

112TH CONGRESS
1ST SESSION

S. 1570

To provide for high-quality academic tutoring for low-income students, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2011

Mr. MCCAIN introduced the following bill; which was read twice and referred
to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for high-quality academic tutoring for low-income
students, and for other purposes.

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 “Tutoring for Students
5 Act”.

6 **SEC. 2. SCHOOL IMPROVEMENT.**

7 Title I of the Elementary and Secondary Education
8 Act of 1965 (20 U.S.C. 6301 et seq.) is amended by add-
9 ing at the end the following:

1 **“PART J—ACADEMIC TUTORING FOR LOW-**
2 **INCOME STUDENTS**

3 **“SEC. 1951. ACADEMIC TUTORING FOR LOW-INCOME STU-**
4 **DENTS.**

5 “(a) DEFINITIONS.—In this section:

6 “(1) ELIGIBLE STUDENT.—The term ‘eligible
7 student’ means a student from a low-income family,
8 as determined by the local educational agency for
9 purposes of allocating funds to schools under section
10 1113(c)(1).

11 “(2) HIGH-QUALITY ACADEMIC TUTORING.—
12 The term ‘high-quality academic tutoring’ means tu-
13 toring and other supplemental academic enrichment
14 services that are—

15 “(A) in addition to regular classroom in-
16 struction provided by the local educational
17 agency, and may be scheduled before, during, or
18 after the school day and during the summer;
19 and

20 “(B) of the highest quality, research-based,
21 and specifically designed to increase the aca-
22 demic achievement of eligible students on the
23 academic assessments required under section
24 1111(b)(3).

1 “(3) PROVIDER.—The term ‘provider’ means a
2 nonprofit entity, a for-profit entity, or a local edu-
3 cational agency that—

4 “(A) has a demonstrated record of effec-
5 tiveness in increasing student academic achieve-
6 ment;

7 “(B) is capable of providing high-quality
8 academic tutoring that is consistent with the in-
9 structional program of the local educational
10 agency and the State challenging academic con-
11 tent standards and challenging student aca-
12 demic achievement standards described under
13 section 1111; and

14 “(C) is financially sound.

15 “(b) STATE RESERVATIONS.—Each State shall re-
16 serve 10 percent of the amount the State receives under
17 subpart 2 of part A, for each fiscal year, to carry out a
18 system of high-quality academic tutoring to eligible stu-
19 dents in accordance with this section.

20 “(c) USES.—

21 “(1) IN GENERAL.—Of the funds reserved
22 under subsection (b) for any fiscal year, a State edu-
23 cational agency—

24 “(A) may reserve not more than 3 percent
25 of such amount for administration, evaluation,

1 and technical assistance consistent with sub-
2 section (h); and

3 “(B) shall allocate not less than 97 percent
4 of such amount directly to eligible local edu-
5 cational agencies meeting the requirements
6 under subsection (d) as subgrants according to
7 the formula described in paragraph (2).

8 “(2) FORMULA.—From the funds reserved
9 under subsection (b) and not reserved under para-
10 graph (1)(A) for a fiscal year, a State educational
11 agency shall allot to each eligible local educational
12 agency an amount that bears the same relationship
13 to such funds as the amount such agency received
14 under subpart 2 of part A for the preceding fiscal
15 year bears to the amount all eligible local edu-
16 cational agencies received under subpart 2 of part A
17 for the preceding fiscal year.

18 “(d) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—
19 To be eligible to receive a subgrant from a State edu-
20 cational agency under this section, a local educational
21 agency, shall, as part of any plan submitted under part
22 A, submit to the State educational agency an application
23 that includes, at a minimum, the following information
24 and assurances:

1 “(1) A description of how the local educational
2 agency will use not less than 90 percent of the funds
3 received under subsection (c) to enable eligible stu-
4 dents to receive high-quality academic tutoring se-
5 lected by parents from among a list of providers ap-
6 proved by the State in accordance with subsection
7 (h).

