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## Department of Public Instruction

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<http://www.dpi.state.nd.us>

Dr. Wayne G. Sanstead  
State Superintendent

September 8, 2009

Dr. Thelma Melendez Santa Ana  
Assistant Secretary  
Office of Elementary and Secondary Education  
U.S. Department of Education  
400 Maryland Ave SW  
Washington, DC 20202-6132

Dear Dr. Melendez Santa Ana:

On behalf of the State of North Dakota, the North Dakota Department of Public Instruction submits the attached waiver request with respect to the American Recovery and Reinvestment Act (ARRA) funds. North Dakota is applying for five waivers.

- Waive a LEA's obligation to set aside funds for school choice and supplemental education services (SES) on the ARRA application. (Program Improvement Schools)
- Waive a LEA's obligation to set aside funds for the 10% professional development requirement for schools on the ARRA application. (Program Improvement Schools)
- Waive a LEA's obligation to set aside funds for the 10% professional development requirement for districts on the ARRA application. (Program Improvement Districts)
- Waive a LEA's obligation to determine the per-pupil amounts for SES using the ARRA funds. (Program Improvement Schools)
- Waive the provision that prohibits a state from granting to a LEA a waiver of the carryover limitation more than once every three years with regard to the ARRA funds. (all districts)

Enclosed please find Appendices D-H which provide the required information requested in the waiver guidance. In addition, we have enclosed copies of all comments that the state received regarding this waiver request.

The contact person to answer questions regarding the state's waiver request is Laurie Matzke, our state Title I director. Laurie can be reached at (701) 328-2284 or [lmatzke@nd.gov](mailto:lmatzke@nd.gov).

We respectfully request your consideration of our state's proposal waiver request. We believe approval of the five waivers would greatly benefit North Dakota schools as they implement evidence-based strategies through the use of this ARRA funding.

Sincerely,

Dr. Wayne G. Sanstead  
State Superintendent

**APPENDIX D:  
NORTH DAKOTA’S REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING AN  
LEA’S 20 PERCENT OBLIGATION FOR CHOICE-RELATED TRANSPORTATION AND SES**

On behalf of all local educational agencies (LEAs) in North Dakota that receive funds under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) and have a school identified for improvement, we respectfully request a waiver for fiscal year (FY) 2009 of the requirement in section 1116(b)(10) of the ESEA and in 34 C.F.R. § 200.48(a)(2) to determine an LEA’s “20 percent obligation” for public school choice-related transportation and supplemental educational services (SES) based on the LEA’s total FY 2009 Title I, Part A allocation (*i.e.*, including both its regular Title I, Part A allocation and its Title I, Part A allocation under the American Recovery and Reinvestment Act of 2009 (ARRA)). Specifically, we are seeking this waiver to allow LEAs within North Dakota that have a school identified for improvement to exclude some or all of the Title I, Part A funds they receive under the ARRA in calculating their “20 percent obligation” for choice-related transportation and SES.

North Dakota believes that the requested waiver will increase the quality of instruction for students and improve the academic achievement of students by providing each LEA within North Dakota with flexibility to spend ARRA funds that the LEA would otherwise be obligated to spend on SES or choice-related transportation on other allowable Title I, Part A activities that the LEA believes best address the particular needs of its students.

North Dakota has set the following annual measurable objectives (AMOs) in reading and mathematics for the 2009–2010 school year as identified in our State Accountability Workbook:

**State Intermediate Achievement Goals, 2002-2014**

**Goals for Percentage of Students Scoring Proficient and Advanced in Reading/Math  
Graduation and Attendance Rate Goals**

Subject/ Grades	School Years												
	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10	10-11	11-12	12-13	13-14
<b>Reading</b>													
<b>4</b>	65.1%			73.8%			82.6%			91.3%			100%
<b>8</b>	61.4%			71.1%			80.7%			90.4%			100%
<b>11</b>	NA			57.2%			71.5%			85.7%			100%
<b>12</b>	42.9%			NA			NA			NA			NA
<b>Math</b>													
<b>4</b>	45.7%			59.3%			72.9%			86.4%			100%
<b>8</b>	33.3%			50.0%			66.7%			83.3%			100%
<b>11</b>	NA			43.1%			62.1%			81.0%			100%
<b>12</b>	24.1%			NA			NA			NA			NA
<b>Graduation</b>	89.9%			73.09%									
<b>Attendance</b>	93.0%												

North Dakota will determine adequate yearly progress (AYP) based on assessments administered in the 2009–2010 school year in accordance with the requirements of section 1111(b)(2) of the ESEA. North Dakota believes that, ultimately, the flexibility provided by the requested waiver with respect to how ARRA funds may be spent for allowable Title I, Part A activities may help more schools and LEAs within the State make AYP by enabling them to direct funds appropriately to help their students meet the AMOs set forth above.

