

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 3289  
OFFERED BY MR. GEORGE MILLER OF  
CALIFORNIA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Providing Resources  
3 Early for Kids Act of 2008” 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

1       likelihood that children will graduate from high  
2       school and become productive members of society.

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

7           (5) High quality early education programs have  
8       well-trained and well-compensated teachers, small  
9       class sizes, a full-day program, comprehensive serv-  
10      ices, family participation, and a research-based cur-  
11      riculum that aligns with strong early learning stand-  
12      ards. The quality of State early education programs  
13      varies significantly across the country.

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

19          (7) A Federal partnership with States—

20              (A) will help increase access to voluntary  
21      high quality preschool programs;

22              (B) is a necessary step to improving the  
23      Nation's elementary and secondary schools and  
24      helping States close the achievement gap and  
25      improve graduation rates; and

1 (C) should be a national priority.

2 **SEC. 3. EARLY EDUCATION GRANTS.**

3 (a) PROGRAM ESTABLISHED.—Each fiscal year, from  
4 amounts made available to carry out this Act, the Sec-  
5 retary, in consultation with the Secretary of Health and  
6 Human Services, shall make grants to States to enhance  
7 or improve State-funded preschool programs, as defined  
8 by the State.

9 (b) ALLOTMENT.—

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

15 (A) a qualified State (as defined in section  
16 4(a)); or

17 (B) a selected State (as designated under  
18 section 4(b)).

19 (2) AMOUNT.—The amount of the base allot-  
20 ment described under paragraph (1) for each State  
21 shall be based on the number of children up to age  
22 5 from families with incomes below the poverty line  
23 for each State, compared to the number of such chil-  
24 dren from all States, except that no State shall have

1 a base allotment less than .25 percent of the  
2 amounts appropriated under this Act.

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

7 (4) REMAINDER.—In any fiscal year for which  
8 not every State is to receive a base allotment, the  
9 Secretary shall reallocate any funds remaining after the  
10 determination of a base allotment under paragraph  
11 (2) to each State that has submitted an approved  
12 application and is a qualified State. Such remaining  
13 funds shall be reallocated among such qualified States  
14 and shall be determined by comparing the number of  
15 children up to age 5 from families with incomes  
16 below the poverty line for each such qualified State  
17 to such number for all such qualified States.

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

22 **SEC. 4. STATE ELIGIBILITY.**

23 (a) QUALIFIED STATES.—

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

4                   (A) The State carries out a voluntary  
5                   State-funded preschool program that requires,  
6                   at a minimum, the following:

7                           (i) Use of research-based curricula  
8                           that are aligned with State early learning  
9                           standards that are developmentally appro-  
10                          priate and include, at a minimum, each of  
11                          the following domains:

12                                   (I) Language development.

13                                   (II) Literacy.

14                                   (III) Mathematics.

15                                   (IV) Science.

16                                   (V) Creative arts.

17                                   (VI) Social and emotional devel-  
18                          opment.

19                                   (VII) Approaches to learning.

20                                   (VIII) Physical and health devel-  
21                          opment.

22                           (ii) Use of nationally established, or  
23                          better, best practices for group size and  
24                          teacher-to-student ratios, appropriate to  
25                          the age group being served.

1 (iii) A requirement that each teacher  
2 holds an associate degree, or higher, in  
3 early childhood education or a related field.

4 (iv) A requirement to operate for at  
5 least the length of an academic year.

6 (B) The State shall have developed a plan,  
7 including a timetable, for moving toward a re-  
8 quirement for State-funded preschool programs  
9 that each teacher holds a baccalaureate degree  
10 in early childhood education, or in a related  
11 field if specialized training in early childhood  
12 education has also been completed, within 5  
13 years after the State first receives a grant as a  
14 qualified State under this Act.

15 (C) The State, at a minimum, shall ensure  
16 that the average per-child expenditure by the  
17 State and its political subdivisions to support  
18 State-funded preschool programs for the fiscal  
19 year for which the grant is made is equal to, or  
20 greater than, the average of such per-child ex-  
21 penditure for the previous 2 fiscal years.