8 “(2) A description of how the local educational
9 agency will enroll eligible students in high-quality
10 academic tutoring, giving priority to those students
11 served by the agency who have the greatest academic
12 need based primarily upon the performance on State
13 assessments required under this title, or to those
14 schools with the highest proportion of such students
15 relative to other schools served by such agency.

16 “(3) A description of how the local educational
17 agency will provide, at a minimum, annual notice to
18 parents (in an understandable and uniform format
19 and, to the extent practicable, in a language the par-
20 ents can understand) of—

21 “(A) the availability of services under this
22 section;

23 “(B) the identity of approved providers of
24 those services that are within the geographic
25 area served by the local educational agency or

1 whose services are reasonably available in geo-
2 graphic areas served by neighboring local edu-
3 cational agencies; and

4 “(C) the services, qualifications, and dem-
5 onstrated effectiveness of each such provider,
6 which shall include summaries of the evalua-
7 tions for each provider collected by the State
8 under subsection (h)(10).

9 “(4) An assurance that the local educational
10 agency will not disclose to the public the identity of
11 any student who is eligible for, or receiving, high-
12 quality academic tutoring under this section without
13 the written permission of the parents of the student.

14 “(5) A description of the process the local edu-
15 cational agency will use to develop agreements with
16 providers selected by a parent which shall—

17 “(A) include a statement of specific
18 achievement goals for the student, how the stu-
19 dent’s progress will be measured, and a time-
20 table for improving achievement that, in the
21 case of a student with disabilities, is consistent
22 with the student’s individualized education pro-
23 gram under section 614(d) of the Individuals
24 with Disabilities Education Act, which may be

1 developed by the provider in consultation with
2 the parent and the local educational agency;

3 “(B) describe how the student’s parents
4 and the student’s teacher will be regularly in-
5 formed of the student’s progress;

6 “(C) provide for the opportunity for a pro-
7 vider to address any deficiencies in such goals
8 and timetables and if necessary after such op-
9 portunity, termination of such agreement if the
10 provider is unable to meet such goals and time-
11 tables;

12 “(D) contain provisions with respect to the
13 making of timely payments to the provider by
14 the local educational agency; and

15 “(E) prohibit the provider from disclosing
16 to the public the identity of any student eligible
17 for, or receiving, high-quality academic tutoring
18 under this section without the written permis-
19 sion of the parents of such student.

20 “(6) An assurance that the local educational
21 agency will allow providers to use school facilities to
22 deliver high-quality academic tutoring, either free of
23 charge or for a reasonable fee, in which case such
24 fee and terms shall be identical across all groups
25 that seek access to the school facilities.

1 “(7) A description of how, in cases where it is
2 not possible to have all providers provide high-quality
3 academic tutoring in a local educational agency’s
4 school buildings, the agency will select providers,
5 taking into consideration input from principals of
6 schools where providers will operate on-site, in a
7 manner that is fair, open, and objective and provides
8 parents with as diverse and large a group of on-site
9 providers as possible, which may include faith-based
10 and other community-based providers.

11 “(8) An assurance that the local educational
12 agency will facilitate the State’s responsibility to
13 monitor and oversee providers.

14 “(9) In the case of a rural local educational
15 agency in which no providers approved by the State
16 have selected to serve such school district served by
17 the local educational agency, a description of how
18 the agency will provide such services or use the
19 funds for other purposes which meet the needs of
20 the lowest performing students served by the local
21 educational agency.

22 “(10) In the case of a local educational agency
23 that is approved by the State as an eligible provider
24 pursuant to subsection (h), a description of how
25 such agency will ensure a fair and transparent proc-

1 ess in the administration of the high-quality aca-
2 demic tutoring program, including with respect to
3 parental notification, enrollment of students, school
4 site access, and other administrative duties described
5 in this section.

