

under this section to make subgrants to local educational agencies in the State or consortia of such local educational agencies, based on demonstrated need in the agency's or consortium's application, to enable such agencies or consortia to improve assessment quality and use, and alignment, including, if applicable, alignment to the challenging State academic standards.

**(2) Local educational agency application**

Each local educational agency, or consortium of local educational agencies, seeking a subgrant under this subsection shall submit an application to the State at such time, in such manner, and containing such other information as determined necessary by the State. The application shall include a description of the agency's or consortium's needs relating to the improvement of assessment quality, use, and alignment.

**(3) Use of funds**

A subgrant awarded under this subsection to a local educational agency or consortium of such agencies may be used to—

(A) conduct an audit of local assessments under subsection (e)(1)(B)(i);

(B) carry out the plan described in subsection (e)(3)(D) as it pertains to such agency or consortium;

(C) improve assessment delivery systems and schedules, including by increasing access to technology and assessment proctors, where appropriate;

(D) hire instructional coaches, or promote teachers who may receive increased compensation to serve as instructional coaches, to support teachers in the development of classroom-based assessments, interpreting assessment data, and designing instruction;

(E) provide for appropriate accommodations to maximize inclusion of children with disabilities and English learners participating in assessments; and

(F) improve the capacity of teachers, principals, and other school leaders to disseminate assessment data in an accessible and understandable format for parents and families, including for children with disabilities and English learners.

**(g) Definitions**

In this section:

**(1) Local assessment**

The term “local assessment” means an academic assessment selected and carried out by a local educational agency that is separate from an assessment required under section 6311(b)(2) of this title.

**(2) State**

The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89-10, title I, §1202, as added Pub. L. 114-95, title I, §1201, Dec. 10, 2015, 129 Stat. 1881.)

**Editorial Notes**

**PRIOR PROVISIONS**

A prior section 6362, Pub. L. 89-10, title I, §1202, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat.

1535; amended Pub. L. 108-7, div. G, title III, §305, Feb. 20, 2003, 117 Stat. 333, authorized formula grants to State educational agencies, prior to the general amendment of this part by Pub. L. 114-95.

Another prior section 6362, Pub. L. 89-10, title I, §1202, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3578; amended Pub. L. 105-220, title II, §251(b)(2)(A), Aug. 7, 1998, 112 Stat. 1079; Pub. L. 105-277, div. A, §101(f) [title VIII, §§201, 202], Oct. 21, 1998, 112 Stat. 2681-337, 2681-407, 2681-408; Pub. L. 106-554, §1(a)(4) [div. B, title XVI, §§1604(c)-(e), 1606(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A-329, 2763A-330, 2763A-334, authorized Even Start program, prior to the general amendment of this subchapter by Pub. L. 107-110.

A prior section 1202 of Pub. L. 89-10 was classified to section 2782 of this title, prior to the general amendment of Pub. L. 89-10 by Pub. L. 103-382.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

**§ 6363. Allotment of appropriated funds**

**(a) Amounts equal to or less than trigger amount**

From amounts made available for each fiscal year under subsection<sup>1</sup> 6302(b) of this title that are equal to or less than the amount described in section 6311(b)(2)(I) of this title, the Secretary shall—

(1) reserve one-half of 1 percent for the Bureau of Indian Education;

(2) reserve one-half of 1 percent for the outlying areas;

(3) reserve not more than 20 percent to carry out section 6362 of this title; and

(4) from the remainder, carry out section 6361 of this title by allocating to each State an amount equal to—

(A) \$3,000,000, except for a fiscal year for which the amounts available are insufficient to allocate such amount to each State, the Secretary shall ratably reduce such amount for each State; and

(B) with respect to any amounts remaining after the allocation under subparagraph (A), an amount that bears the same relationship to such total remaining amounts as the number of students aged 5 through 17 in the State (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

**(b) Amounts above trigger amount**

For any fiscal year for which the amount made available for a fiscal year under subsection<sup>1</sup> 6302(b) of this title exceeds the amount described in section 6311(b)(2)(I) of this title, the Secretary shall make such excess amount available as follows:

**(1) Competitive grants**

**(A) In general**

The Secretary shall first use such funds to award grants, on a competitive basis, to State educational agencies or consortia of

<sup>1</sup> So in original. Probably should be “section”.

