

107TH CONGRESS
1ST SESSION

H. R. 1

AN ACT

To close the achievement gap with accountability, flexibility,
and choice, so that no child is left behind.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “No Child Left Behind
3 Act of 2001”.

4 **SEC. 2. REFERENCES.**

5 Except as otherwise specifically provided in this Act,
6 whenever in this Act an amendment or repeal is expressed
7 as the amendment or repeal of a section or other provision,
8 the reference shall be considered to be made to a section
9 or other provision of the Elementary and Secondary Edu-
10 cation Act of 1965 (20 U.S.C. 6301 et seq.).

11 **SEC. 3. TRANSITION.**

12 Except as otherwise specifically provided in this Act,
13 or any amendment made by this Act, any person or agency
14 that was awarded a grant under the Elementary and Sec-
15 ondary Education Act of 1965 (20 U.S.C. 6301 et seq.)
16 prior to the date of the enactment of this Act shall con-
17 tinue to receive funds in accordance with the terms of such
18 award, except that such funds may not be provided after
19 the date that is one year after the effective date of this
20 Act.

21 **SEC. 4. TABLE OF CONTENTS.**

22 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. References.
- Sec. 3. Transition.
- Sec. 4. Table of contents.
- Sec. 5. Effective date.

TITLE I—IMPROVING THE ACADEMIC PERFORMANCE OF THE
DISADVANTAGED

PART A—BASIC PROGRAM

- Sec. 101. Disadvantaged children meet high academic standards.
- Sec. 102. Authorization of appropriations.
- Sec. 103. Reservation for school improvement.
- Sec. 104. Basic programs.
- Sec. 105. School choice.
- Sec. 106. Academic assessment and local educational agency and school improvement.
- Sec. 107. State assistance for school support and improvement.
- Sec. 108. Academic achievement awards program.

PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

- Sec. 111. Reading first; early reading first.
- Sec. 112. Amendments to Even Start.
- Sec. 113. Inexpensive book distribution program.

PART C—EDUCATION OF MIGRATORY CHILDREN

- Sec. 121. State allocations.
- Sec. 122. State applications; services.
- Sec. 123. Authorized activities.
- Sec. 124. Coordination of migrant education activities.

PART D—NEGLECTED OR DELINQUENT YOUTH

- Sec. 131. Neglected or delinquent youth.
- Sec. 132. Findings.
- Sec. 133. Allocation of funds.
- Sec. 134. State plan and State agency applications.
- Sec. 135. Use of funds.
- Sec. 136. Transition services.
- Sec. 137. Purpose.
- Sec. 138. Programs operated by local educational agencies.
- Sec. 139. Local educational agency applications.
- Sec. 140. Uses of funds.
- Sec. 141. Program requirements.
- Sec. 142. Program evaluations.

PART E—FEDERAL EVALUATIONS AND DEMONSTRATIONS

- Sec. 151. Evaluations.
- Sec. 152. Demonstrations of innovative practices.
- Sec. 153. Ellender-close up fellowship program; dropout reporting.

PART F—COMPREHENSIVE SCHOOL REFORM

- Sec. 161. School reform.

PART G—RURAL EDUCATION FLEXIBILITY AND ASSISTANCE

- Sec. 171. Rural education.

PART H—GENERAL PROVISIONS OF TITLE I

- Sec. 181. General provisions.

TITLE II—PREPARING, TRAINING, AND RECRUITING QUALITY
TEACHERS

- Sec. 201. Teacher quality training and recruiting fund.
Sec. 202. National writing project.
Sec. 203. Civic education; teacher liability protection.

TITLE III—EDUCATION OF LIMITED ENGLISH PROFICIENT AND
IMMIGRANT CHILDREN; INDIAN AND ALASKA NATIVE EDU-
CATION

PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT
CHILDREN

- Sec. 301. Programs authorized.
Sec. 302. Conforming amendment to Department of Education Organization
Act.

PART B—INDIAN AND ALASKA NATIVE EDUCATION

- Sec. 311. Elementary and Secondary Education Act of 1965.
Sec. 312. Alaska Native education.
Sec. 313. Amendments to the education amendments of 1978.
Sec. 314. Tribally Controlled Schools Act of 1988.
Sec. 315. Accountability for Bureau funded schools.

TITLE IV—PROMOTING INFORMED PARENTAL CHOICE AND
INNOVATIVE PROGRAMS

PART A—INNOVATIVE PROGRAMS

- Sec. 401. Promoting informed parental choice and innovative programs.
Sec. 402. Continuation of awards.

PART B—PUBLIC CHARTER SCHOOLS

- Sec. 411. Public charter schools.
Sec. 412. Continuation of awards.

PART C—MAGNET SCHOOLS ASSISTANCE; WOMEN’S EDUCATIONAL EQUITY

- Sec. 421. Magnet schools assistance.
Sec. 422. Women’s educational equity.
Sec. 423. Continuation of awards.

TITLE V—21ST CENTURY SCHOOLS

- Sec. 501. Safe schools.

TITLE VI—IMPACT AID PROGRAM

- Sec. 601. Payments under section 8002 with respect to fiscal years in which
insufficient funds are appropriated.
Sec. 602. Calculation of payment under section 8003 for small local educational
agencies.
Sec. 603. Eligibility under section 8003 for certain heavily impacted local edu-
cational agencies.
Sec. 604. Construction.
Sec. 605. State consideration of payments in providing State aid.

- Sec. 606. Authorization of appropriations.
 Sec. 607. Repeal of existing title VI; transfer and redesignation of program.
 Sec. 608. Sense of Congress relating to full funding of the impact aid program.

TITLE VII—ACCOUNTABILITY

- Sec. 701. Flexibility and accountability.

TITLE VIII—GENERAL PROVISIONS

- Sec. 801. General provisions.
 Sec. 802. Comprehensive regional assistance centers.
 Sec. 803. National diffusion network.
 Sec. 804. Eisenhower regional mathematics and science education consortia.
 Sec. 805. Technology-based technical assistance.
 Sec. 806. Regional technical support and professional development.

TITLE IX—MISCELLANEOUS PROVISIONS

PART A—AMENDMENTS TO OTHER ACTS

SUBPART 1—NATIONAL EDUCATION STATISTICS ACT

- Sec. 901. Amendment to NESAS.

SUBPART 2—HOMELESS EDUCATION

- Sec. 911. Short title.
 Sec. 912. Findings.
 Sec. 913. Purpose.
 Sec. 914. Education for homeless children and youth.
 Sec. 915. Technical amendment.

SUBPART 3—GENERAL EDUCATION PROVISIONS

- Sec. 916. Information access and consent.

PART B—EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES

- Sec. 921. Short title.
 Sec. 922. Equal access.
 Sec. 923. Effective date.

PART C—REPEALS

- Sec. 931. Repeals.

1 SEC. 5. EFFECTIVE DATE.

2 Except as otherwise specifically provided in this Act,
 3 this Act, and the amendments made by this Act, shall take
 4 effect on October 1, 2001, or on the date of the enactment
 5 of this Act, whichever occurs later.

1 **TITLE I—IMPROVING THE ACA-**
2 **DEMIC PERFORMANCE OF**
3 **THE DISADVANTAGED**

4 **PART A—BASIC PROGRAM**

5 **SEC. 101. DISADVANTAGED CHILDREN MEET HIGH ACA-**
6 **DEMIC STANDARDS.**

7 Section 1001 is amended to read as follows:

8 **“SEC. 1001. FINDINGS; STATEMENT OF PURPOSE; AND REC-**
9 **OGNITION OF NEED.**

10 “(a) FINDINGS.—Congress finds the following:

11 “(1) The Constitution of the United States re-
12 serves to the States and to the people the responsi-
13 bility for the general supervision of public education
14 in kindergarten through the twelfth grade.

15 “(2) States, local educational agencies and
16 schools should be given maximum flexibility in ex-
17 change for greater academic accountability, and be
18 given greater freedom to build upon existing innova-
19 tive approaches for education reform.

