

111TH CONGRESS
1ST SESSION

H. R. 702

To amend the Elementary and Secondary Education Act of 1965 to improve early education.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2009

Ms. HIRONO (for herself, Mr. GEORGE MILLER of California, Mr. CASTLE, Mr. ANDREWS, Mrs. DAVIS of California, Mr. TIERNEY, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BERMAN, Mr. BISHOP of New York, Ms. BORDALLO, Mr. BRADY of Pennsylvania, Ms. CORRINE BROWN of Florida, Ms. CASTOR of Florida, Mr. CLEAVER, Mr. CONNOLLY of Virginia, Mr. CONYERS, Mr. CROWLEY, Ms. EDWARDS of Maryland, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. AL GREEN of Texas, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HARE, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOLT, Mr. HONDA, Mr. KENNEDY, Ms. KILPATRICK of Michigan, Mr. KUCINICH, Mr. LOEBSACK, Ms. MCCOLLUM, Mr. MCNERNEY, Mrs. MALONEY, Mr. MOORE of Kansas, Mr. PALLONE, Mr. PERLMUTTER, Mr. POLIS of Colorado, Mr. PRICE of North Carolina, Mr. REYES, Mr. RUPPERSBERGER, Ms. LINDA T. SÁNCHEZ of California, Mr. SARBANES, Ms. SCHAKOWSKY, Ms. SCHWARTZ, Ms. SHEA-PORTER, Mr. STARK, Ms. SUTTON, Mr. VAN HOLLEN, Mr. WELCH, Ms. WOOLSEY, Mr. WU, and Mr. YARMUTH) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Elementary and Secondary Education Act of 1965 to improve early education.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Providing Resources
3 Early for Kids Act of 2009” or the “PRE-K Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) Children’s experiences in the first five years
7 of life influence the developing brain and have sig-
8 nificant and lasting impact.

9 (2) All children deserve access to high quality
10 early learning experiences that can support their
11 cognitive, social, and emotional development and
12 help prepare them to succeed in school and in life.

13 (3) Research shows that high quality early edu-
14 cation programs can improve early reading and early
15 math skills, decrease grade retention, decrease the
16 need for special education services, and increase the
17 likelihood that children will graduate from high
18 school and become productive members of society.

19 (4) The economic benefits of early education ex-
20 periences are clear and providing parents greater ac-
21 cess to high-quality early learning programs will
22 benefit children, families, and our Nation.

23 (5) High quality early education programs have
24 well-trained and well-compensated teachers, small
25 class sizes, a full-day program, comprehensive serv-
26 ices, family participation, and a research-based cur-

1 riculum that aligns with strong early learning stand-
2 ards. The quality of State early education programs
3 varies significantly across the country.

4 (6) While nearly three-quarters of three-
5 through five-year-olds not in kindergarten spend
6 time in nonparental care each week, research sug-
7 gests that most are not in high quality settings that
8 meet the full range of their developmental needs.

9 (7) A Federal partnership with States—

10 (A) will help increase access to voluntary
11 high quality preschool programs;

12 (B) is a necessary step to improving the
13 Nation’s elementary and secondary schools and
14 helping States close the achievement gap and
15 improve graduation rates; and

16 (C) should be a national priority.

17 **SEC. 3. EARLY EDUCATION GRANTS.**

18 (a) PROGRAM ESTABLISHED.—Each fiscal year, from
19 amounts made available to carry out this Act, the Sec-
20 retary, in consultation with the Secretary of Health and
21 Human Services, shall make grants to States to enhance
22 or improve State-funded preschool programs, as defined
23 by the State.

24 (b) ALLOTMENT.—

1 (1) DETERMINATION.—After making the res-
2 ervation described in subsection (c), from funds ap-
3 propriated under section 13, the Secretary shall
4 make a base allotment to each State that has sub-
5 mitted an approved application and is either—

6 (A) a qualified State (as defined in section
7 4(a)); or

8 (B) a selected State (as designated under
9 section 4(b)).