**APPENDIX D:  
NORTH DAKOTA'S REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING AN  
LEA'S 20 PERCENT OBLIGATION FOR CHOICE-RELATED TRANSPORTATION AND SES**

North Dakota hereby assures that, if it is granted the requested waiver, North Dakota will implement the waiver only with respect to an LEA that provides assurances that:

- It will comply with its statutory and regulatory obligations for the provision of SES and public school choice with respect to its regular Title I, Part A allocation;
- It will use the funds freed up by the waiver to address needs identified based on data, such as Statewide or formative assessment results;
- It will comply with all of its other Title I, Part A statutory and regulatory obligations, including the obligations in sections 1114 and 1115 to have schoolwide and targeted assistance programs that “use effective methods and instructional strategies that are based on scientifically based research;” and
- It will submit an application for Title I funds, or, if necessary, an amendment to its existing LEA application, that describes the data on which it relied to identify needs that will be addressed using the funds freed up by the waiver and the evidence that supports the strategies it intends to use to address those needs.

North Dakota further assures that it will not fully approve an LEA's application or amendment to an LEA's application unless or until it determines that, based on the LEA's description, the LEA has satisfied its obligation to identify needs based on data and address those needs using evidence-based strategies. North Dakota will not approve an LEA to implement the waiver unless or until the LEA has an approved application (or amended application) that includes the required description of the data on which the LEA relied to identify needs and the evidence that supports the strategies to address those needs. If necessary to carry out these assurances, North Dakota will require an LEA seeking to implement the waiver to amend its application in accordance with North Dakota's usual process for changing an LEA's application.

Prior to submitting this waiver request, North Dakota provided all LEAs in the State with notice and a reasonable opportunity to comment on this request. North Dakota provided such notice by sending an email to each LEA on August 24, 2009 (see copy of notice attached), by including a notice in our monthly Title I/Special Education newsletter and posting the notice on the department's website. Copies of all comments that North Dakota received from LEAs in response to this notice are attached hereto. North Dakota has provided notice and information regarding this waiver request to the public in the manner in which North Dakota customarily provides such notice and information to the public.

North Dakota hereby assures that, if it is granted the requested waiver, it will submit to you, by September 30, 2010, a report that sets forth the name and NCES District Identification Number for each LEA implementing the waiver.

Please feel free to contact Laurie Matzke, North Dakota Title I Director, by phone or email at (701) 328-2284 or [lmatzke@nd.gov](mailto:lmatzke@nd.gov) if you have any questions regarding this request. Thank you for your consideration.

**APPENDIX E:  
NORTH DAKOTA’S REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING THE  
10 PERCENT PROFESSIONAL DEVELOPMENT SET-ASIDE FOR AN LEA IN IMPROVEMENT**

On behalf of all local educational agencies (LEAs) in North Dakota that are identified for improvement under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), we respectfully request a waiver for fiscal year (FY) 2009 of the requirement in section 1116(c)(7)(A)(iii) of the ESEA to determine an LEA’s 10 percent professional development set-aside based on the LEA’s total FY 2009 Title I, Part A allocation (*i.e.*, including both its regular Title I, Part A allocation and its Title I, Part A allocation under the American Recovery and Reinvestment Act of 2009 (ARRA)). In particular, we are seeking this waiver to allow LEAs within North Dakota that are identified for improvement to exclude some or all of the Title I, Part A funds they receive under the ARRA in calculating their 10 percent professional development set-aside.

North Dakota believes that the requested waiver will increase the quality of instruction for students and improve the academic achievement of students by providing each LEA within North Dakota with flexibility to spend ARRA funds that the LEA would otherwise be obligated to spend on professional development on other allowable Title I, Part A activities that the LEA believes best address its particular needs. North Dakota believes that the basic 10 percent set-aside, which LEAs will still have to provide, is substantial and that requiring significantly more funds to be spent on professional development, absent actual need, may actually be counter-productive by overwhelming teachers, many of whom are already over-scheduled and cannot meaningfully absorb substantially more professional development. Through the waiver, each LEA can determine whether its professional development needs warrant expending Title I, Part A ARRA funds to meet those needs.