20 “(3) The best education decisions are made by
21 those who know the students and who are respon-
22 sible for implementing the decisions.

23 “(4) Educators and parents should retain the
24 right and responsibility to educate their pupils and

1 children free of excessive regulation by the Federal
2 Government.

3 “(5) The Supreme Court has regarded the right
4 of parents to direct the upbringing of their children
5 as a fundamental right implicit in the concept of or-
6 dered liberty within the 14th Amendment to the
7 Constitution, as specified in *Meyer v. Nebraska*, 262
8 U.S. 390 (1923), and *Pierce v. Society of Sisters*,
9 268 U.S. 510 (1925).

10 “(6) Schools that enroll high concentrations of
11 children living in poverty face the greatest chal-
12 lenges, but effective educational strategies based on
13 scientifically based research can succeed in edu-
14 cating children to high academic standards.

15 “(7) High-poverty schools are much more likely
16 to be identified as failing to meet State academic
17 standards for satisfactory progress. As a result,
18 these schools are generally the most in need of addi-
19 tional resources and technical assistance to build the
20 capacity of these schools to address the many needs
21 of their students.

22 “(8) The educational progress of children par-
23 ticipating in programs under this title is closely as-
24 sociated with their being taught by a highly qualified
25 staff, particularly in schools with the highest con-

1 concentrations of poverty, where paraprofessionals,
2 uncertified teachers, and teachers teaching out of
3 field frequently provide instructional services.

4 “(9) Congress and the public would benefit
5 from additional data evaluating the efficacy of the
6 Elementary and Secondary Education Act of 1965.

7 “(10) Schools operating programs assisted
8 under this part must be held accountable for the
9 educational achievement of their students, when
10 those students fail to demonstrate progress in
11 achieving high academic standards, local educational
12 agencies and States must take significant actions to
13 improve the educational opportunities available to
14 them.

15 “(b) PURPOSE AND INTENT.—The purpose and in-
16 tent of this title are to ensure that all children have a
17 fair and equal opportunity to obtain a high-quality edu-
18 cation.

19 “(c) RECOGNITION OF NEED.—The Congress recog-
20 nizes the following:

21 “(1) Educational needs are particularly great
22 for low-achieving children in our Nation’s highest-
23 poverty schools, children with limited English pro-
24 ficiency, children of migrant workers, children with
25 disabilities, Indian children, children who are ne-

1 glected or delinquent, and young children who are in
2 need of reading assistance and family literacy assist-
3 ance.

4 “(2) Despite more than 3 decades of Federal
5 assistance, a sizable achievement gap remains be-
6 tween minority and nonminority students, and be-
7 tween disadvantaged students and their more advan-
8 taged peers.

9 “(3) Too many students attend local schools
10 that fail to provide them with a quality education,
11 and are given no alternatives to enable them to re-
12 ceive a quality education.

13 “(4) States, local educational agencies, and
14 schools need to be held accountable for improving
15 the academic achievement of all students, and for
16 identifying and turning around low-performing
17 schools.

18 “(5) States and local educational agencies need
19 to ensure that high quality academic assessments,
20 accountability systems, teacher preparation and
21 training, curriculum, and instructional materials are
22 aligned with challenging State academic standards
23 so that students, teachers, parents, and administra-
24 tors can measure progress against common expecta-
25 tions for student academic achievement.

1 “(6) Federal education assistance is intended
2 not only to increase pupil achievement overall, but
3 also more specifically and importantly, to help en-
4 sure that all students, especially the disadvantaged,
5 meet challenging academic achievement standards. It
6 can only be determined if schools, local educational
7 agencies, and States are reaching this goal if stu-
8 dent achievement results are reported specifically by
9 disadvantaged and minority status.”.

10 **SEC. 102. AUTHORIZATION OF APPROPRIATIONS.**

11 Section 1002 is amended to read as follows:

12 **“SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.**

13 “(a) LOCAL EDUCATIONAL AGENCY GRANTS.—For
14 the purpose of carrying out part A, other than section
15 1120(e), there are authorized to be appropriated
16 \$11,500,000,000 for fiscal year 2002, \$13,000,000,000
17 for fiscal year 2003, \$14,500,000,000 for fiscal year 2004,
18 \$16,000,000,000 for fiscal year 2005, and
19 \$17,200,000,000 for fiscal year 2006.

20 “(b) STUDENT READING SKILLS IMPROVEMENT
21 GRANTS.—

22 “(1) READING FIRST.—For the purpose of car-
23 rying out subpart 1 of part B, there are authorized
24 to be appropriated \$900,000,000 for fiscal year

1 2002 and such sums as may be necessary for each
2 of the 4 succeeding fiscal years.

3 “(2) EARLY READING FIRST.—For the purpose
4 of carrying out subpart 2 of part B, there are au-
5 thORIZED to be appropriated \$75,000,000 for fiscal
6 year 2002 and such sums as may be necessary for
7 each of the 4 succeeding fiscal years.

8 “(3) EVEN START.—For the purpose of car-
9 rying out subpart 3 of part B, there are authorized
10 to be appropriated \$275,000,000 for fiscal year
11 2002 and such sums as may be necessary for each
12 of the 4 succeeding fiscal years.

13 “(4) INEXPENSIVE BOOK DISTRIBUTION PRO-
14 GRAM.—For the purpose of carrying out subpart 4
15 of part B, there are authorized to be appropriated
16 such sums as may be necessary for fiscal year 2002
17 and each of the 4 succeeding fiscal years.

18 “(c) EDUCATION OF MIGRATORY CHILDREN.—For
19 the purpose of carrying out part C, there are authorized
20 to be appropriated \$420,000,000 for fiscal year 2002 and
21 such sums as may be necessary for each of the 4 suc-
22 ceeding fiscal years.

23 “(d) PREVENTION AND INTERVENTION PROGRAMS
24 FOR YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT
25 RISK OF DROPPING OUT.—For the purpose of carrying

1 out part D, there are authorized to be appropriated
2 \$50,000,000 for fiscal year 2002 and such sums as may
3 be necessary for each of the 4 succeeding fiscal years.

4 “(e) COMPREHENSIVE SCHOOL REFORM.—For the
5 purpose of carrying out part F, there are authorized to
6 be appropriated \$260,000,000 for fiscal year 2002 and
7 such sums as may be necessary for each of the 4 suc-
8 ceeding fiscal years.

9 “(f) RURAL EDUCATION.—For the purpose of car-
10 rying out part G, there are authorized to be appropriated
11 \$300,000,000 for fiscal year 2002 and such sums as may
12 be necessary for each of 4 succeeding fiscal years to be
13 distributed equally between subparts 1 and 2.

14 “(g) CAPITAL EXPENSES.—For the purpose of car-
15 rying out section 1120(e), there are authorized to be ap-
16 propriated \$6,000,000 for fiscal year 2002, and such sums
17 as may be necessary for fiscal year 2003.

18 “(h) FEDERAL ACTIVITIES.—

19 “(1) SECTIONS 1501 AND 1502.—(A) For the
20 purpose of carrying out section 1501, there are au-
21 thorized to be appropriated \$9,000,000 for fiscal
22 year 2002 and such sums as may be necessary for
23 each of the 4 succeeding fiscal years.

24 “(B) For the purpose of carrying out section
25 1502, there are authorized to be appropriated such

1 sums as may be necessary for fiscal year 2002 and
2 for each of the 4 succeeding fiscal years.

3 “(2) SECTION 1503.—For the purpose of car-
4 rying out section 1503, there are authorized to be
5 appropriated such sums as may be necessary for fis-
6 cal year 2002 and for each of the 4 succeeding fiscal
7 years.

8 “(i) STATE ADMINISTRATION.—

9 “(1) STATE RESERVATION.—Each State may
10 reserve, from the sum of the amounts it receives
11 under parts A, C, and D of this title, an amount
12 equal to the greater of 1 percent of the amount it
13 received under such parts for fiscal year 2001, or
14 \$400,000 (\$50,000 for each outlying area), includ-
15 ing any funds it receives under paragraph (2), to
16 carry out administrative duties assigned under parts
17 A, C, and D.