10 (2) AMOUNT.—The amount of the base allot-
11 ment described under paragraph (1) for each State
12 shall be based on the number of children up to age
13 5 from families with incomes below the poverty line
14 for each State, compared to the number of such chil-
15 dren from all States, except that no State shall have
16 a base allotment less than .25 percent of the
17 amounts appropriated under this Act.

18 (3) BASIS FOR THE BASE ALLOTMENT.—The
19 Secretary shall determine the amount of the base al-
20 lotment determined under paragraph (2) as if every
21 State was to receive a base allotment.

22 (4) REMAINDER.—In any fiscal year for which
23 not every State is to receive a base allotment, the
24 Secretary shall reallocate any funds remaining after the
25 determination of a base allotment under paragraph

1 (2) to each State that has submitted an approved
2 application and is a qualified State. Such remaining
3 funds shall be reallocated among such qualified States
4 and shall be determined by comparing the number of
5 children up to age 5 from families with incomes
6 below the poverty line for each such qualified State
7 to such number for all such qualified States.

8 (c) RESERVATION.—Prior to making any allotments
9 under subsection (b), the Secretary shall reserve 1 percent
10 for the purpose of making grants to Indian tribes and trib-
11 al organizations as described in section 10.

12 **SEC. 4. STATE ELIGIBILITY.**

13 (a) QUALIFIED STATES.—

14 (1) IN GENERAL.—For purposes of this Act,
15 the term “qualified State” means a State that meets
16 each of the following criteria:

17 (A) The State carries out a voluntary
18 State-funded preschool program that requires,
19 at a minimum, the following:

20 (i) Use of research-based curricula
21 that are aligned with State early learning
22 standards that are developmentally appro-
23 priate and include, at a minimum, each of
24 the following domains:

25 (I) Language development.

- 1 (II) Literacy.
- 2 (III) Mathematics.
- 3 (IV) Science.
- 4 (V) Creative arts.
- 5 (VI) Social and emotional devel-
- 6 opment.
- 7 (VII) Approaches to learning.
- 8 (VIII) Physical and health devel-
- 9 opment.
- 10 (ii) Use of nationally established, or
- 11 better, best practices for group size and
- 12 teacher-to-student ratios, appropriate to
- 13 the age group being served.
- 14 (iii) A requirement that each teacher
- 15 holds an associate degree, or higher, in
- 16 early childhood education or a related field.
- 17 (iv) A requirement to operate for at
- 18 least the length of an academic year.
- 19 (B) The State shall have developed a plan,
- 20 including a timetable, for moving toward a re-
- 21 quirement for State-funded preschool programs
- 22 that each teacher holds a baccalaureate degree
- 23 in early childhood education, or in a related
- 24 field if specialized training in early childhood
- 25 education has also been completed, within 5

1 years after the State first receives a grant as a
2 qualified State under this Act.

3 (C) The State, at a minimum, shall ensure
4 that the average per-child expenditure by the
5 State and its political subdivisions to support
6 State-funded preschool programs for the fiscal
7 year for which the grant is made is equal to, or
8 greater than, the average of such per-child ex-
9 penditure for the previous 2 fiscal years.

10 (D) The State, at a minimum, shall ensure
11 that the total expenditure by the State and its
12 political subdivisions to support State-funded
13 preschool programs for the fiscal year for which
14 the grant is made is equal to, or greater than,
15 such expenditure for the preceding fiscal year.

16 (E) The State, at a minimum, shall ensure
17 that the total expenditure by the State and its
18 political subdivisions to support State-funded
19 child care services and activities for the fiscal
20 year for which the grant is made is equal to, or
21 greater than, such expenditure for the pre-
22 ceding fiscal year.

23 (b) SELECTED STATES.—

24 (1) IN GENERAL.—Each fiscal year, the Sec-
25 retary shall carry out, on a competitive basis, a proc-

1 ess for the designation of States as selected States
2 for purposes of this Act. Under the process, the Sec-
3 retary shall determine whether to designate any
4 States and, if so, shall determine the States that are
5 to be designated.