North Dakota has set the following annual measurable objectives (AMOs) in reading and mathematics for the 2009–2010 school year as identified in our State Accountability Workbook:

**State Intermediate Achievement Goals, 2002-2014**

**Goals for Percentage of Students Scoring Proficient and Advanced in Reading/Math**

**Graduation and Attendance Rate Goals**

Subject/ Grades	School Years												
	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10	10-11	11-12	12-13	13-14
<b>Reading</b>													
<b>4</b>	65.1%			73.8%			82.6%			91.3%			100%
<b>8</b>	61.4%			71.1%			80.7%			90.4%			100%
<b>11</b>	NA			57.2%			71.5%			85.7%			100%
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<b>Math</b>													
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<b>11</b>	NA			43.1%			62.1%			81.0%			100%
<b>12</b>	24.1%			NA			NA			NA			NA
<b>Graduation</b>	89.9%						73.09%						
<b>Attendance</b>	93.0%												

North Dakota will determine adequate yearly progress (AYP) based on assessments administered in the 2009–2010 school year in accordance with the requirements of section 1111(b)(2) of the ESEA. North Dakota believes that, ultimately, the flexibility provided by the requested waiver with respect to how ARRA funds may be spent for allowable Title I, Part A activities may help more schools and LEAs

**APPENDIX E:**  
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10 PERCENT PROFESSIONAL DEVELOPMENT SET-ASIDE FOR AN LEA IN IMPROVEMENT**

within the State make AYP by enabling them to direct funds appropriately to help their students meet the AMOs set forth above.

North Dakota hereby assures that, if it is granted the requested waiver, we will implement the waiver only with respect to an LEA that provides assurances that:

- It will comply with its statutory and regulatory obligations for the professional development set-aside with respect to its regular Title I, Part A allocation;
- It will use the funds freed up by the waiver to address needs identified based on data, such as Statewide or formative assessment results;
- It will comply with all of its other Title I, Part A statutory and regulatory obligations, including the obligations in sections 1114 and 1115 to have schoolwide and targeted assistance programs that “use effective methods and instructional strategies that are based on scientifically based research;” and
- It will submit an application for Title I funds, or if necessary, an amendment to its existing LEA application, that describes the data on which it relied to identify needs that will be addressed using the funds freed up by the waiver and the evidence that supports the strategies it intends to use to address those needs.

North Dakota further assures that it will not fully approve a LEA's application or amendment to an LEA's application unless or until it determines, based on the LEA's description, that the LEA has satisfied its obligation to identify needs based on data and address those needs using evidence-based strategies. North Dakota will not approve an LEA to implement the waiver unless or until the LEA has an approved application (or amended application) that includes the required description of the data on which the LEA relied to identify needs and the evidence that supports the strategies to address those needs. If necessary to carry out these assurances, North Dakota will require an LEA seeking to implement the waiver to amend its application in accordance with North Dakota's usual process for changing an LEA's application.

Prior to submitting this waiver request, North Dakota provided all LEAs in the State with notice and a reasonable opportunity to comment on this request. North Dakota provided such notice by sending an email to each LEA on August 24, 2009 (see copy of notice attached), by including a notice in our monthly Title I/Special Education newsletter and posting the notice on the department's website. Copies of all comments that North Dakota received from LEAs in response to this notice are attached hereto. North Dakota has provided notice and information regarding this waiver request to the public in the manner in which North Dakota customarily provides such notice and information to the public.

North Dakota hereby assures that, if it is granted the requested waiver, it will submit to the U.S. Department of Education, by September 30, 2010, a report that sets forth the name and NCES District Identification Number for each LEA implementing the waiver.

Please feel free to contact Laurie Matzke, North Dakota Title I Director, by phone or email at (701) 328-2284 or [lmatzke@nd.gov](mailto:lmatzke@nd.gov) if you have any questions regarding this request. Thank you for your consideration.

**APPENDIX F:  
NORTH DAKOTA'S REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING THE  
10 PERCENT PROFESSIONAL DEVELOPMENT SET-ASIDE FOR A SCHOOL IN IMPROVEMENT**

On behalf of all local educational agencies (LEAs) in North Dakota that receive funds under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) and have a school identified for improvement, we respectfully request a waiver for fiscal year (FY) 2009 of the requirement in section 1116(b)(3)(A)(iii) of the ESEA to determine a school's 10 percent professional development set-aside based on the total amount of funds made available to the school under section 1113 of the ESEA for FY 2009 (*i.e.*, including funds made available from both the LEA's regular Title I, Part A allocation and its Title I, Part A allocation under the American Recovery and Reinvestment Act of 2009 (ARRA)). Specifically, we are seeking this waiver to allow Title I schools within North Dakota that are identified for improvement to calculate their 10 percent professional development set-aside in accordance with the following formula:

the amount of Title I, Part A funds received by the school under section 1113 of the ESEA

multiplied by

the portion of the LEA's FY 2009 Title I, Part A allocation provided through the regular FY 2009 appropriation / the LEA's total FY 2009 Title I, Part A allocation, including Title I, Part A ARRA funds

multiplied by

10 percent.