6 “(11) An assurance that student achievement
7 data will be shared between the local educational
8 agency and providers to ensure better communica-
9 tion with the local educational agency and school
10 and to better track student performance in the con-
11 text of the school the student is attending, con-
12 sistent with applicable privacy laws, including sec-
13 tion 444 of the General Education Provisions Act
14 (commonly known as the ‘Family Educational
15 Rights and Privacy Act of 1974’).

16 “(12) A description of the local educational
17 agency’s plan to inform eligible students of the avail-
18 ability of high-quality academic tutoring, which shall
19 include—

20 “(A) posting the common statewide stu-
21 dent application on the agency’s Web site;

22 “(B) conducting enrollment of eligible stu-
23 dents throughout the year in conjunction with
24 approved providers and community-based orga-

1 nizations to ensure that eligible students have
2 full opportunities to participate; and

3 “(C) ensuring high-quality academic tutor-
4 ing services are provided in a timely manner,
5 including notification to eligible families, enroll-
6 ing students, and contracting with providers to
7 ensure that services begin not later than 60
8 days after the start of the school year.

9 “(e) LEA RETURN OF FUNDS TO STATE; REALLOCA-
10 TION.—

11 “(1) RETURN.—Except as provided in para-
12 graph (2), upon the expiration of the 1-year period
13 beginning on the date on which a local educational
14 agency receives its allocation under this section—

15 “(A) such agency shall return to the State
16 educational agency any funds from such alloca-
17 tion that remain unobligated; and

18 “(B) the State educational agency shall re-
19 allocate any such returned funds to local edu-
20 cational agencies that have applications ap-
21 proved by the State for using such funds for ac-
22 tivities under this section on a timely basis.

23 “(2) CARRYOVER.—

24 “(A) IN GENERAL.—In any fiscal year, a
25 local educational agency may retain for obliga-

1 tion in the succeeding fiscal year to carry out
2 activities in accordance with this section—

3 “(i) an amount equal to not more
4 than 5 percent of the allocation it received
5 under this section for such fiscal year; or

6 “(ii) upon a demonstration of good
7 cause by such agency and approval by the
8 State educational agency, an amount that
9 exceeds 5 percent of such allocation.

10 “(B) EXCLUSION FROM CALCULATION.—
11 Amounts carried over by a local educational
12 agency under this paragraph shall be excluded
13 from the calculation of the carryover provisions
14 under this title as described in section 1127.

15 “(f) CONSORTIA.—Local educational agencies may
16 form a consortium for the purpose of submitting an appli-
17 cation under subsection (d) allowing for such agencies to
18 develop and implement a uniform process related to paren-
19 tal notification, enrollment of students, and other adminis-
20 trative duties described in subsection (d).

21 “(g) TIMELY APPROVAL OF APPLICATION.—State
22 educational agencies shall provide timely notice to local
23 educational agencies with respect to the approval of appli-
24 cations under subsection (d), which shall be not less than
25 120 days before the first day of school, as to ensure the

1 ability of local educational agencies with approved applica-
2 tions to provide services to students not later than 60 days
3 after the first day of school.

4 “(h) STATE EDUCATIONAL AGENCY ACTIVITIES.—
5 From funds made available under subsection (c)(1)(A), a
6 State educational agency shall carry out the following ac-
7 tivities:

8 “(1) Assist local educational agencies in the de-
9 velopment of applications described in subsection (d)
10 to ensure the greatest participation by agencies as
11 possible, including with respect to those agencies lo-
12 cated in rural areas.

13 “(2) Determine which local educational agencies
14 shall apply for grants under this section, which shall
15 include the lowest performing local educational agen-
16 cies statewide as measured by academic achievement
17 measures.