6 (2) BASIS FOR DETERMINATIONS.—The deter-
7 minations required by paragraph (1) shall be based
8 on—

9 (A) the State meeting the requirements of
10 subparagraphs (C) through (E) of subsection
11 (a)(1);

12 (B) the quality of the applications sub-
13 mitted; and

14 (C) the extent to which the State dem-
15 onstrates that the State, if designated, will be-
16 come a qualified State within 2 fiscal years.

17 (3) PERIOD OF DESIGNATION.—A designation
18 under this subsection shall apply to a State for two
19 fiscal years. However, if a State is both a qualified
20 State and a selected State for a fiscal year, it shall
21 be treated for purposes of this Act as a qualified
22 State rather than a selected State.

23 **SEC. 5. APPLICATIONS.**

24 (a) IN GENERAL.—A State desiring to receive funds
25 under this Act shall submit an application to the Secretary

1 at such time and in such manner as the Secretary may
2 reasonably require. In developing such application, the
3 State shall consult with the State Advisory Council on
4 Early Childhood Education and Care (described in section
5 642B(b) of the Head Start Act (42 U.S.C. 9837b(b))) or
6 similar State entity, and providers of early childhood pro-
7 grams operating in the State.

8 (b) REQUIRED CONTENTS.—The application referred
9 to in subsection (a) shall include, at a minimum, the fol-
10 lowing contents:

11 (1) If the State desires to be treated as a quali-
12 fied State, information sufficient for the Secretary to
13 determine whether the State is a qualified State.

14 (2) If the State desires to be designated as a
15 selected State—

16 (A) assurances that the State, if des-
17 igned as a selected State, will become a quali-
18 fied State within two fiscal years;

19 (B) information sufficient for the Sec-
20 retary to determine whether the State meets the
21 requirements of subparagraphs (C) through (E)
22 of section 4(a)(1); and

23 (C) information relating to any competitive
24 criteria that the Secretary may establish.

1 (3) A description of how the funds received
2 under this Act will be used to enhance or improve
3 preschool programs in the State.

4 (4) A description of how the State is working
5 to build its capacity to serve more children in high
6 quality early education programs, including the
7 building of new facilities, as appropriate.

8 (5) A description of how the State will ensure
9 that any funds made available to preschool providers
10 are made available to a range of types of preschool
11 providers, including local educational agencies and
12 community-based providers such as child care and
13 Head Start, as appropriate.

14 (6) Assurances that amounts received by the
15 State under this Act will be used only to supple-
16 ment, and not to supplant, Federal, State, and local
17 funds otherwise available to support existing early
18 childhood services and activities.

19 (7) A description of how the State will evaluate
20 the effectiveness of the use of these funds.

21 (8) A description of how the State will use the
22 funds to better meet the needs of low-income work-
23 ing parents.

1 (9) A description of how the use of funds will
2 help meet the developmental needs of children in the
3 State.

4 (10) A description of how the State will ensure
5 that State-funded preschool programs are available
6 to, and appropriate for, children with disabilities.

7 (11) A description of how the State-funded pre-
8 school programs will be culturally and linguistically
9 appropriate and how the State plans to meet the
10 early education needs of children with limited
11 English proficiency.

12 (12) A description of how the State is working
13 to develop and use research-based curricula that are
14 aligned with State early learning standards and are
15 linguistically and culturally appropriate for children
16 with limited English proficiency.

17 (13) A description of how the State agency des-
18 ignated under subsection (c) will coordinate with
19 other State agencies delivering early childhood devel-
20 opment programs or services.

21 (14) A description of how the State will ensure
22 that State-funded preschool programs will coordinate
23 with the local educational agencies in their area to
24 ensure a smooth and successful transition to kinder-
25 garten.

1 (15) A description of how the State monitoring
2 process will effectively assess and ensure the quality
3 of State-funded preschool programs.

4 (16) A description of how the State will coordi-
5 nate this grant with the efforts of the State Advisory
6 Council on Early Childhood Education and Care (de-
7 scribed in section 642B(b) of the Head Start Act
8 (42 U.S.C. 9837b(b))) or other State entity that is
9 coordinating a system of early childhood develop-
10 ment and education for children from birth to kin-
11 dergarten entry.