18 “(2) AUTHORIZATION OF APPROPRIATIONS.—
19 There are authorized to be appropriated
20 \$10,000,000 for fiscal year 2002 and such sums as
21 may be necessary for each of the 4 succeeding fiscal
22 years for additional State administration grants.
23 Any such additional grants shall be allocated among
24 the States in proportion to the sum of the amounts

1 received by each State for that fiscal year under
2 parts A, C, and D of this title.

3 “(3) SPECIAL RULE.—The amount received by
4 each State under paragraphs (1) and (2) may not
5 exceed the amount of State funds expended by the
6 State educational agency to administer elementary
7 and secondary education programs in such State.

8 “(j) ASSISTANCE FOR LOCAL SCHOOL IMPROVE-
9 MENT.—

10 “(1) PROGRAM AUTHORIZED.—The Secretary
11 shall award grants to States to provide subgrants to
12 local educational agencies for the purpose of pro-
13 viding assistance for school improvement consistent
14 with section 1116. Such grants shall be allocated
15 among States, the Bureau of Indian Affairs, and the
16 outlying areas, in proportion to the grants received
17 by the State, the Bureau of Indian Affairs, and the
18 outlying areas for the fiscal year under parts A, C,
19 and D of this title. The Secretary shall expeditiously
20 allocate a portion of such funds to States for the
21 purpose of assisting local educational agencies and
22 schools that were in school improvement status on
23 the date preceding the date of the enactment of the
24 No Child Left Behind Act of 2001.

1 “(2) REALLOCATIONS.—If a State does not
2 apply for funds under this subsection, the Secretary
3 shall reallocate such funds to other States in the
4 same proportion funds are allocated under para-
5 graph (1).

6 “(3) STATE APPLICATIONS.—Each State edu-
7 cational agency that desires to receive funds under
8 this subsection shall submit an application to the
9 Secretary at such time, and containing such infor-
10 mation as the Secretary shall reasonably require, ex-
11 cept that such requirement shall be waived if a State
12 educational agency has submitted such information
13 as part of its State plan under this part. Each State
14 plan shall describe how such funds will be allocated
15 to ensure that the State educational agency and
16 local educational agencies comply with school im-
17 provement, corrective action, and restructuring re-
18 quirements of section 1116.

19 “(4) LOCAL EDUCATIONAL AGENCY GRANTS.—
20 A grant to a local educational agency under this
21 subsection shall be—

22 “(A) of sufficient size and scope to support
23 the activities required under sections 1116 and
24 1117, but not less than \$50,000 and not more
25 than \$500,000 to each participating school;

1 “(B) integrated with funds awarded by the
2 State under this Act; and

3 “(C) renewable for two additional 1-year
4 periods if schools are making yearly progress
5 consistent with State and local educational
6 agency plans developed under section 1116.

7 “(5) PRIORITY.—The State, in awarding such
8 grants, shall give priority to local educational agen-
9 cies with the lowest achieving schools, that dem-
10 onstrate the greatest need for such funds, and that
11 demonstrate the strongest commitment to making
12 sure such funds are used to provide adequate re-
13 sources to enable the lowest achieving schools to
14 meet the yearly progress goals under State and local
15 school improvement, corrective action, and restruc-
16 turing plans under section 1116.

17 “(6) ADMINISTRATIVE COSTS.—A State edu-
18 cational agency that receives a grant award under
19 this subsection may reserve not more than 5 percent
20 of such award for administration, evaluation, and
21 technical assistance expenses.

22 “(7) LOCAL AWARDS.—Each local educational
23 agency that applies for assistance under this sub-
24 section shall describe how it will provide the lowest
25 achieving schools the resources necessary to meet

1 yearly progress goals under State and local school
2 improvement, corrective action, and restructuring
3 plans under section 1116.

4 “(8) AUTHORIZATION OF APPROPRIATIONS.—
5 For the purpose of carrying out this subsection,
6 there are authorized to be appropriated
7 \$500,000,000 for fiscal year 2002 and such sums as
8 may be necessary for each of the 4 succeeding fiscal
9 years.”.

10 **SEC. 103. RESERVATION FOR SCHOOL IMPROVEMENT.**

11 Section 1003 is amended to read as follows:

12 **“SEC. 1003. RESERVATION FOR SCHOOL IMPROVEMENT.**

13 “(a) STATE RESERVATIONS.—Each State shall re-
14 serve 1 percent of the amount it receives under subpart
15 2 of part A for fiscal years 2002 and 2003, and 3 percent
16 of the amount received under such subpart for fiscal years
17 2004 through 2006, to carry out subsection (b) and to
18 carry out the State’s responsibilities under sections 1116
19 and 1117, including carrying out the State educational
20 agency’s statewide system of technical assistance and sup-
21 port for local educational agencies.

22 “(b) USES.—Of the amount reserved under sub-
23 section (a) for any fiscal year, the State educational agen-
24 cy shall allocate at least 95 percent of that amount directly
25 to local educational agencies for schools identified for

1 school improvement, corrective action, and restructuring
2 under section 1116(b) that have the greatest need for that
3 assistance in amounts sufficient to have a significant im-
4 pact in improving those schools.

5 “(c) PRIORITY.—The State educational agency, in al-
6 locating funds to local educational agencies under this sec-
7 tion, shall give priority to local educational agencies
8 that—

9 “(1) have the lowest achieving schools;

10 “(2) demonstrate the greatest need for such
11 funds; and

12 “(3) demonstrate the strongest commitment to
13 ensuring that such funds are used to enable the low-
14 est achieving schools to meet the yearly progress
15 goals under section 1116(b)(3)(A)(v).

16 “(d) UNUSED FUNDS.—If, after consultation with
17 local educational agencies in the State, the State edu-
18 cational agency determines that the amount of funds re-
19 served to carry out subsection (b) is greater than the
20 amount needed to provide the assistance described in that
21 subsection, it may allocate the excess amount to local edu-
22 cational agencies in accordance with either or both—

23 “(1) the relative allocations it made to those
24 agencies for that fiscal year under subpart 2 of part
25 A; or

1 “(2) section 1126(c).

2 “(e) SPECIAL RULE.—Notwithstanding any other
3 provision of this section, the amount of funds reserved by
4 the State under subsection (a) in any given fiscal year
5 shall not decrease the amount of funds each local edu-
6 cational agency receives under subpart 2 below the amount
7 received by such agency under such subpart in the pre-
8 ceding fiscal year.”.

9 **SEC. 104. BASIC PROGRAMS.**

10 The heading for part A of title I and sections 1111
11 through 1115 are amended to read as follows:

12 **“PART A—IMPROVING BASIC PROGRAMS**

13 **OPERATED BY LOCAL EDUCATIONAL AGENCIES**

14 **“Subpart 1—Basic Program Requirements**

15 **“SEC. 1111. STATE PLANS.**

16 “(a) PLANS REQUIRED.—

17 “(1) IN GENERAL.—Any State desiring to re-
18 ceive a grant under this part shall submit to the
19 Secretary, by March 1, 2002, a plan, developed in
20 consultation with local educational agencies, teach-
21 ers, principals, pupil services personnel, administra-
22 tors (including administrators of programs described
23 in other parts of this title), other staff, and parents,
24 that satisfies the requirements of this section and
25 that is coordinated with other programs under this

1 Act, the Individuals with Disabilities Education Act
2 (20 U.S.C. 1400 et seq.), the Carl D. Perkins Voca-
3 tional and Technical Education Act of 1998 (20
4 U.S.C. 2301 et seq.), the Head Start Act (42 U.S.C.
5 9831 et seq.), and the McKinney-Vento Homeless
6 Assistance Act (42 U.S.C. 11431 et seq.).

7 “(2) CONSOLIDATED PLAN.—A State plan sub-
8 mitted under paragraph (1) may be submitted as
9 part of a consolidated plan under section 8302.