18 “(3) Develop a process for the selection of eligi-
19 ble providers of high-quality academic tutoring
20 which shall—

21 “(A) include the input from local edu-
22 cational agencies, parents, teachers, and other
23 interested members of the public;

24 “(B) promote participation by the highest
25 quality providers to ensure, to the extent prac-

1 ticable, that parents have the best available
2 choices as possible;

3 “(C) be based upon a demonstrated record
4 of effectiveness in increasing the academic pro-
5 ficiency of students in subjects relevant to
6 meeting the State challenging academic content
7 standards and challenging student academic
8 achievement standards;

9 “(D) include in-person presentations of ap-
10 plications to the State educational agency;

11 “(E) require providers to demonstrate—

12 “(i) that the provider’s curricula are
13 aligned to State challenging academic con-
14 tent standards and challenging student
15 academic achievement standards;

16 “(ii) that the provider has not less
17 than 5 years of continuous operating expe-
18 rience providing education instruction to
19 youth;

20 “(iii) that the provider uses instruc-
21 tional methods and materials that are re-
22 search-based;

23 “(iv) financial stability, which may in-
24 clude a financial audit, evidence of suffi-
25 cient working capital, or other means; and

1 “(v) that the provider employs tutors
2 that meet State-determined qualifications;
3 and

4 “(F) subject to the removal process de-
5 scribed in paragraph (11), approve providers
6 for not less than 5 years.

7 “(4) Maintain an updated list of approved pro-
8 viders across the State, by school district, from
9 which parents may select.

10 “(5) Ensure that, in the case of a local edu-
11 cational agency that is approved as an eligible pro-
12 vider, that the local educational agency provides a
13 fair and transparent process, as described in sub-
14 section (d)(10), in the administration of the high-
15 quality academic tutoring program.

16 “(6) Establish a process to accept and resolve
17 complaints about the activities described in this sec-
18 tion within 45 days.

19 “(7) Provide annual notice to potential pro-
20 viders of high-quality academic tutoring of the op-
21 portunity to provide services under this section and
22 of the applicable procedures for obtaining approval
23 from the State educational agency to be an approved
24 provider of those services.

1 “(8) Develop a common statewide student ap-
2 plication form to be used by local educational agen-
3 cies that is completed by parents of eligible students
4 when enrolling in high-quality academic tutoring.

5 “(9) Conduct program monitoring of grant re-
6 cipients’ implementation of high-quality academic tu-
7 toring to ensure compliance with application require-
8 ments.

9 “(10) Develop and implement a system to
10 evaluate each approved provider of high-quality aca-
11 demic tutoring which system—

12 “(A) shall be based primarily upon the ex-
13 tent to which a provider improved student aca-
14 demic achievement, as measured by student
15 progress toward meeting challenging State stu-
16 dent academic achievement standards for all
17 students enrolled in the high-quality academic
18 tutoring of the provider under this section—

19 “(i) in each subject for which the pro-
20 vider provides high-quality academic tutor-
21 ing under this section to such students;

22 “(ii) regardless of whether such stu-
23 dents are in a grade level that is subject to
24 a State assessment;

1 “(iii) accounting for the length of
2 each course of high-quality academic tutor-
3 ing offered by the provider; and

4 “(iv) including academic data for all
5 students in a provider’s program who have
6 completed that provider’s program;

7 “(B) shall be supplemented with additional
8 criteria, such as—

9 “(i) local educational agency evalua-
10 tions of the high-quality academic tutoring
11 provided under this section;

12 “(ii) student, parent, principal, or
13 teacher satisfaction with the provider, ex-
14 cept that, if a State elects to include this
15 criterion in the State evaluation system,
16 the satisfaction levels shall be measured by
17 a survey that uniformly evaluates all such
18 providers in the State;

19 “(iii) the attendance rates of the stu-
20 dents enrolled in the high-quality academic
21 tutoring offered by the provider under this
22 section; and

23 “(iv) any additional criteria deter-
24 mined to be necessary by the State edu-
25 cational agency;

1 “(C) determines the value added by each
2 provider in improving the student academic
3 achievement of participating students, as meas-
4 ured by an appropriate assessment that is capa-
5 ble of measuring provider value-added student
6 growth relative to the targeted intervention pro-
7 vided; and

8 “(D) shall be operational not later than
9 the last day of the 2012–2013 school year.