22 (D) The State, at a minimum, shall ensure  
23 that the total expenditure by the State and its  
24 political subdivisions to support State-funded  
25 preschool programs for the fiscal year for which

1           the grant is made is equal to, or greater than,  
2           such expenditure for the preceding fiscal year.

3           (E) The State, at a minimum, shall ensure  
4           that the total expenditure by the State and its  
5           political subdivisions to support State-funded  
6           child care services and activities for the fiscal  
7           year for which the grant is made is equal to, or  
8           greater than, such expenditure for the pre-  
9           ceding fiscal year.

10       (b) SELECTED STATES.—

11           (1) IN GENERAL.—Each fiscal year, the Sec-  
12           retary shall carry out, on a competitive basis, a proc-  
13           ess for the designation of States as selected States  
14           for purposes of this Act. Under the process, the Sec-  
15           retary shall determine whether to designate any  
16           States and, if so, shall determine the States that are  
17           to be designated.

18           (2) BASIS FOR DETERMINATIONS.—The deter-  
19           minations required by paragraph (1) shall be based  
20           on—

21           (A) the State meeting the requirements of  
22           subparagraphs (C) through (E) of subsection  
23           (a)(1);

24           (B) the quality of the applications sub-  
25           mitted; and

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

4 (3) PERIOD OF DESIGNATION.—A designation  
5 under this subsection shall apply to a State for two  
6 fiscal years. However, if a State is both a qualified  
7 State and a selected State for a fiscal year, it shall  
8 be treated for purposes of this Act as a qualified  
9 State rather than a selected State.

10 **SEC. 5. APPLICATIONS.**

11 (a) IN GENERAL.—A State desiring to receive funds  
12 under this Act shall submit an application to the Secretary  
13 at such time and in such manner as the Secretary may  
14 reasonably require.

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

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

21 (2) If the State desires to be designated as a  
22 selected State—

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



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

5 (C) information relating to any competitive  
6 criteria that the Secretary may establish.

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

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

14 (5) A description of how the State will ensure  
15 that any funds made available to preschool providers  
16 are made available to a range of types of preschool  
17 providers, including local educational agencies and  
18 community-based providers such as child care and  
19 Head Start, as appropriate.

20 (6) Assurances that amounts received by the  
21 State under this Act will be used only to supple-  
22 ment, and not to supplant, Federal, State, and local  
23 funds otherwise available to support existing early  
24 childhood services and activities.

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

3           (8) A description of how the State will use the  
4 funds to better meet the needs of low-income work-  
5 ing parents.

6           (9) A description of how the use of funds will  
7 help meet the developmental needs of children in the  
8 State.

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

12           (11) A description of how the State-funded pre-  
13 school programs will be culturally and linguistically  
14 appropriate and how the State plans to meet the  
15 early education needs of children with limited  
16 English proficiency.

17           (12) 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           (13) A description of how the State-funded pre-  
22 school programs will ensure a successful transition  
23 to kindergarten.

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

4           (15) 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           (16) A description of how the State-funded pre-  
13 school programs that are not universal prioritize  
14 children from low-income families.

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

18 **SEC. 6. USE OF FUNDS.**

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

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

1           (1) To increase the number of teachers and  
2           program directors in State-funded preschool pro-  
3           grams who hold a baccalaureate degree in early  
4           childhood education, or in a related field if special-  
5           ized training in early childhood education has also  
6           been completed.

7           (2) To increase the number of teacher aides in  
8           State-funded preschool programs who hold an asso-  
9           ciate degree in early childhood education, or in a re-  
10          lated field if specialized training in early childhood  
11          education has also been completed.

12          (3) To increase the compensation or benefits  
13          provided to teachers, program directors, and teacher  
14          aides in State-funded preschool programs in order to  
15          improve the ability of those programs to recruit and  
16          retain such teachers, program directors, and teacher  
17          aides.

18          (4) To decrease group size in classrooms in  
19          State-funded preschool programs.

20          (5) To improve the teacher-to-student ratios in  
21          classrooms in State-funded preschool programs.

22          (6) To provide, in State-funded preschool pro-  
23          grams, one or more of the following comprehensive  
24          services that support healthy child development and  
25          positive child outcomes and school readiness:

1 (A) Vision and hearing screenings and re-  
2 ferrals.