As long as it complies with the requirements of section 1113 of the ESEA with respect to serving eligible school attendance areas with its FY 2009 Title I, Part A allocation (consisting of Title I, Part A funds received through the ARRA and the regular FY 2009 appropriation), an LEA has discretion with respect to how it will allocate its Title I, Part A funds to its Title I schools. Accordingly, North Dakota believes that the requested waiver will increase the quality of instruction for students and improve the academic achievement of students by ensuring that no school within an LEA that implements this waiver will be obligated to spend a disproportionate amount of the Title I, Part A funds available to it on professional development activities. North Dakota believes that the basic 10 percent set-aside, which schools in improvement will still have to provide, is substantial and that requiring significantly more funds to be spent on professional development may actually be counter-productive by overwhelming teachers, many of whom are already over-scheduled and cannot meaningfully absorb substantially more professional development.

North Dakota has set the following annual measurable objectives (AMOs) in reading and mathematics for the 2009–2010 school year as identified in our State Accountability Workbook:

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NORTH DAKOTA'S REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING THE  
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**State Intermediate Achievement Goals, 2002-2014**

**Goals for Percentage of Students Scoring Proficient and Advanced in Reading/Math  
Graduation and Attendance Rate Goals**

Subject/ Grades	School Years												
	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10	10-11	11-12	12-13	13-14
<b>Reading</b>													
<b>4</b>	65.1%			73.8%			82.6%			91.3%			100%
<b>8</b>	61.4%			71.1%			80.7%			90.4%			100%
<b>11</b>	NA			57.2%			71.5%			85.7%			100%
<b>12</b>	42.9%			NA			NA			NA			NA
<b>Math</b>													
<b>4</b>	45.7%			59.3%			72.9%			86.4%			100%
<b>8</b>	33.3%			50.0%			66.7%			83.3%			100%
<b>11</b>	NA			43.1%			62.1%			81.0%			100%
<b>12</b>	24.1%			NA			NA			NA			NA
<b>Graduation</b>	89.9%					73.09%							
<b>Attendance</b>	93.0%												

North Dakota will determine adequate yearly progress (AYP) based on assessments administered in the 2009–2010 school year in accordance with the requirements of section 1111(b)(2) of the ESEA. North Dakota believes that, ultimately, the flexibility provided by the requested waiver with respect to how ARRA funds may be spent for allowable Title I, Part A activities may help more schools and LEAs within the State make AYP by enabling them to direct funds appropriately to help their students meet the AMOs set forth above. Through the waiver, each school can determine whether its professional development needs warrant expending Title I, Part A ARRA funds to meet those needs.

North Dakota hereby assures that, if it is granted the requested waiver, North Dakota will implement the waiver only with respect to an LEA that provides assurances that:

- It will ensure that its schools will implement the waiver in accordance with the formula above;
- It will ensure that all schools in improvement within the LEA will comply with all statutory and regulatory requirements regarding their professional development obligations with respect to the funds that are not “factored out” in accordance with the formula above;
- It will ensure that its schools use the funds freed up by the waiver to address needs identified based on data, such as Statewide or formative assessment results; and
- It and its schools in improvement will comply with all of their other Title I, Part A statutory and regulatory obligations, including the obligations in sections 1114 and 1115 to have schoolwide and targeted assistance programs that “use effective methods and instructional strategies that are based on scientifically based research.

Prior to submitting this waiver request, North Dakota provided all LEAs in the State with notice and a reasonable opportunity to comment on this request. North Dakota provided such notice by sending an email to each LEA on August 24, 2009 (see copy of notice attached), by including a notice in our monthly Title I/Special Education newsletter and posting the notice on the department’s website. Copies of all

**APPENDIX F:  
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comments that North Dakota received from LEAs in response to this notice are attached hereto. North Dakota has provided notice and information regarding this waiver request to the public in the manner in which North Dakota customarily provides such notice and information to the public.

