

(A) from the State in which the child resides to defray the educational and related services for such child;

(B) under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to defray the educational and related services for such child; and

(C) from any other source to defray the costs of providing educational and related services to the child which are received due to the presence of a severe disabling condition of such child.

**(c) Exclusions**

No payment shall be made under subsection (a) of this section on behalf of a child with a severe disability whose individual cost of educational and related services does not exceed—

(1) five times the national or State average per pupil expenditure (whichever is lower), for a child who is provided educational and related services under a program that is located outside the boundaries of the school district of the local educational agency that pays for the free appropriate public education of the student; or

(2) three times the State average per pupil expenditure, for a child who is provided educational and related services under a program offered by the local educational agency, or within the boundaries of the school district served by the local educational agency.

**(d) Ratable reduction**

If the amount available for a fiscal year for payments under subsection (a) of this section is insufficient to pay the full amount all local educational agencies are eligible to receive under such subsection, the Secretary of Defense shall ratably reduce the amounts of the payments made under such subsection to all local educational agencies by an equal percentage.

**(e) Report**

Each local educational agency desiring a payment under subsection (a) of this section shall report to the Secretary of Defense—

(1) the number of severely disabled children for which a payment may be made under this section; and

(2) a breakdown of the average cost, by placement (inside or outside the boundaries of the school district of the local educational agency), of providing education and related services to such children.

**(f) Payments subject to appropriation**

Payments shall be made for any period in a fiscal year under this section only to the extent that funds are appropriated specifically for making such payments for that fiscal year.

**(g) Local educational agency defined**

In this section, the term “local educational agency” has the meaning given that term in section 7713(9) of this title.

(Pub. L. 106-398, §1 [[div. A], title III, §363], Oct. 30, 2000, 114 Stat. 1654, 1654A-77.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2)(B), is title VI of Pub. L.

91-230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

CODIFICATION

Section was enacted as part of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

**§ 7703b. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees**

**(a) Assistance to schools with significant numbers of military dependent students**

**(1) Assistance authorized**

The Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, without such assistance, the local educational agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the local educational agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

**(2) Eligible local educational agencies**

A local educational agency is eligible for assistance under this subsection for a fiscal year if at least 20 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of the local educational agency during the preceding school year were military dependent students counted under section 7703(a)(1) of this title.

**(b) Assistance to schools with enrollment changes due to base closures, force structure changes, or force relocations**

**(1) Assistance authorized**

To assist communities in making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, during the period between the end of the school year preceding the fiscal year for which the assistance is authorized and the beginning of the school year immediately preceding that school year, the local educational agency had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(A) not less than five percent in the average daily attendance of military dependent students in the schools of the local educational agency; or

(B) not less than 250 military dependent students in average daily attendance in the schools of the local educational agency.

**(2) Eligible local educational agencies**

A local educational agency is eligible for assistance under this subsection for a fiscal year if—

(A) the local educational agency is eligible for assistance under subsection (a) of this

section for the same fiscal year, or would have been eligible for such assistance if not for the reduction in military dependent students in schools of the local educational agency; and

(B) the overall increase or reduction in military dependent students in schools of the local educational agency is the result of one or more of the following:

- (i) The global rebasing plan of the Department of Defense.
- (ii) The official creation or activation of one or more new military units.
- (iii) The realignment of forces as a result of the base closure process.
- (iv) A change in the number of housing units on a military installation.

### (3) Calculation of amount of assistance

#### (A) Pro rata distribution

The amount of the assistance provided under this subsection to a local educational agency that is eligible for such assistance for a fiscal year shall be equal to the product obtained by multiplying—

- (i) the per-student rate determined under subparagraph (B) for that fiscal year; by
- (ii) the net of the overall increases and reductions in the number of military dependent students in schools of the local educational agency, as determined under paragraph (1).

#### (B) Per-student rate

For purposes of subparagraph (A)(i), the per-student rate for a fiscal year shall be equal to the dollar amount obtained by dividing—

- (i) the total amount of funds made available for that fiscal year to provide assistance under this subsection; by
- (ii) the sum of the overall increases and reductions in the number of military dependent students in schools of all eligible local educational agencies for that fiscal year under this subsection.

#### (C) Maximum amount of assistance

A local educational agency may not receive more than \$1,000,000 in assistance under this subsection for any fiscal year.

#### (4) Duration

Assistance may not be provided under this subsection after September 30, 2012.

### (c) Notification

Not later than June 30, 2006, and June 30 of each fiscal year thereafter for which funds are made available to carry out this section, the Secretary of Defense shall notify each local educational agency that is eligible for assistance under this section for that fiscal year of—

- (1) the eligibility of the local educational agency for the assistance, including whether the agency is eligible for assistance under either subsection (a) or (b) of this section or both subsections; and
- (2) the amount of the assistance for which the local educational agency is eligible.

### (d) Disbursement of funds

The Secretary of Defense shall disburse assistance made available under this section for a fis-

cal year not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (c) of this section for that fiscal year.

### (e) Funding for fiscal year 2006

Of the amount authorized to be appropriated pursuant to section 301(5)<sup>1</sup> for operation and maintenance for Defense-wide activities—

- (1) \$30,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a) of this section; and
- (2) \$10,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b) of this section.

### (f) Definitions

In this section:

(1) The term “base closure process” means the 2005 base closure and realignment process authorized by Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) or any base closure and realignment process conducted after January 6, 2006, under section 2687 of title 10 or any other similar law enacted after January 6, 2006.

(2) The term “local educational agency” has the meaning given that term in section 7713(9) of this title.

(3) The term “military dependent students” refers to—

(A) elementary and secondary school students who are dependents of members of the Armed Forces; and

(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense.