12 (17) A description of how the State-funded pre-
13 school programs that are not universal prioritize
14 children from low-income families.

15 (18) A description of how the State is working
16 to eliminate barriers and improve access to State-
17 funded preschool programs for children who live in
18 rural areas.

19 (19) A description of how the State is working
20 to address the transportation needs of families for
21 whom lack of transportation is a significant barrier
22 to accessing State-funded preschool.

23 (c) STATE AGENCY.—The application shall designate
24 a State agency to administer and oversee those funds and
25 the activities carried out under this Act.

1 **SEC. 6. USE OF FUNDS.**

2 (a) PRIORITY.—In using funds provided under this
3 Act, a State shall give priority to improving the quality
4 of State-funded preschool in communities with high con-
5 centrations of low-income children.

6 (b) SPECIFIC USES.—Subject to subsections (c) and
7 (d), a State that receives funds under this Act shall use
8 such funds for any one or more of the following:

9 (1) To increase the number of teachers and
10 program directors in State-funded preschool pro-
11 grams who hold a baccalaureate degree in early
12 childhood education, or in a related field if special-
13 ized training in early childhood education has also
14 been completed.

15 (2) To increase the number of teacher aides in
16 State-funded preschool programs who hold an asso-
17 ciate degree in early childhood education, or in a re-
18 lated field if specialized training in early childhood
19 education has also been completed.

20 (3) To increase the number of program direc-
21 tors, teachers, and teacher aides who have special-
22 ized training in working with children and families
23 with limited English proficiency.

24 (4) To increase the number of program direc-
25 tors, teachers, and teacher aides who have special-

1 ized training in working with children with disabil-
2 ities.

3 (5) To increase the compensation or benefits
4 provided to teachers, program directors, and teacher
5 aides in State-funded preschool programs in order to
6 improve the ability of those programs to recruit and
7 retain such teachers, program directors, and teacher
8 aides.

9 (6) To decrease group size in classrooms in
10 State-funded preschool programs.

11 (7) To improve the teacher-to-student ratios in
12 classrooms in State-funded preschool programs.

13 (8) To provide, in State-funded preschool pro-
14 grams, one or more of the following comprehensive
15 services that support healthy child development and
16 positive child outcomes and school readiness:

17 (A) Vision and hearing screenings and re-
18 ferrals.

19 (B) Health and mental health screenings
20 and referrals.

21 (C) Parent involvement opportunities.

22 (D) Nutrition services.

23 (9) To extend the number of—

24 (A) hours per day of program operation of
25 State-funded preschool programs;

1 (B) days per week of program operation of
2 State-funded preschool programs; or

3 (C) weeks per year of program operation of
4 State-funded preschool programs.

5 (10) To improve the State's system for moni-
6 toring the quality of State-funded preschool pro-
7 grams.

8 (11) To provide opportunities for intensive and
9 on-going research- and evidence-based professional
10 development in the domains described in section
11 4(a)(1)(A)(i) for staff of State-funded preschool pro-
12 grams.

13 (12) To provide induction and support for pre-
14 school program directors, teachers, and staff during
15 their first 3 years of employment in a new position,
16 and to provide on-going mentoring to such individ-
17 uals by persons with education and expertise in sup-
18 porting teachers in effective teaching practices with
19 young children and in supporting program directors
20 in early childhood education and program manage-
21 ment.

22 (13) To renovate existing facilities, except that
23 such renovation must be limited to minor rehabilita-
24 tion or remodeling needed to ensure that State-fund-

1 ed preschool program facilities are age and develop-
2 mentally appropriate.

3 (c) SET-ASIDE.—A State that receives funds under
4 this Act shall use 10 percent of such funds to improve
5 the quality of early learning environments for children
6 from birth to age three through research- and evidence-
7 based methods.