North Dakota hereby assures that, if it is granted the requested waiver, it will submit to you, by September 30, 2010, a report that sets forth the name and NCES District Identification Number for each LEA implementing the waiver.

Please feel free to contact Laurie Matzke, North Dakota Title I Director, by phone or email at (701) 328-2284 or [lmatzke@nd.gov](mailto:lmatzke@nd.gov) if you have any questions regarding this request. Thank you for your consideration.

**APPENDIX G:  
NORTH DAKOTA’S REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING  
THE PER-PUPIL AMOUNT FOR SES**

On behalf of all local educational agencies (LEAs) in North Dakota that receive funds under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) we respectfully request a waiver for fiscal year (FY) 2009 of the requirement in section 1116(e)(6)(A) of the ESEA and in 34 C.F.R. § 200.48(c)(1) to determine the per-pupil amount for supplemental educational services (SES) based on an LEA’s total FY 2009 Title I, Part A allocation (*i.e.*, including both its regular Title I, Part A allocation and its Title I, Part A allocation under the American Recovery and Reinvestment Act of 2009 (ARRA)). Specifically, we are seeking this waiver to allow LEAs within North Dakota to exclude some or all of the Title I, Part A funds they receive under ARRA in calculating the per-pupil amount for SES. North Dakota believes that the requested waiver, by reducing the per-pupil amount, will allow LEAs to provide SES to a greater number of students.

North Dakota has set the following annual measurable objectives (AMOs) in reading and mathematics for the 2009–2010 school year as identified in our State Accountability Workbook:

**State Intermediate Achievement Goals, 2002-2014**

**Goals for Percentage of Students Scoring Proficient and Advanced in Reading/Math**

**Graduation and Attendance Rate Goals**

Subject/ Grades	School Years												
	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10	10-11	11-12	12-13	13-14
<b>Reading</b>													
<b>4</b>	65.1%			73.8%			82.6%			91.3%			100%
<b>8</b>	61.4%			71.1%			80.7%			90.4%			100%
<b>11</b>	NA			57.2%			71.5%			85.7%			100%
<b>12</b>	42.9%			NA			NA			NA			NA
<b>Math</b>													
<b>4</b>	45.7%			59.3%			72.9%			86.4%			100%
<b>8</b>	33.3%			50.0%			66.7%			83.3%			100%
<b>11</b>	NA			43.1%			62.1%			81.0%			100%
<b>12</b>	24.1%			NA			NA			NA			NA
<b>Graduation</b>	89.9%					73.09%							
<b>Attendance</b>	93.0%												

North Dakota will determine adequate yearly progress (AYP) based on assessments administered in the 2009–2010 school year in accordance with the requirements of section 1111(b)(2) of the ESEA. North Dakota believes that, ultimately, the flexibility provided by the requested waiver with respect to how ARRA funds may be spent for allowable Title I, Part A activities may help more schools and LEAs within the State make AYP by enabling them to direct funds appropriately to help their students meet the AMOs set forth above.

If North Dakota is granted the requested waiver, North Dakota will implement the waiver only with respect to an LEA that provides assurances that:

- (1) It will comply with all of the statutory and regulatory requirements regarding the provision of SES with respect to its regular FY 2009 Title I, Part A allocation; and
- (2) It will comply with all other Title I, Part A statutory and regulatory requirements (to the extent they are not waived), including the requirements in sections 1114 and 1115 of the ESEA to have schoolwide and targeted assistance programs that “use effective methods and instructional strategies that are based on scientifically based research.”

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NORTH DAKOTA'S REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING  
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Prior to submitting this waiver request, North Dakota provided all LEAs in the State with notice and a reasonable opportunity to comment on this request. North Dakota provided such notice by sending an email to each LEA on August 24, 2009 (see copy of notice attached), by including a notice in our monthly Title I/Special Education newsletter and posting the notice on the department's website. Copies of all comments that North Dakota received from LEAs in response to this notice are attached hereto. North Dakota has provided notice and information regarding this waiver request to the public in the manner in which North Dakota customarily provides such notice and information to the public.

North Dakota hereby assures that, if it is granted the requested waiver, it will submit to the U.S. Department of Education, by September 30, 2010, a report that provides the name and NCES District Identification Number for each LEA implementing the waiver.

Please feel free to contact Laurie Matzke, North Dakota Title I Director, by phone or email at (701) 328-2284 or [lmatzke@nd.gov](mailto:lmatzke@nd.gov) if you have any questions regarding this request. Thank you for your consideration.