10 “(b) ACADEMIC STANDARDS, ACADEMIC ASSESS-
11 MENTS, AND ACCOUNTABILITY.—

12 “(1) CHALLENGING ACADEMIC STANDARDS.—

13 “(A) Each State plan shall demonstrate
14 that the State has adopted challenging aca-
15 demic content standards and challenging stu-
16 dent academic achievement standards that will
17 be used by the State, its local educational agen-
18 cies, and its schools to carry out this part, ex-
19 cept that a State shall not be required to sub-
20 mit such standards to the Secretary.

21 “(B) The academic standards required by
22 subparagraph (A) shall be the same academic
23 standards that the State applies to all schools
24 and children in the State.

1 “(C) The State shall have such academic
2 standards for all public elementary and sec-
3 ondary school children, including children
4 served under this part, in subjects determined
5 by the State, but including at least mathe-
6 matics, reading or language arts, and science
7 (beginning in the 2005–2006 school year),
8 which shall include the same knowledge, skills,
9 and levels of achievement expected of all chil-
10 dren.

11 “(D) Academic standards under this para-
12 graph shall include—

13 “(i) challenging academic content
14 standards in academic subjects that—

15 “(I) specify what children are ex-
16 pected to know and be able to do;

17 “(II) contain coherent and rig-
18 orous content; and

19 “(III) encourage the teaching of
20 advanced skills; and

21 “(ii) challenging student academic
22 achievement standards that—

23 “(I) are aligned with the State’s
24 academic content standards;

1 “(II) describe 2 levels of high
2 performance (proficient and advanced)
3 that determine how well children are
4 mastering the material in the State
5 academic content standards; and

6 “(III) describe a third level of
7 performance (basic) to provide com-
8 plete information about the progress
9 of the lower performing children to-
10 ward achieving to the proficient and
11 advanced levels of performance.

12 “(E) For the subjects in which students
13 will be served under this part, but for which a
14 State is not required by subparagraphs (A),
15 (B), and (C) to develop, and has not otherwise
16 developed such academic standards, the State
17 plan shall describe a strategy for ensuring that
18 students are taught the same knowledge and
19 skills in such subjects and held to the same ex-
20 pectations as are all children.

21 “(F) Nothing in this part shall prohibit a
22 State from revising any standard adopted under
23 this part before or after the date of enactment
24 of the No Child Left Behind Act of 2001.

25 “(2) ACCOUNTABILITY.—

1 “(A) IN GENERAL.—Each State plan shall
2 demonstrate that the State has developed and is
3 implementing a statewide State accountability
4 system that has been or will be effective in en-
5 suring that all local educational agencies, public
6 elementary schools, and public secondary
7 schools make adequate yearly progress as de-
8 fined under subparagraph (B). Each State ac-
9 countability system shall—

10 “(i) be based on the academic stand-
11 ards and academic assessments adopted
12 under paragraphs (1) and (4) and take
13 into account the performance of all public
14 school students;

15 “(ii) be the same as the accountability
16 system the State uses for all public schools
17 or all local educational agencies in the
18 State, except that public schools and local
19 educational agencies not participating
20 under this part are not subject to the re-
21 quirements of section 1116; and

22 “(iii) include rewards and sanctions
23 the State will use to hold local educational
24 agencies and public schools accountable for
25 student achievement and for ensuring that

1 they make adequate yearly progress in ac-
2 cordance with the State’s definition under
3 subparagraph (B).

4 “(B) ADEQUATE YEARLY PROGRESS.—
5 Each State plan shall demonstrate, based on
6 academic assessments described under para-
7 graph (4), what constitutes adequate yearly
8 progress of the State, and of public schools and
9 local educational agencies in the State, toward
10 enabling all public school students to meet the
11 State’s student academic achievement stand-
12 ards, while working toward the goal of nar-
13 rowing the achievement gaps in the State, local
14 educational agency, and school.

15 “(C) DEFINITION.—‘Adequate yearly
16 progress’ shall be defined by the State in a
17 manner that—

18 “(i) applies the same high academic
19 standards of academic performance to all
20 public school students in the State;

21 “(ii) measures the progress of public
22 schools and local educational agencies
23 based primarily on the academic assess-
24 ments described in paragraph (4);

1 “(iii) measures the student dropout
2 rate, as defined for the Common Core of
3 Data maintained by the National Center
4 for Education Statistics established under
5 section 403 of the National Education Sta-
6 tistics Act of 1994 (20 U.S.C. 9002);

7 “(iv) includes separate annual numer-
8 ical objectives for continuing and signifi-
9 cant improvement in each of the following
10 (except that disaggregation of data under
11 subclauses (II) and (III) shall not be re-
12 quired in a case in which the number of
13 students in a category is insufficient to
14 yield statistically reliable information or
15 the results would reveal individually identi-
16 fiable information about an individual stu-
17 dent):

18 “(I) The achievement of all public
19 school students.

20 “(II) The achievement of—

21 “(aa) economically disadvan-
22 taged students;

23 “(bb) students from major
24 racial and ethnic groups;

1 “(cc) students with disabil-
2 ities; and

3 “(dd) students with limited
4 English proficiency;

5 “(III) solely for the purpose of deter-
6 mining adequate yearly progress of the
7 State, the acquisition of English language
8 proficiency by children with limited
9 English proficiency;

10 “(v) at the State’s discretion, may
11 also include other academic measures such
12 as promotion, completion of college pre-
13 paratory courses, and high school comple-
14 tion (and for individual local educational
15 agencies and schools, the acquisition of
16 English language proficiency by children
17 with limited English proficiency), except
18 that inclusion of such other measures may
19 not change which schools or local edu-
20 cational agencies would otherwise be sub-
21 ject to improvement or corrective action
22 under section 1116 if the discretionary in-
23 dicators were not included; and

24 “(vi) includes a timeline that—

1 “(I) uses as a baseline year the
2 year following the date of enactment
3 of the No Child Left Behind Act of
4 2001;

5 “(II) establishes a target year by
6 which all members of each group of
7 students described in subclauses (I)
8 and (II) of clause (iii) shall meet or
9 exceed the State’s proficient level of
10 academic performance on the State
11 academic assessment used for the pur-
12 poses of this section and section 1116,
13 except that the target year shall not
14 be more than 12 years from the base-
15 line year; and

16 “(III) for each year until and in-
17 cluding the target year, establishes
18 annual goals for the academic per-
19 formance of each group of students
20 described in subclauses (I) and (II) of
21 clause (iii) on the State academic as-
22 sessment that—

23 “(aa) indicates a minimum
24 percentage of students who must
25 meet the proficient level on the

1 academic assessment, such that
2 the minimum percentage is the
3 same for each group of students
4 described in subclauses (I) and
5 (II) of clause (iii); or

6 “(bb) indicates an annual
7 minimum amount by which the
8 percentage of students who meet
9 the proficient level among each
10 group of students described in
11 subclauses (I) and (II) of clause
12 (iii) shall increase, such that the
13 minimum increase for each group
14 is equal to or greater than 100
15 percent minus the percentage of
16 the group meeting the proficient
17 level in the baseline year divided
18 by the number of years from the
19 baseline year to the target year
20 established under clause (I).

21 “(D) ANNUAL IMPROVEMENT FOR
22 SCHOOLS.—For a school to make adequate
23 yearly progress under subparagraph (A), not
24 less than 95 percent of each group of students
25 described in subparagraph (C)(iii)(II) who are

1 enrolled in the school are required to take the
2 academic assessments, consistent with section
3 612(a)(17)(A) of the Individuals with Disabil-
4 ities Education Act (20 U.S.C. 1412(a)(17)(A))
5 and paragraph (4)(G)(ii), on which adequate
6 yearly progress is based.

7 “(E) PUBLIC NOTICE AND COMMENT.—
8 Each State shall ensure that in developing its
9 plan, it diligently seeks public comment from a
10 range of institutions and individuals in the
11 State with an interest in improved student
12 achievement and that the State makes and will
13 continue to make a substantial effort to ensure
14 that information under this part is widely
15 known and understood by the public, parents,
16 teachers, and school administrators throughout
17 the State. Such efforts shall include, at a min-
18 imum, publication of such information and ex-
19 planatory text, broadly to the public through
20 such means as the Internet, the media, and
21 public agencies.

