be the same academic assessments' and inserting `subject to paragraph (11), be the same academic assessments'; and

(4) by adding at the end the following:

`(11) CHILDREN WITH DISABILITIES-

`(A) RELATION TO IEP- Subject to the requirements of subparagraphs (B) and (C), with respect to a qualified child with a disability, a State plan may provide for modification of the challenging academic content standards and challenging student academic achievement standards required by paragraph (1)(A), the high standards of academic achievement described in paragraph (2)(C)(i), and the yearly student academic assessments described in paragraph (3), to align such standards and assessments with the child's individualized education program.

`(B) PARENTAL CONSENT- A State plan may not provide for modification pursuant to subparagraph (A) of any standard or assessment unless the parents of the child involved agree that such modification is educationally appropriate for the child.

`(C) PROGRESSIVELY HIGHER LEVEL OF INSTRUCTION- In the case of a qualified child with a disability who has a significant cognitive impairment, but not a severe cognitive impairment, any modification pursuant to subparagraph (A) of any standard or assessment applicable to the child shall continue to require a progressively higher level of instruction each year.

`(D) RULE OF CONSTRUCTION- This paragraph shall not be construed to give rise to any new right under the Individuals with Disabilities Education Act, to expand the definition of a child with a disability under that Act, or to otherwise affect any provision of that Act.

`(E) DEFINITIONS- In this paragraph:

`(i) The term `individualized education program' has the meaning given to that term in section 602 of the Individuals with Disabilities Education Act.

`(ii) The term `qualified child with a disability' means a child who receives services under the Individuals with Disabilities Education Act and has been certified by a licensed health care professional or a multidisciplinary team (established in accordance with State guidelines and including a licensed health care professional) as a child with severe or significant cognitive impairment that prevents learning consistent with the child's age group.'

(d) Local
Development of Assessments- Paragraph (3) of section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) is amended by adding at the end the following:

`(E) LOCAL DEVELOPMENT OF ASSESSMENTS-

`(i) IN GENERAL- Notwithstanding subparagraphs (A) and (C)(i), a State educational agency may authorize a local educational agency, or school, in the State to develop and implement the student academic assessments required by this paragraph with respect to the students served by the local educational agency or school, respectively.

`(ii) SAME ASSESSMENT- Subject to paragraph (11), any assessment developed and implemented by a local educational agency or school pursuant to this subparagraph shall be the same academic assessment used to measure the achievement of all children served by the local educational agency or school, respectively.

`(iii) STATE RESPONSIBILITY- If a State educational agency chooses to authorize a local educational agency, or school, in the State to develop and implement assessments pursuant to this subparagraph, the State educational agency shall be responsible for demonstrating in the State plan that each such assessment complies with the requirements of this paragraph.'.

(e) Multiple Assessments-

(1) IN GENERAL- Paragraph (3) of section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) (as amended by subsection (d)) is amended by adding at the end the following:

(F) RULE OF CONSTRUCTION-

Notwithstanding subparagraph (A), this paragraph shall not be construed to prohibit the development and implementation of the student academic assessments required by this section through the use of multiple assessments of high technical quality integrated into a school's curriculum and distributed throughout the course of the school year.'

(2) PARTICIPATION REQUIREMENT- Clause (ii) of section 1111(b)(2)(I) (20 U.S.C. 6311(b)(2)(I)) (as amended by subsection (a)(2)) is amended by inserting ', and shall be a 75 percent annual average requirement in a case in which the school implements academic assessments for purposes of paragraph (3) through the use of multiple assessments integrated into a school's curriculum and distributed throughout the course of the school year' before the close parenthesis at the end.

(f) Highly Qualified Special Education and Rural Teachers- Clause (I) of section 9101(23)(B)(ii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(23)(B)(ii)) is amended by inserting '(except that, at the discretion of the State, a special education teacher or a teacher in a rural school may satisfy the requirements of this subclause by passing such a rigorous State academic subject test in any 1 subject in which the teacher teaches if, with respect to each other academic subject in which the teacher teaches, the teacher works in close consultation, either in-person or through high-quality distance education or consultation, with another teacher who is highly qualified in such other academic subject)' before the semicolon.

SEC. 3. STUDY ON THE ADEQUACY OF ESEA FUNDING.

(a) Study- The Comptroller General of the United States (in this section referred to as the 'Comptroller General') shall conduct a study to determine for each of school years 2001-2002, 2002-2003, and 2003-2004, the following:

(1) The amount of costs incurred by local educational agencies and schools as a result of efforts to comply with the provisions of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(2) The amount of funds received by local educational agencies and schools under such part A.

(b) Regular Educational Expenses- In making a determination of costs under subsection (a)(1), the Comptroller General shall exclude educational costs that would be incurred by local educational agencies and schools irrespective of efforts to comply with the provisions of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(c) Samples- The Comptroller General shall make sample determinations under paragraphs (1) and (2) of subsection (a) for--

local educational agency and 1 school in a rural area in each State; and (1) at least 1

least 1 local educational agency and 1 school in an urban area in each State. (2) at

(d) Report- Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress on the results of the study conducted under this section.

(e) Subsequent Study and Reports- The Comptroller General shall conduct additional study under this section and submit a revised report to the Congress--

(1) not later than 2 years after the date of the enactment of this Act, containing determinations on the amounts described in paragraphs (1) and (2) of subsection (a) for school year 2005-2006; and

(2) not later than 3 years after the date of the enactment of this Act, containing determinations on the amounts described in paragraphs (1) and (2) of subsection (a) for school year 2006-2007.

**SEC. 4. STUDY ON FEASIBILITY OF
MEASURING INDIVIDUAL STUDENT ACADEMIC ACHIEVEMENT.**

(a) Study- The Secretary of Education (in this section referred to as the `Secretary') shall enter into an arrangement with a reputable, nonpartisan educational research entity to conduct a study--

(1) to assess the feasibility of measuring student academic achievement on an individual basis over a period of time for purposes of determining whether a school is making adequate yearly progress; and

(2) to identify States and local educational agencies that already have in effect longitudinal data systems that could be used for such measurements.

(b) Considerations- In conducting the study under this section, the Secretary shall consider the following:

(1) Privacy issues, including--

(A) who would have access to information on individual student academic achievement; and

(B) how such information would be maintained in a confidential manner.

against labeling of students.

(2) Ensuring

Costs.

(3)

(c) Report- Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under this section.