8 (d) SPECIAL RULE.—

9 (1) IN GENERAL.—Notwithstanding subsection
10 (b), a qualified State that receives funds under this
11 Act may use up to 50 percent of the funds remain-
12 ing after application of subsection (c) for the pur-
13 pose of expanding a State-funded preschool pro-
14 gram, with priority for such expansion to commu-
15 nities with high concentrations of low-income chil-
16 dren, that meets or exceeds the criteria in section
17 4(a) if—

18 (A) the amount appropriated under section
19 13 is at least \$250,000,000; or

20 (B) the State-funded preschool program
21 meets or exceeds the following criteria:

22 (i) The standards described in clauses
23 (i) and (ii) of section 4(a)(1)(A).

24 (ii) Each teacher holds a bacca-
25 laurate degree in early childhood edu-

1 cation or a related field if specialized train-
2 ing in early childhood education has also
3 been completed.

4 (iii) Each program provides full-day
5 services at all locations.

6 (iv) Each program provides com-
7 prehensive services to at-risk children par-
8 ticipating in the State-funded preschool
9 program.

10 (v) Each teacher participates in on-
11 going professional development in child de-
12 velopment and learning.

13 (vi) Each program provides linguis-
14 tically and culturally appropriate standards
15 for serving children with limited English
16 proficiency participating in the State-fund-
17 ed preschool program.

18 (2) STATE DEFINITION AND APPLICABILITY.—

19 For the purpose of establishing a priority for expan-
20 sion under paragraph (1), the State shall define
21 what constitutes a high concentration of low-income
22 children. In any State described in paragraph (1) in
23 which all communities with high concentrations of
24 low-income children are served by a State-funded

1 preschool program, the priority for expansion de-
2 scribed in such paragraph shall not apply.

3 (e) **RULE OF CONSTRUCTION.**—Funds provided
4 under this Act shall be used only to improve or enhance
5 a State-funded preschool program. Nothing in this Act
6 shall be construed such that a State may use these funds
7 only for existing State-funded preschool programs.

8 **SEC. 7. MATCHING REQUIREMENTS.**

9 The Secretary shall not make a grant to a State
10 under this Act unless the State agrees to the following:

11 (1) **QUALIFIED STATE.**—In the case of a quali-
12 fied State, the State will make available non-Federal
13 contributions in an amount equal to not less than 30
14 percent of that portion of the Federal funds pro-
15 vided under the grant that represent the base allot-
16 ment under section 3(b)(2).

17 (2) **SELECTED STATE.**—In the case of a se-
18 lected State, the State will make available non-Fed-
19 eral contributions in an amount equal to not less
20 than 50 percent of that portion of the Federal funds
21 provided under the grant that represent the base al-
22 lotment under section 3(b)(2).

23 **SEC. 8. REPORTING REQUIREMENTS.**

24 (a) **REPORT TO CONGRESS.**—For each year in which
25 funding is provided under this Act, the Secretary shall

1 submit an annual report to the Congress on the activities
2 carried out under this Act, including, at a minimum, infor-
3 mation on the following:

4 (1) The activities undertaken by qualified
5 States and selected States that improved or en-
6 hanced State-funded preschool programs.

7 (2) The progress of selected States in moving
8 toward fulfilling criteria to become a qualified State.

9 (3) The extent to which the State used funds
10 to expand a State-funded preschool program, as al-
11 lowed under section 6(d).

12 (4) The costs and barriers to expansion, includ-
13 ing building and renovating preschool facilities so
14 that they are high quality and age and develop-
15 mentally appropriate.

16 (b) REPORT TO SECRETARY.—Each State that re-
17 ceives a grant under this Act shall submit to the Secretary
18 an annual report on the following:

19 (1) The activities carried out by the State
20 under this Act, including information on the fol-
21 lowing:

22 (A) How funds provided under this Act
23 were used to enhance and improve quality of
24 State-funded preschool programs, including en-
25 hancing and improving the quality of State-

1 funded preschool programs serving children who
2 live in a rural area.

3 (B) Such other information as the Sec-
4 retary may reasonably require.

5 (2) The activities carried out by the State-fund-
6 ed preschool program, including—

7 (A) the number and ages of children
8 served by the State-funded preschool program;
9 and

10 (B) the number and ages of children in
11 such program with a disability, with limited
12 English proficiency, from low-income families,
13 and from rural areas.