22 “(3) STATE AUTHORITY.—If a State edu-
23 cational agency provides evidence, which is satisfac-
24 tory to the Secretary, that neither the State edu-
25 cational agency nor any other State government offi-

1 cial, agency, or entity has sufficient authority, under
2 State law, to adopt curriculum content and student
3 academic achievement standards, and academic as-
4 sements aligned with such academic standards,
5 which will be applicable to all students enrolled in
6 the State’s public schools, then the State educational
7 agency may meet the requirements of this subsection
8 by—

9 “(A) adopting academic standards and
10 academic assessments that meet the require-
11 ments of this subsection, on a statewide basis,
12 limiting their applicability to students served
13 under this part; or

14 “(B) adopting and implementing policies
15 that ensure that each local educational agency
16 in the State which receives grants under this
17 part will adopt curriculum content and student
18 academic achievement standards, and academic
19 assessments aligned with such standards, which
20 meet all of the criteria in this subsection and
21 any regulations regarding such standards and
22 assessments which the Secretary may publish,
23 and which are applicable to all students served
24 by each such local educational agency.

1 “(4) ACADEMIC ASSESSMENTS.—Each State
2 plan shall demonstrate that the State has imple-
3 mented a set of high-quality, yearly student aca-
4 demic assessments that include, at a minimum, aca-
5 demic assessments in mathematics, and reading or
6 language arts, that will be used as the primary
7 means of determining the yearly performance of the
8 State and of each local educational agency and
9 school in enabling all children to meet the State’s
10 challenging student academic achievement stand-
11 ards. Such assessments shall—

12 “(A) be the same academic assessments
13 used to measure the performance of all chil-
14 dren;

15 “(B) be aligned with the State’s chal-
16 lenging content and student academic achieve-
17 ment standards and provide coherent informa-
18 tion about student attainment of such stand-
19 ards;

20 “(C) be used for purposes for which such
21 assessments are valid and reliable, and be con-
22 sistent with relevant, recognized professional
23 and technical standards for such assessments;

24 “(D) for the purposes of this part, be
25 scored to ensure the performance of each stu-

1 dent is evaluated solely against the State’s chal-
2 lenging academic content standards and not rel-
3 ative to the score of other students;

4 “(E) except as otherwise provided for
5 grades 3 through 8 under subparagraph (G),
6 measure the proficiency of students in, at a
7 minimum, mathematics and reading or lan-
8 guage arts, and be administered not less than
9 once during—

10 “(i) grades 3 through 5;

11 “(ii) grades 6 through 9; and

12 “(iii) grades 10 through 12;

13 “(F) involve multiple up-to-date measures
14 of student achievement, including measures that
15 assess critical thinking skills and under-
16 standing;

17 “(G) beginning not later than school year
18 2004-2005, measure the performance of stu-
19 dents against the challenging State content and
20 student academic achievement standards in
21 each of grades 3 through 8 in, at a minimum,
22 mathematics, and reading or language arts, ex-
23 cept that the Secretary may provide the State
24 1 additional year if the State demonstrates that
25 exceptional or uncontrollable circumstances,

1 such as a natural disaster or a precipitous and
2 unforeseen decline in the financial resources of
3 the State, prevented full implementation of the
4 academic assessments by that deadline and that
5 it will complete implementation within the addi-
6 tional 1-year period;

7 “(H) provide for—

8 “(i) the participation in such assess-
9 ments of all students;

10 “(ii) the reasonable adaptations and
11 accommodations for students with disabil-
12 ities defined under 602(3) of the Individ-
13 uals with Disabilities Education Act (20
14 U.S.C. 1401(3)) necessary to measure the
15 achievement of such students relative to
16 State content and State student academic
17 achievement standards;

18 “(iii) the inclusion of limited English
19 proficient students who shall be assessed,
20 to the extent practicable, in the language
21 and form most likely to yield accurate and
22 reliable information on what such students
23 know and can do in content areas;

24 “(iv) notwithstanding clause (iii), the
25 academic assessment (using tests written

1 in English) of reading or language arts of
2 any student who has attended school in the
3 United States (not including Puerto Rico)
4 for 3 or more consecutive school years, ex-
5 cept if the local educational agency deter-
6 mines, on a case-by-case individual basis,
7 that academic assessments in another lan-
8 guage and form would likely yield more ac-
9 curate and reliable information on what
10 such students know and can do, the local
11 educational agency may assess such stu-
12 dents in the appropriate language other
13 than English for 1 additional year;

14 “(I) include students who have attended
15 schools in a local educational agency for a full
16 academic year but have not attended a single
17 school for a full academic year, except that the
18 performance of students who have attended
19 more than one school in the local educational
20 agency in any academic year shall be used only
21 in determining the progress of the local edu-
22 cational agency;

23 “(J) produce individual student reports to
24 be provided to parents, which include academic
25 assessment scores, or other information on the

1 attainment of student academic achievement
2 standards; and

3 “(K) enable results to be disaggregated
4 within each State, local educational agency, and
5 school by gender, by each major racial and eth-
6 nic group, by English proficiency status, by mi-
7 grant status, by students with disabilities as
8 compared to nondisabled students, and by eco-
9 nomically disadvantaged students as compared
10 to students who are not economically disadvan-
11 taged.

12 “(L) be tests of objective knowledge, based
13 on measurable, verifiable, and widely accepted
14 professional testing and assessment standards,
15 and shall not assess the personal opinions, atti-
16 tudes, or beliefs of the student being assessed.

17 “(5) SPECIAL RULE.—Academic assessment
18 measures in addition to those in paragraph (4) that
19 do not meet the requirements of such paragraph
20 may be included as additional measures, but may
21 not be used in lieu of the academic assessments re-
22 quired in paragraph (4). Results on any additional
23 measures under this paragraph shall not change
24 which schools or local educational agencies would
25 otherwise be subject to improvement or corrective

1 action under section 1116 if the additional measures
2 were not included.

3 “(6) LANGUAGE ASSESSMENTS.—Each State
4 plan shall identify the languages other than English
5 that are present in the participating student popu-
6 lation and indicate the languages for which yearly
7 student academic assessments are not available and
8 are needed. The State shall make every effort to de-
9 velop such assessments and may request assistance
10 from the Secretary if linguistically accessible aca-
11 demic assessment measures are needed. Upon re-
12 quest, the Secretary shall assist with the identifica-
13 tion of appropriate academic assessment measures in
14 the needed languages, but shall not mandate a spe-
15 cific academic assessment or mode of instruction.

16 “(7) ACADEMIC ASSESSMENTS OF ENGLISH
17 LANGUAGE PROFICIENCY.—Each State plan shall
18 demonstrate that local educational agencies in the
19 State will, beginning no later than school year
20 2002–2003, annually assess the English proficiency
21 of all students with limited English proficiency in
22 their schools.

23 “(8) REQUIREMENT.—Each State plan shall
24 describe—

1 “(A) how the State educational agency will
2 assist each local educational agency and school
3 affected by the State plan to develop the capac-
4 ity to comply with each of the requirements of
5 sections 1112(c)(1)(D), 1114(c), and 1115(c)
6 that is applicable to such agency or school;

7 “(B) how the State educational agency will
8 assist each local educational agency and school
9 affected by the State plan to provide additional
10 educational assistance to individual students as-
11 sessed as needing help to achieve the State’s
12 challenging academic standards.

13 “(C) such other factors as the State con-
14 siders appropriate to provide students an oppor-
15 tunity to achieve the knowledge and skills de-
16 scribed in the challenging academic content
17 standards adopted by the State.

18 “(9) USE OF ACADEMIC ASSESSMENT RESULTS
19 TO IMPROVE STUDENT ACHIEVEMENT.—Each State
20 plan shall describe how the State will ensure that
21 the results of the State assessments described in
22 paragraph (4)—

23 “(A) will be provided promptly, but not
24 later than the end of the school year (consistent
25 with 1116, to local educational agencies,

1 schools, and teachers in a manner that is clear
2 and easy to understand; and

3 “(B) be used by those local educational
4 agencies, schools, and teachers to improve the
5 educational achievement of individual students.