(4) The term “State” means each of the 50 States and the District of Columbia.

(Pub. L. 109-163, div. A, title V, § 572, Jan. 6, 2006, 119 Stat. 3271; Pub. L. 111-84, div. A, title V, § 533, Oct. 28, 2009, 123 Stat. 2292.)

#### REFERENCES IN TEXT

Section 301(5), referred to in subsec. (e), is section 301(5) of Pub. L. 109-163, div. A, title III, 119 Stat. 3188, which is not classified to the Code.

The Defense Base Closure and Realignment Act of 1990, referred to in subsec. (f)(1), is part A of title XXIX of div. B of Pub. L. 101-510, Nov. 5, 1990, 104 Stat. 1808, as amended, which is set out as a note under section 2687 of Title 10, Armed Forces. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

Section is comprised of section 572 of Pub. L. 109-163. Subsec. (g) of section 572 of Pub. L. 109-163 repealed section 386 of Pub. L. 102-484, formerly set out as a note under section 7703 of this title.

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2006, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

<sup>1</sup> See References in Text note below.

## AMENDMENTS

2009—Subsec. (b)(4). Pub. L. 111-84 substituted “September 30, 2012” for “September 30, 2010”.

**PLAN AND AUTHORITY TO ASSIST LOCAL EDUCATIONAL AGENCIES EXPERIENCING GROWTH IN ENROLLMENT DUE TO FORCE STRUCTURE CHANGES, RELOCATION OF MILITARY UNITS, OR BASE CLOSURES AND REALIGNMENTS**

Pub. L. 109-364, div. A, title V, §574, Oct. 17, 2006, 120 Stat. 2226, as amended by Pub. L. 110-181, div. A, title V, §573, Jan. 28, 2008, 122 Stat. 120; Pub. L. 110-417, [div. A], title V, §553, Oct. 14, 2008, 122 Stat. 4469; Pub. L. 112-81, div. A, title V, §573, Dec. 31, 2011, 125 Stat. 1427, provided that:

“(a) **PLAN REQUIRED.**—Not later than January 1, 2007, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth a plan to provide assistance to local educational agencies that experience growth in the enrollment of military dependent students as a result of any of the following events:

“(1) Force structure changes.

“(2) The relocation of a military unit.

“(3) The closure or realignment of military installations pursuant to defense base closure and realignment under the base closure laws.

“(b) **ELEMENTS.**—The report required by subsection (a), and each updated report required by subsection (c), shall include the following:

“(1) An identification, current as of the date of the report, of the total number of military dependent students who are anticipated to be arriving at or departing from military installations as a result of any event described in subsection (a), including—

“(A) an identification of the military installations affected by such arrivals and departures;

“(B) an estimate of the number of such students arriving at or departing from each such installation; and

“(C) the anticipated schedule of such arrivals and departures.

“(2) Such recommendations as the Office of Economic Adjustment of the Department of Defense considers appropriate for means of assisting affected local educational agencies in accommodating increases in enrollment of military dependent students as a result of any such event.

“(3) A plan for outreach to be conducted to affected local educational agencies, commanders of military installations, and members of the Armed Forces and civilian personnel of the Department of Defense regarding information on the assistance to be provided under the plan under subsection (a).

“(c) **UPDATED REPORTS.**—Not later than March 1, 2008, and annually thereafter to coincide with the submission of the budget of the President for a fiscal year under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an update of the report required by subsection (a).

“(d) **TRANSITION OF MILITARY DEPENDENTS AMONG LOCAL EDUCATIONAL AGENCIES.**—(1) The Secretary of Defense shall work collaboratively with the Secretary of Education in any efforts to ease the transitions of military dependent students from Department of Defense dependent schools to other schools and among schools of local educational agencies.

“(2) The Secretary of Defense may use funds of the Department of Defense Education Activity for the following purposes:

“(A) To share expertise and experience of the Activity with local educational agencies as military dependent students make the transitions described in paragraph (1), including transitions resulting from

the closure or realignment of military installations under a base closure law, global rebasing, and force restructuring.

“(B) To provide grant assistance programs for local educational agencies with military dependent students undergoing the transitions described in paragraph (1), including programs on the following:

“(i) Access to virtual and distance learning capabilities and related applications.

“(ii) Training for teachers.

“(iii) Academic strategies to increase academic achievement.

“(iv) Curriculum development.

“(v) Support for practices that minimize the impact of transition and deployment.

“(vi) Other appropriate services to improve the academic achievement of such students.

“(3) The authority provided by this subsection expires September 30, 2016.

“(e) **DEFINITIONS.**—In this section:

“(1) The term ‘base closure law’ has the meaning given that term in section 101 of title 10, United States Code.

“(2) The term ‘local educational agency’ has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

“(3) The term ‘military dependent students’ refers to—

“(A) elementary and secondary school students who are dependents of members of the Armed Forces;

“(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense; and

“(C) elementary and secondary school students who are dependents of personnel who are not members of the Armed Forces or civilian employees of the Department of Defense but who are employed on Federal property.”

**§ 7704. Policies and procedures relating to children residing on Indian lands**

**(a) In general**

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall establish policies and procedures to ensure that—

(1) such children participate in programs and activities supported by such funds on an equal basis with all other children;

(2) parents of such children and Indian tribes are afforded an opportunity to present their views on such programs and activities, including an opportunity to make recommendations on the needs of those children and how the local educational agency may help such children realize the benefits of such programs and activities;

(3) parents and Indian tribes are consulted and involved in planning and developing such programs and activities;

(4) relevant applications, evaluations, and program plans are disseminated to the parents and Indian tribes; and

(5) parents and Indian tribes are afforded an opportunity to present their views to such agency regarding such agency’s general educational program.

**(b) Records**

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title