State educational agencies that have submitted applications described in subparagraph (B) to enable such States to carry out the activities described in subparagraphs (C), (H), (I), (J), (K), and (L) of section 6361(a)(2) of this title.

**(B) Applications**

A State, or a consortium of States, that desires a competitive grant under subparagraph (A) shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall demonstrate that the requirements of this section will be met for the uses of funds described under subparagraph (A).

**(C) Amount of competitive grants**

In determining the amount of a grant under subparagraph (A), the Secretary shall ensure that a State or consortium's grant, as the case may be, shall include an amount that bears the same relationship to the total funds available to carry out this subsection for the fiscal year as the number of students aged 5 through 17 in the State, or, in the case of a consortium, in each State that comprises the consortium, (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

**(2) Allotments**

Any amounts remaining after the Secretary awards funds under paragraph (1) shall be allotted to each State, or consortium of States, that did not receive a grant under such paragraph, in an amount that bears the same relationship to the remaining amounts as the number of students aged 5 through 17 in the State, or, in the case of a consortium, in the States of the consortium, (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

**(c) State defined**

In this part, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

**(d) Prohibition**

In making funds available to States under this part, the Secretary shall comply with the prohibitions described in section 7909 of this title.

(Pub. L. 89-10, title I, §1203, as added Pub. L. 114-95, title I, §1201, Dec. 10, 2015, 129 Stat. 1884.)

**Editorial Notes**

**PRIOR PROVISIONS**

A prior section 6363, Pub. L. 89-10, title I, §1203, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1543; amended Pub. L. 110-154, §1(c)(3), Dec. 21, 2007, 121 Stat. 1828; Pub. L. 113-128, title V, §512(i)(1), July 22, 2014, 128 Stat. 1708, related to applications for State formula grants, prior to the general amendment of this part by Pub. L. 114-95.

Another prior section 6363, Pub. L. 89-10, title I, §1203, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3579; amended Pub. L. 105-277, div. A, §101(f) [title VIII, §204(b)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-409;

Pub. L. 106-554, §1(a)(4) [div. B, title XVI, §1604(f), (g)], Dec. 21, 2000, 114 Stat. 2763, 2763A-330, related to State Even Start programs, prior to the general amendment of this subchapter by Pub. L. 107-110.

A prior section 1203 of Pub. L. 89-10 was classified to section 2783 of this title, prior to the general amendment of Pub. L. 89-10 by Pub. L. 103-382.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

**§ 6364. Innovative assessment and accountability demonstration authority**

**(a) Innovative assessment system defined**

The term "innovative assessment system" means a system of assessments that may include—

(1) competency-based assessments, instructionally embedded assessments, interim assessments, cumulative year-end assessments, or performance-based assessments that combine into an annual summative determination for a student, which may be administered through computer adaptive assessments; and

(2) assessments that validate when students are ready to demonstrate mastery or proficiency and allow for differentiated student support based on individual learning needs.

**(b) Demonstration authority**

**(1) In general**

The Secretary may provide a State educational agency, or a consortium of State educational agencies, in accordance with paragraph (3), with the authority to establish an innovative assessment system (referred to in this section as "demonstration authority").

**(2) Demonstration period**

In accordance with the requirements described in subsection (e), each State educational agency, or consortium of State educational agencies, that submits an application under this section shall propose in its application the period of time over which the State educational agency or consortium desires to exercise the demonstration authority, except that such period shall not exceed 5 years.

**(3) Initial demonstration authority and expansion**

During the first 3 years that the Secretary provides State educational agencies and consortia with demonstration authority (referred to in this section as the "initial demonstration period") the Secretary shall provide such demonstration authority to—

(A) a total number of not more than 7 participating State educational agencies, including those participating in consortia, that have applications approved under subsection (e); and

(B) consortia that include not more than 4 State educational agencies.