**APPENDIX H:**

**NORTH DAKOTA’S REQUEST TO WAIVE THE PROVISION THAT PROHIBITS AN SEA FROM GRANTING TO AN LEA A WAIVER OF THE CARRYOVER LIMITATION MORE THAN ONCE EVERY THREE YEARS**

On behalf of North Dakota, we respectfully request a waiver of the limitation in section 1127(b) of the Elementary and Secondary Education Act of 1965 (ESEA) that prohibits a State educational agency (SEA) from granting to a local educational agency (LEA) a waiver of the carryover limitation in section 1127(a) of the ESEA more than once every three years. Section 1127(b) permits an SEA to waive the limitation in section 1127(a) once every three years if: (1) the LEA’s request is reasonable and necessary; or (2) a supplemental Title I, Part A appropriation becomes available. In accordance with these provisions, we are requesting a waiver to allow North Dakota to waive the carryover limitation more than once every three years for an LEA that needs the additional waiver(s) because of its Title I, Part A funds made available under the American Recovery and Reinvestment Act of 2009 (ARRA), which is, by definition, a supplemental Title I, Part A appropriation. We are requesting this waiver for a period of two years (*i.e.*, to apply to LEA requests to carry over fiscal year (FY) 2009 Title I, Part A funds and to LEA requests to carry over FY 2010 Title I, Part A funds in excess of the carryover limitation).

North Dakota has set the following annual measurable objectives (AMOs) in reading and mathematics for the 2009–2010 school year as identified in our State Accountability Workbook:

**State Intermediate Achievement Goals, 2002-2014**

**Goals for Percentage of Students Scoring Proficient and Advanced in Reading/Math**

**Graduation and Attendance Rate Goals**

Subject/ Grades	School Years												
	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10	10-11	11-12	12-13	13-14
<b>Reading</b>													
<b>4</b>	65.1%			73.8%			82.6%			91.3%			100%
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<b>12</b>	42.9%			NA			NA			NA			NA
<b>Math</b>													
<b>4</b>	45.7%			59.3%			72.9%			86.4%			100%
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<b>11</b>	NA			43.1%			62.1%			81.0%			100%
<b>12</b>	24.1%			NA			NA			NA			NA
<b>Graduation</b>	89.9%					73.09%							
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North Dakota will determine adequate yearly progress (AYP) based on assessments administered in the 2009–2010 school year in accordance with the requirements of section 1111(b)(2) of the ESEA. North Dakota believes that, ultimately, the flexibility provided by the requested waiver with respect to how ARRA funds may be spent for allowable Title I, Part A activities may help more schools and LEAs within the State make AYP by enabling them to direct funds appropriately to help their students meet the AMOs set forth above.

North Dakota will ensure that an LEA that is interested in obtaining a waiver of the carryover limitation in section 1127(a) so that it can carry over more than 15 percent of its Title I, Part A FY 2009 or FY 2010 allocation and has already received such a waiver within the prior three years (or receives such a waiver

**APPENDIX H:**

**NORTH DAKOTA'S REQUEST TO WAIVE THE PROVISION THAT PROHIBITS AN SEA FROM GRANTING TO AN LEA A WAIVER OF THE CARRYOVER LIMITATION MORE THAN ONCE EVERY THREE YEARS**

with respect to its FY 2009 funds), applies to the SEA in accordance with North Dakota's regular procedures for waivers of the carryover limitation. North Dakota hereby assures that it will implement the requested waiver only with respect to an LEA that needs a waiver of the carryover limitation for the second (or third) time within three years because of its ARRA funds.

Prior to submitting this waiver request, North Dakota provided all LEAs in the State with notice and a reasonable opportunity to comment on this request. North Dakota provided such notice by sending an email to each LEA on August 24, 2009 (see copy of notice attached), by including a notice in our monthly Title I/Special Education newsletter and posting the notice on the department's website. Copies of all comments that North Dakota received from LEAs in response to this notice are attached hereto. North Dakota has provided notice and information regarding this waiver request to the public in the manner in which North Dakota customarily provides such notice and information to the public.

North Dakota hereby assures that, if it is granted the requested waiver, it will submit to you, by September 30, 2010, a report that sets forth the name and NCES District Identification Number for each LEA implementing the waiver.

Please feel free to contact Laurie Matzke, North Dakota Title I Director, by phone or email at (701) 328-2284 or [lmatzke@nd.gov](mailto:lmatzke@nd.gov) if you have any questions regarding this request. Thank you for your consideration.