3 (B) Health and mental health screenings  
4 and referrals.

5 (C) Parent involvement opportunities.

6 (D) Nutrition services.

7 (7) To extend the number of—

8 (A) hours per day of program operation of  
9 State-funded preschool programs;

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

12 (C) weeks per year of program operation of  
13 State-funded preschool programs.

14 (8) To improve the State's system for moni-  
15 toring the quality of State-funded preschool pro-  
16 grams.

17 (9) To provide opportunities for intensive and  
18 on-going research- and evidence-based professional  
19 development in the domains described in section  
20 4(a)(1)(A)(i) for staff of State-funded preschool pro-  
21 grams.

22 (10) 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 poses 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 (2) STATE DEFINITION AND APPLICABILITY.—

14 For the purpose of establishing a priority for expan-  
15 sion under paragraph (1), the State shall define  
16 what constitutes a high concentration of low-income  
17 children. In any State described in paragraph (1) in  
18 which all communities with high concentrations of  
19 low-income children are served by a State-funded  
20 preschool program, the priority for expansion de-  
21 scribed in such paragraph shall not apply.

22 (e) RULE OF CONSTRUCTION.—Funds provided  
23 under this Act shall be used only to improve or enhance  
24 a State-funded preschool program. Nothing in this Act

1 shall be construed such that a State may use these funds  
2 only for existing State-funded preschool programs.

3 **SEC. 7. MATCHING REQUIREMENTS.**

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

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

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

18 **SEC. 8. REPORTING REQUIREMENTS.**

19 Each State receiving funds under this Act shall re-  
20 port annually to the Secretary on the activities carried out  
21 under this Act, including data on how the funds improved  
22 the quality of State-funded preschool programs.



1 **SEC. 9. SPECIAL RULE.**

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

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

6 The Secretary shall award competitive grants to In-  
7 dian tribes and tribal organizations to carry out a program  
8 under this Act. An Indian tribe or tribal organization de-  
9 siring to receive funds under this Act shall submit an ap-  
10 plication to the Secretary at such time and in such manner  
11 as the Secretary may reasonably require. For purposes of  
12 submitting such application and for expending funds re-  
13 ceived under this Act, Indian tribes and tribal organiza-  
14 tions shall comply with sections 4 through 8.

15 **SEC. 11. DEFINITIONS.**

16 For purposes of this Act:

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

21 (2) POVERTY LINE.—The term “poverty line”  
22 has the meaning given such term in section 9101 of  
23 the Elementary and Secondary Education Act of  
24 1965 (20 U.S.C. 7801).

25 (3) SECRETARY.—The term “Secretary” has  
26 the meaning given such term in 9101 of the Elemen-

1 tary and Secondary Education Act of 1965 (20  
2 U.S.C. 7801).

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

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

10 (A) serves children who are ages 3 through  
11 5;

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

16 (C) helps prepare children for a successful  
17 transition to kindergarten; and

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

22 (6) WITH LIMITED ENGLISH PROFICIENCY.—  
23 The term “with limited English proficiency”, when  
24 used with respect to a child, means a child—

1 (A)(i) who was not born in the United  
2 States or whose native language is a language  
3 other than English;

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

10 (II) who comes from an environment where  
11 a language other than English has had a sig-  
12 nificant impact on the child's level of English  
13 language proficiency; or

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

18 (B) whose difficulties in speaking or un-  
19 derstanding the English language may be suffi-  
20 cient to deny the child—

21 (i) the ability to successfully achieve  
22 in a classroom in which the language of in-  
23 struction is English; or

24 (ii) the opportunity to participate fully  
25 in society.

1 **SEC. 12. CONSTRUCTION.**

2       Nothing in this Act shall be construed to require a  
3 child to attend a preschool program

4 **SEC. 13. AUTHORIZATION.**

5       There are authorized to be appropriated to carry out  
6 this Act \$500,000,000 for each of fiscal years 2009  
7 through 2013.

      Amend the title so as to read: “A bill to authorize  
the Secretary of Education to make grants to States to  
improve State-funded preschool programs, and for other  
purposes.”.