10 “(11) Establish a fair mechanism for the re-
11 moval of a provider who—

12 “(A) fails, for 2 consecutive years, to con-
13 tribute to increasing the academic proficiency of
14 students served under this section based upon
15 the evaluations required under paragraph (10);

16 “(B) is found, after a full and fair inves-
17 tigation, to have repeatedly violated any re-
18 quirements of subsection (i) or been subject to
19 allegations proven true as submitted through
20 the process required in paragraph (6); or

21 “(C) does not serve students in a State for
22 any 2-year continuous interval.

23 “(12) Upon the date of enactment of the Tutor-
24 ing for Students Act, require existing providers of
25 supplemental educational services under section

1 1116(e) to reapply for approval under the require-
2 ments of this section.

3 “(i) PROVIDERS OF HIGH-QUALITY ACADEMIC TU-
4 TORING.—In order for a provider to be included on the
5 State approved provider list under subsection (h), a pro-
6 vider shall agree to carry out the following:

7 “(1) Provide parents of children receiving high-
8 quality academic tutoring under this section and the
9 appropriate local educational agency with informa-
10 tion on the progress of the children in increasing
11 achievement, in a format and, to the extent prac-
12 ticable, a language that such parents can under-
13 stand.

14 “(2) Ensure that instruction provided and con-
15 tent used by the provider—

16 “(A) is of the highest quality and con-
17 sistent with the instruction provided and con-
18 tent used by the local educational agency and
19 State;

20 “(B) is aligned with State challenging aca-
21 demic content standards and challenging stu-
22 dent academic achievement standards; and

23 “(C) supports the development of the stu-
24 dents’ college and career readiness.

1 “(3) Meet all applicable Federal, State, and
2 local health, safety, and civil rights laws.

3 “(4) Ensure that all instruction and content
4 under this section are secular, neutral, and non-ideo-
5 logical.

6 “(5) Meet the requirements in subsection
7 (h)(3)(E).

8 “(j) AMOUNTS FOR HIGH-QUALITY ACADEMIC TU-
9 TORING.—The amount that a local educational agency
10 shall make available for high-quality academic tutoring for
11 each child receiving those services under this section shall
12 be—

13 “(1) the amount of the agency’s allocation
14 under subpart 2 of part A, divided by the number
15 of children from families below the poverty level
16 counted under section 1124(c)(1)(A); or

17 “(2) the amount of all agencies’ allocations
18 within the State under subpart 2 of part A, divided
19 by the number of all children within the State from
20 families below the poverty level counted under sec-
21 tion 1124(c)(1)(A).

22 “(k) SECRETARY RESPONSIBILITIES.—The Secretary
23 shall—

1 “(1) provide rigorous oversight and monitoring
2 of State and local educational agency implementa-
3 tion of this section;

4 “(2) promptly issue any necessary regulations
5 and guidance for States and local educational agen-
6 cies to implement grants for high-quality academic
7 tutoring;

8 “(3) prepare an annual report on expenditures
9 for high-quality academic tutoring, participation
10 rates of students, publication of participating local
11 educational agencies, and other relevant pro-
12 grammatic information to inform the public of the
13 activities under this section;

14 “(4) develop a complaint and resolution process
15 to be used by the Secretary in the investigation of
16 allegations of improper conduct in the implementa-
17 tion of high-quality academic tutoring programs; and

18 “(5) conduct a national evaluation of high-qual-
19 ity academic tutoring using a randomized sample of
20 students served across diverse local educational
21 agencies to document the value-add of such interven-
22 tions to student academic achievement and docu-
23 ment best practices used by States, local educational
24 agencies, and service providers in the provision of
25 high-quality academic tutoring under this section.

1 “(1) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion shall be construed to permit the making of any pay-
3 ment for religious worship or instruction.”.

○