6 “(10) TECHNICAL ASSISTANCE ON ACADEMIC
7 ASSESSMENT REQUIREMENTS.—The Secretary shall
8 provide technical assistance to interested States re-
9 garding how to meet the requirements of paragraph
10 (4).

11 “(c) OTHER PROVISIONS TO SUPPORT TEACHING
12 AND LEARNING.—Each State plan shall contain assur-
13 ances that—

14 “(1) the State shall produce, beginning with the
15 2003–2004 school year, the annual State report
16 cards described in subsection (h)(1);

17 “(2) the State will participate, beginning in
18 school year 2002–2003, in annual academic assess-
19 ments of 4th and 8th grade reading and mathe-
20 matics under—

21 “(A) the State National Assessment of
22 Educational Progress carried out under section
23 411(b)(2) of the National Education Statistics
24 Act of 1994 (20 U.S.C. 9010(b)(2)); or

1 “(B) another academic assessment selected
2 by the State which meets the criteria of section
3 7101(b)(1)(B)(ii) of this Act;

4 “(3) the State educational agency shall work
5 with other agencies, including educational service
6 agencies or other local consortia, and institutions to
7 provide technical assistance to local educational
8 agencies and schools to carry out the State edu-
9 cational agency’s responsibilities under this part, in-
10 cluding technical assistance in providing professional
11 development under section 1119A and technical as-
12 sistance under section 1117; and

13 “(4)(A) where educational service agencies
14 exist, the State educational agency shall consider
15 providing professional development and technical as-
16 sistance through such agencies; and

17 “(B) where educational service agencies do not
18 exist, the State educational agency shall consider
19 providing professional development and technical as-
20 sistance through other cooperative agreements such
21 as through a consortium of local educational agen-
22 cies;

23 “(5) the State educational agency shall notify
24 local educational agencies and the public of the con-
25 tent and student academic achievement standards

1 and academic assessments developed under this sec-
2 tion, and of the authority to operate schoolwide pro-
3 grams, and will fulfill the State educational agency’s
4 responsibilities regarding local educational agency
5 improvement and school improvement under section
6 1116, including such corrective actions as are nec-
7 essary;

8 “(6) the State educational agency shall provide
9 the least restrictive and burdensome regulations for
10 local educational agencies and individual schools par-
11 ticipating in a program assisted under this part;

12 “(7) the State educational agency shall inform
13 the Secretary and the public of how Federal laws, if
14 at all, hinder the ability of States to hold local edu-
15 cational agencies and schools accountable for stu-
16 dent academic performance;

17 “(8) the State educational agency will encour-
18 age schools to consolidate funds from other Federal,
19 State, and local sources for schoolwide reform in
20 schoolwide programs under section 1114;

21 “(9) the State educational agency shall modify
22 or eliminate State fiscal and accounting barriers so
23 that schools can easily consolidate funds from other
24 Federal, State, and local sources for schoolwide pro-
25 grams under section 1114;

1 “(10) the State educational agency has involved
2 the committee of practitioners established under sec-
3 tion 1603(b) in developing the plan and monitoring
4 its implementation;

5 “(11) the State educational agency shall inform
6 local educational agencies of the local educational
7 agency’s authority to transfer funds under title VII,
8 to obtain waivers under title VIII and, if the State
9 is an Ed-Flex Partnership State, to obtain waivers
10 under the Education Flexibility Partnership Act of
11 1999 (20 U.S.C. 5891a et seq.); and

12 “(12) the State educational agency shall en-
13 courage local educational agencies and individual
14 schools participating in a program assisted under
15 this part to offer family literacy services (using
16 funds under this part), if the agency or school deter-
17 mines that a substantial number of students served
18 under this part by the agency or school have parents
19 who do not have a high school diploma or its recog-
20 nized equivalent or who have low levels of literacy.

21 “(d) PEER REVIEW AND SECRETARIAL APPROVAL.—

22 The Secretary shall—

23 “(1) establish a peer review process to assist in
24 the review of State plans;

1 “(2) approve a State plan within 120 days of
2 its submission unless the Secretary determines that
3 the plan does not meet the requirements of this sec-
4 tion;

5 “(3) if the Secretary determines that the State
6 plan does not meet the requirements of subsection
7 (a), (b), or (c), immediately notify the State of such
8 determination and the reasons for such determina-
9 tion;

10 “(4) not decline to approve a State’s plan
11 before—

12 “(A) offering the State an opportunity to
13 revise its plan;

14 “(B) providing technical assistance in
15 order to assist the State to meet the require-
16 ments under subsections (a), (b), and (c); and

17 “(C) providing a hearing; and

18 “(5) have the authority to disapprove a State
19 plan for not meeting the requirements of this part,
20 but shall not have the authority to require a State,
21 as a condition of approval of the State plan, to in-
22 clude in, or delete from, such plan one or more spe-
23 cific elements of the State’s academic content stand-
24 ards or to use specific academic assessment instru-
25 ments or items.

1 “(e) DURATION OF THE PLAN.—

2 “(1) IN GENERAL.—Each State plan shall—

3 “(A) be submitted for the first year for
4 which this part is in effect after the date of the
5 enactment of the No Child Left Behind Act of
6 2001;

7 “(B) remain in effect for the duration of
8 the State’s participation under this part; and

9 “(C) be periodically reviewed and revised
10 by the State, as necessary, to reflect changes in
11 the State’s strategies and programs under this
12 part.

13 “(2) ADDITIONAL INFORMATION.—If the State
14 makes significant changes in its plan, such as the
15 adoption of new or revised State academic content
16 standards and State student achievement standards,
17 new academic assessments, or a new definition of
18 adequate yearly progress, the State shall submit
19 such information to the Secretary.

20 “(f) LIMITATION ON CONDITIONS.—Officers and em-
21 ployees of the Federal Government are prohibited from
22 mandating, directing, or controlling a State, local edu-
23 cational agency, or school’s specific instructional content
24 or student academic achievement standards and academic

1 assessments, curriculum, or program of instruction, as a
2 condition of eligibility to receive funds under this part.

3 “(g) PENALTIES.—

4 “(1) FAILURE TO MEET DEADLINES ENACTED
5 IN 1994.—

6 “(A) IN GENERAL.—If a State fails to
7 meet the deadlines established by the Improving
8 America’s Schools Act of 1994 (or under any
9 waiver granted by the Secretary or under any
10 compliance agreement with the Secretary) for
11 demonstrating that it has in place challenging
12 academic content standards and student
13 achievement standards, and a system for meas-
14 uring and monitoring adequate yearly progress,
15 the Secretary shall withhold 25 percent of the
16 funds that would otherwise be available for
17 State administration and activities in each year
18 until the Secretary determines that the State
19 meets those requirements;

20 “(B) NO EXTENSION.—The Secretary shall
21 not grant any additional waivers of, or enter
22 into any additional compliance agreements to
23 extend, the deadlines described in subparagraph
24 (A) for any State.

1 “(2) FAILURE TO MEET REQUIREMENTS EN-
2 ACTED IN 2001.—If a State fails to meet any of the
3 requirements of this section, other than the require-
4 ments described in paragraph (1), the Secretary may
5 withhold funds for State administration until the
6 Secretary determines that the State has fulfilled
7 those requirements.

8 “(h) REPORTS.—

9 “(1) ANNUAL STATE REPORT CARD.—

10 “(A) IN GENERAL.—Not later than the be-
11 ginning of the 2003–2004 school year, a State
12 that receives assistance under this Act shall
13 prepare and disseminate an annual State report
14 card.

15 “(B) IMPLEMENTATION.—The State report
16 card shall be—

17 “(i) concise; and

18 “(ii) presented in a format and man-
19 ner that parents can understand, and
20 which, to the extent practicable, shall be in
21 a language the parents can understand.

