

(5) the State's progress in reducing inequities in the distribution of highly qualified teachers, in implementing a State longitudinal data system, and in developing and implementing valid and reliable assessments for limited English proficient students and children with disabilities;

(6) the tuition and fee increases for in-State students imposed by public institutions of higher education in the State during the period of availability of funds under this chapter, and a description of any actions taken by the State to limit those increases;

(7) the extent to which public institutions of higher education maintained, increased, or decreased enrollment of in-State students, including students eligible for Pell Grants or other need-based financial assistance; and

(8) a description of each modernization, renovation and repair project funded, which shall include the amounts awarded and project costs.

(Pub. L. 111-5, div. A, title XIV, §14008, Feb. 17, 2009, 123 Stat. 285.)

### § 10009. Evaluation

The Comptroller General of the United States shall conduct evaluations of the programs under sections 10006 and 10007 of this title which shall include, but not be limited to, the criteria used for the awards made, the States selected for awards, award amounts, how each State used the award received, and the impact of this funding on the progress made toward closing achievement gaps.

(Pub. L. 111-5, div. A, title XIV, §14009, Feb. 17, 2009, 123 Stat. 285.)

### § 10010. Secretary's report to Congress

The Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committees on Appropriations of the House of Representatives and of the Senate, not less than 6 months following the submission of State reports, that evaluates the information provided in the State reports under section 10008 of this title and the information required by section 10005(b)(3) of this title including State-by-State information.

(Pub. L. 111-5, div. A, title XIV, §14010, Feb. 17, 2009, 123 Stat. 285.)

### § 10011. Prohibition on provision of certain assistance

No recipient of funds under this chapter shall use such funds to provide financial assistance to students to attend private elementary or secondary schools, unless such funds are used to provide special education and related services to children with disabilities, as authorized by the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(Pub. L. 111-5, div. A, title XIV, §14011, Feb. 17, 2009, 123 Stat. 285; Pub. L. 111-8, div. F, title V, §523(g), Mar. 11, 2009, 123 Stat. 806.)

#### REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in text, is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, 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.

#### AMENDMENTS

2009—Pub. L. 111-8 inserted before period at end “, unless such funds are used to provide special education and related services to children with disabilities, as authorized by the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.)”.

### § 10012. Fiscal relief

#### (a) In general

For the purpose of relieving fiscal burdens on States and local educational agencies that have experienced a precipitous decline in financial resources, the Secretary of Education may waive or modify any requirement of this chapter relating to maintaining fiscal effort.

#### (b) Duration

A waiver or modification under this section shall be for any of fiscal year 2009, fiscal year 2010, or fiscal year 2011, as determined by the Secretary.

#### (c) Criteria

The Secretary shall not grant a waiver or modification under this section unless the Secretary determines that the State receiving such waiver or modification will not provide for elementary, secondary, and public higher education, for the fiscal year under consideration, a smaller percentage of the total revenues available to the State than the percentage provided for such purpose in the preceding fiscal year.

#### (d) Maintenance of effort

Upon prior approval from the Secretary, a State or local educational agency that receives funds under this chapter may treat any portion of such funds that is used for elementary, secondary, or postsecondary education as non-Federal funds for the purpose of any requirement to maintain fiscal effort under any other program, including part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), administered by the Secretary.

#### (e) Subsequent level of effort

Notwithstanding (d),<sup>1</sup> the level of effort required by a State or local educational agency for the following fiscal year shall not be reduced.

(Pub. L. 111-5, div. A, title XIV, §14012, Feb. 17, 2009, 123 Stat. 285; Pub. L. 111-8, div. F, title V, §523(h), Mar. 11, 2009, 123 Stat. 806.)

#### REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (d), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

#### AMENDMENTS

2009—Subsec. (c). Pub. L. 111-8 amended subsec. (c) generally. Prior to amendment, text read as follows:

<sup>1</sup> So in original. Probably should be “subsection (d),”.