14 **SEC. 9. SPECIAL RULE.**

15 Funds under this Act may not be used for the pur-
16 poses of assessments that provide rewards or sanctions for
17 individual children or teachers.

18 **SEC. 10. APPLICATIONS FOR INDIAN TRIBES.**

19 The Secretary shall award competitive grants to In-
20 dian tribes and tribal organizations to carry out a program
21 under this Act. An Indian tribe or tribal organization de-
22 siring to receive funds under this Act shall submit an ap-
23 plication to the Secretary at such time and in such manner
24 as the Secretary may reasonably require. For purposes of
25 submitting such application and for expending funds re-

1 ceived under this Act, Indian tribes and tribal organiza-
2 tions shall comply with sections 4 through 8.

3 **SEC. 11. DEFINITIONS.**

4 For purposes of this Act:

5 (1) LOCAL EDUCATIONAL AGENCY.—The term
6 “local educational agency” has the meaning given
7 such term in section 9101 of the Elementary and
8 Secondary Education Act of 1965 (20 U.S.C. 7801).

9 (2) POVERTY LINE.—The term “poverty line”
10 has the meaning given such term in section 9101 of
11 the Elementary and Secondary Education Act of
12 1965 (20 U.S.C. 7801).

13 (3) RURAL AREA.—The term “rural area”
14 means a geographic area served by a rural local edu-
15 cation agency.

16 (4) RURAL LOCAL EDUCATION AGENCY.—The
17 term “rural local education agency” means a local
18 education agency having administrative control or
19 direction of schools which meet a metro-centric lo-
20 cale code of 41, 42, or 43 as determined by the Na-
21 tional Center for Education Statistics, in conjunc-
22 tion with the Bureau of the Census, using the sys-
23 tem of the National Center for Education Statistics
24 for classifying local educational agencies.

1 (5) SECRETARY.—The term “Secretary” has
2 the meaning given such term in section 9101 of the
3 Elementary and Secondary Education Act of 1965
4 (20 U.S.C. 7801).

5 (6) STATE.—The term “State” has the mean-
6 ing given such term in section 9101 of the Elemen-
7 tary and Secondary Education Act of 1965 (20
8 U.S.C. 7801).

9 (7) STATE-FUNDED PRESCHOOL PROGRAM.—
10 The term “State-funded preschool program” means
11 a program that—

12 (A) serves children who are ages 3 through
13 5;

14 (B) has a primary focus of supporting
15 early childhood education, including supporting
16 children’s cognitive, social, emotional, and phys-
17 ical development and approaches to learning;

18 (C) helps prepare children for a successful
19 transition to kindergarten; and

20 (D) is funded either in whole or in part by
21 a State through a State agency with authority
22 to promulgate regulations and monitor partici-
23 pating programs.

1 (8) WITH LIMITED ENGLISH PROFICIENCY.—

2 The term “with limited English proficiency”, when
3 used with respect to a child, means a child—

4 (A)(i) who was not born in the United
5 States or whose native language is a language
6 other than English;

7 (ii)(I) who is a Native American (as de-
8 fined in section 9101 of the Elementary and
9 Secondary Education Act of 1965 (20 U.S.C.
10 7801)), an Alaska Native, or a native resident
11 of an outlying area (as defined in such section
12 9101); and

13 (II) who comes from an environment where
14 a language other than English has had a sig-
15 nificant impact on the child’s level of English
16 language proficiency; or

17 (iii) who is migratory, whose native lan-
18 guage is a language other than English, and
19 who comes from an environment where a lan-
20 guage other than English is dominant; and

21 (B) whose difficulties in speaking or un-
22 derstanding the English language may be suffi-
23 cient to deny the child—

1 (i) the ability to successfully achieve
2 in a classroom in which the language of in-
3 struction is English; or

4 (ii) the opportunity to participate fully
5 in society.

6 **SEC. 12. CONSTRUCTION.**

7 Nothing in this Act shall be construed to require a
8 child to attend a preschool program.

9 **SEC. 13. AUTHORIZATION.**

10 There are authorized to be appropriated to carry out
11 this Act \$1,000,000,000 for each of fiscal years 2010
12 through 2014.

○