22 “(C) PUBLIC DISSEMINATION.—The State
23 shall widely disseminate the information de-
24 scribed in subparagraph (D) to all schools and
25 local educational agencies in the State and

1 make the information broadly available through
2 public means, such as posting on the Internet,
3 distribution to the media, and distribution
4 through public agencies.

5 “(D) REQUIRED INFORMATION.—The
6 State shall include in its annual State report
7 card—

8 “(i) information, in the aggregate, on
9 student achievement at each proficiency
10 level on the State academic assessments
11 described in subsection (b)(4)
12 (disaggregated by race, ethnicity, gender,
13 disability status, migrant status, English
14 proficiency, and status as economically dis-
15 advantaged, except that such
16 disaggregation shall not be required in a
17 case in which the number of students in a
18 category is insufficient to yield statistically
19 reliable information or the results would
20 reveal individually identifiable information
21 about an individual student);

22 “(ii) information that provides a com-
23 parison between the actual achievement
24 levels of each group of students described
25 in subclauses (I) and (II) of subsection

1 (b)(2)(C) to the State’s annual numerical
2 objectives for each such group of students
3 on each of the assessments required under
4 this part;

5 “(iii) the percentage of students not
6 tested (disaggregated by the same cat-
7 egories and subject to the same exception
8 described in clause (i));

9 “(iv) the percentage of students who
10 graduate from high school within 4 years
11 of starting high school;

12 “(v) the percentage of students who
13 take and complete advanced placement
14 courses as compared to the population of
15 the students eligible to take such courses,
16 and the rate of passing of advanced place-
17 ment tests;

18 “(vi) the professional qualifications of
19 teachers in the aggregate, including the
20 percentage of teachers teaching with emer-
21 gency or provisional qualifications, and the
22 percentage of class sections not taught by
23 fully qualified teachers;

24 “(vii) such other information (such as
25 dropout and school attendance rates; and

1 average class size by grade level) as the
2 State believes will best provide parents,
3 students, and other members of the public
4 with information on the progress of each of
5 the State’s public schools; and

6 “(viii) a clear and concise description
7 of the State’s accountability system, in-
8 cluding: a description of the criteria by
9 which the State evaluates school perform-
10 ance, and the criteria that the State has
11 established, consistent with (b)(2)(B), to
12 determine the status of schools regarding
13 school improvement, corrective action, and
14 reconstitution.

15 “(2) CONTENT OF LOCAL EDUCATIONAL AGEN-
16 CY REPORT CARDS.—

17 “(A) MINIMUM REQUIREMENTS.—The
18 State shall ensure that each local educational
19 agency collects appropriate data and includes in
20 its annual report for each of its schools, at a
21 minimum—

22 “(i) the information described in para-
23 graph (1)(D) for each local educational
24 agency and school; and

1 “(ii)(I) in the case of a local edu-
2 cational agency—

3 “(aa) the number and percentage
4 of schools identified for school im-
5 provement and how long they have
6 been so identified, including schools
7 identified under section 1116(c) of
8 this Act; and

9 “(bb) information that shows
10 how students in its schools perform on
11 the statewide academic assessment
12 compared to students in the State as
13 a whole; and

14 “(II) in the case of a school—

15 “(aa) whether it has been identi-
16 fied for school improvement; and

17 “(bb) information that shows
18 how its students performed on the
19 statewide academic assessment com-
20 pared to students in the local edu-
21 cational agency and the State as a
22 whole.

23 “(B) OTHER INFORMATION.—A local edu-
24 cational agency may include in its annual re-
25 ports any other appropriate information wheth-

1 er or not such information is included in the
2 annual State report.

3 “(C) PUBLIC DISSEMINATION.—The local
4 educational agency shall, not later than the be-
5 ginning of the 2003–2004 school year, publicly
6 disseminate the information described in this
7 paragraph to all schools in the district and to
8 all parents of students attending those schools
9 (to the extent practicable, in a language they
10 can understand), and make the information
11 broadly available through public means, such as
12 posting on the Internet, distribution to the
13 media, and distribution through public agencies.

14 “(3) PRE-EXISTING REPORT CARDS.—A State
15 or local educational agency that was providing public
16 report cards on the performance of students,
17 schools, local educational agencies, or the State prior
18 to the enactment of the No Child Left Behind Act
19 of 2001 may use those reports for the purpose of
20 this subsection, so long as any such report is modi-
21 fied, as may be needed, to contain the information
22 required by this subsection.

23 “(4) ANNUAL STATE REPORT TO THE SEC-
24 RETARY.—Each State receiving assistance under

1 this Act shall report annually to the Secretary, and
2 make widely available within the State—

3 “(A) beginning with school year 2001–
4 2002, information on the State’s progress in
5 developing and implementing the academic as-
6 sessment system described in subsection (b)(4);

7 “(B) beginning not later than school year
8 2004–2005, information on the achievement of
9 students on the academic assessments required
10 by that subsection, including the disaggregated
11 results for the categories of students identified
12 in subsection (b)(2)(C)(iii)(II);

13 “(C) beginning not later than school year
14 2002–2003, information on the acquisition of
15 English proficiency by children with limited
16 English proficiency; and

17 “(D) in any year before the State begins to
18 provide the information described in subpara-
19 graph (B), information on the results of stu-
20 dent academic assessments (including
21 disaggregated results) required under this sec-
22 tion.

23 “(5) PARENTS RIGHT-TO-KNOW.—

24 “(A) QUALIFICATIONS.—At the beginning
25 of each school year, a local educational agency

1 that receives funds under this part shall notify
2 the parents of each student attending any
3 school receiving funds under this part that they
4 may request, and shall provide the parents
5 upon request (and in a timely manner), infor-
6 mation regarding the professional qualifications
7 of the student’s classroom teachers, including,
8 at a minimum, the following:

9 “(i) Whether the teacher has met
10 State qualification and licensing criteria
11 for the grade levels and subject areas in
12 which the teacher provides instruction.

13 “(ii) Whether the teacher is teaching
14 under emergency or other provisional sta-
15 tus through which State qualification or li-
16 censing criteria have been waived.

17 “(iii) The baccalaureate degree major
18 of the teacher and any other graduate cer-
19 tification or degree held by the teacher,
20 and the field of discipline of the certifi-
21 cation or degree.

22 “(iv) Whether the child is provided
23 services by paraprofessionals and if so,
24 their qualifications.

1 “(B) ADDITIONAL INFORMATION.—In ad-
2 dition to the information which parents may re-
3 quest under subparagraph (A), a school which
4 receives funds under this part shall provide to
5 each individual parent—

6 “(i) information on the level of per-
7 formance of the individual student for
8 whom they are the parent in each of the
9 State academic assessments as required
10 under this part; and

11 “(ii) timely notice that the student for
12 whom they are the parent has been as-
13 signed, or has been taught for 4 or more
14 consecutive weeks by, a teacher who is not
15 fully qualified.

16 “(C) FORMAT.—The notice and informa-
17 tion provided to parents under this paragraph
18 shall be in an understandable and uniform for-
19 mat and, to the extent practicable, provided in
20 a language that the parents can understand.

21 “(6) PLAN CONTENT.—A State shall include in
22 its plan under subsection (b) an assurance that it
23 has in effect a policy that meets the requirements of
24 this section.

1 “(i) PRIVACY.—Information collected under this sec-
2 tion shall be collected and disseminated in a manner that
3 protects the privacy of individuals.

4 “(j) SPECIAL RULE WITH RESPECT TO BUREAU
5 FUNDED SCHOOLS.—In determining the assessments to
6 be used by each Bureau funded school receiving funds
7 under this part, the following shall apply:

8 “(1) Each Bureau funded school which obtains
9 accreditation by the State in which it is operating
10 shall utilize the assessments the State has developed
11 and implemented to meet the requirements of this
12 section, or such other appropriate assessment as ap-
13 proved by the Secretary of the Interior.

14 “(2) Each Bureau funded school which obtains
15 accreditation by a regional accreditation organiza-
16 tion shall adopt an appropriate assessment, in con-
17 sultation and with the approval of the Secretary of
18 Interior and consistent with assessments adopted by
19 other schools in the same State or region, that meets
20 the requirements of this section.

21 “(3) Each Bureau funded school which obtains
22 accreditation by a tribal accrediting agency or tribal
23 division of education shall use an assessment devel-
24 oped by such agency or division, except that the Sec-

1 retary of Interior shall ensure that such assessment
2 meets the requirements of this section.

3 **“SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.**

4 “(a) PLANS REQUIRED.—

5 “(1) SUBGRANTS.—A local educational agency
6 may receive a subgrant under this part for any fiscal
7 year only if such agency has on file with the State
8 educational agency a plan, approved by the State
9 educational agency, that is coordinated with other
10 programs under this Act, the Individuals with Dis-
11 abilities Education Act (20 U.S.C. 1400 et seq.), the
12 Carl D. Perkins Vocational and Technical Education
13 Act of 1998 (20 U.S.C. 2301 et seq.), the Head
14 Start Act (42 U.S.C. 9831 et seq.), the McKinney-
15 Vento Homeless Assistance Act, and other Acts, as
16 appropriate.

17 “(2) CONSOLIDATED APPLICATION.—The plan
18 may be submitted as part of a consolidated applica-
19 tion under section 8305.

20 “(b) PLAN PROVISIONS.—In order to help low achiev-
21 ing children achieve high academic standards, each local
22 educational agency plan shall include—

23 “(1) a description of additional high-quality
24 student academic assessments, if any, other than the
25 academic assessments described in the State plan

1 under section 1111, that the local educational agen-
2 cy and schools served under this part will use to—

3 “(A) determine the success of children
4 served under this part in meeting the State’s
5 student academic achievement standards and
6 provide information to teachers, parents, and
7 students on the progress being made toward
8 meeting the State student academic achieve-
9 ment standards described in section
10 1111(b)(1)(D)(ii);

11 “(B) assist in diagnosis, teaching, and
12 learning in the classroom in ways that best en-
13 able low-achieving children served under this
14 title to meet State academic standards and do
15 well in the local curriculum; and

16 “(C) determine what revisions are needed
17 to projects under this title so that such children
18 meet the State’s student academic achievement
19 standards;

20 “(2) at the local educational agency’s discre-
21 tion, a description of any other indicators that will
22 be used in addition to the academic assessments de-
23 scribed in paragraph (1) for the uses described in
24 such paragraph, except that results on any discre-
25 tionary indicators shall not change which schools

1 would otherwise be subject to improvement of correc-
2 tive action under section 1118 if the additional
3 measures are not included;

4 “(3) a description of how the local educational
5 agency will provide additional educational assistance
6 to individual students assessed as needing help to
7 achieve the State’s challenging academic standards;

8 “(4) a description of the strategy the local edu-
9 cational agency will use to provide professional de-
10 velopment for teachers, and, if appropriate, pupil
11 services personnel, administrators, parents and other
12 staff, including local educational agency level staff in
13 accordance with section 1119A;

14 “(5) a description of how the local educational
15 agency will coordinate and integrate services pro-
16 vided under this part with other educational services
17 at the local educational agency or individual school
18 level, such as—

19 “(A) Even Start, Head Start, Reading
20 First, Early Reading First, and other preschool
21 programs, including plans for the transition of
22 participants in such programs to local elemen-
23 tary school programs; and

24 “(B) services for children with limited
25 English proficiency or with disabilities, migra-

1 tory children served under part C, neglected or
2 delinquent youth, Indian children served under
3 part B of title III, homeless children, and immi-
4 grant children in order to increase program ef-
5 fectiveness, eliminate duplication, and reduce
6 fragmentation of the instructional program;

7 “(6) an assurance that the local educational
8 agency will participate, if selected, in the State Na-
9 tional Assessment of Educational Progress in 4th
10 and 8th grade reading and mathematics carried out
11 under section 411(b)(2) of the Education Statistics
12 Act of 1994 (20 U.S.C. 9010(b)(2)), or in another
13 academic assessment pursuant to the State decision
14 under section 7101(b)(1)(B)(ii);

15 “(7) a description of the poverty criteria that
16 will be used to select school attendance areas under
17 section 1113;

18 “(8) a description of how teachers, in consulta-
19 tion with parents, administrators, and pupil services
20 personnel, in targeted assistance schools under sec-
21 tion 1115, will identify the eligible children most in
22 need of services under this part;

23 “(9) a general description of the nature of the
24 programs to be conducted by such agency’s schools
25 under sections 1114 and 1115 and, where appro-

1 appropriate, educational services outside such schools for
2 children living in local institutions for neglected or
3 delinquent children, for neglected and delinquent
4 children in community day school programs, and for
5 homeless children;

6 “(10) a description of how the local educational
7 agency will ensure that migratory children and for-
8 merly migratory children who are eligible to receive
9 services under this part are selected to receive such
10 services on the same basis as other children who are
11 selected to receive services under this part;

12 “(11) if appropriate, a description of how the
13 local educational agency will use funds under this
14 part to support preschool programs for children,
15 particularly children participating in Early Reading
16 First, or in a Head Start or Even Start program,
17 which services may be provided directly by the local
18 educational agency or through a subcontract with
19 the local Head Start agency designated by the Sec-
20 retary of Health and Human Services under section
21 641 of the Head Start Act (42 U.S.C. 9836), agen-
22 cies operating Even Start programs, Early Reading
23 First, or another comparable public early childhood
24 development program;

1 “(12) a description of the actions the local edu-
2 cational agency will take to assist its low-performing
3 schools, including schools identified under section
4 1116 as in need of improvement;

5 “(13) a description of the actions the local edu-
6 cational agency will take to implement public school
7 choice, consistent with the requirements of section
8 1116;

9 “(14) a description how the local educational
10 agency will meet the requirements of section
11 1119(b)(1); and

12 “(15) a description of the services the local edu-
13 cational agency will provide homeless children, in-
14 cluding services provided with funds reserved under
15 section 1113(f)(3)(A).

16 “(c) ASSURANCES.—

17 “(1) IN GENERAL.—Each local educational
18 agency plan shall provide assurances that the local
19 educational agency will—

20 “(A) inform eligible schools and parents of
21 schoolwide program authority and the ability of
22 such schools to consolidate funds from Federal,
23 State, and local sources;

24 “(B) provide technical assistance and sup-
25 port to schoolwide programs;

1 “(C) work in consultation with schools as
2 the schools develop the schools’ plans pursuant
3 to section 1114 and assist schools as the
4 schools implement such plans or undertake ac-
5 tivities pursuant to section 1115 so that each
6 school can make adequate yearly progress to-
7 ward meeting the State student academic
8 achievement standards;

9 “(D) fulfill such agency’s school improve-
10 ment responsibilities under section 1116, in-
11 cluding taking corrective actions under para-
12 graphs (7) and (8) of section 1116(b);

13 “(E) provide services to eligible children
14 attending private elementary and secondary
15 schools in accordance with section 1120, and
16 timely and meaningful consultation with private
17 school officials regarding such services;

18 “(F) take into account the experience of
19 model programs for the educationally disadvan-
20 taged, and the findings of relevant scientifically
21 based research indicating that services may be
22 most effective if focused on students in the ear-
23 liest grades at schools that receive funds under
24 this part;

1 “(G) in the case of a local educational
2 agency that chooses to use funds under this
3 part to provide early childhood development
4 services to low-income children below the age of
5 compulsory school attendance, ensure that such
6 services comply with the academic achievement
7 standards established under section 641A(a) of
8 the Head Start Act (42 U.S.C. 9836a(a));

9 “(H) comply with the requirements of sec-
10 tion 1119 regarding the qualifications of teach-
11 ers and paraprofessionals;

12 “(I) inform eligible schools of the local
13 educational agency’s authority to obtain waivers
14 on the school’s behalf under title VIII of this
15 Act, and if the State is an Ed-Flex Partnership
16 State, to obtain waivers under the Education
17 Flexibility Partnership Act of 1999; and

18 “(J) coordinate and collaborate, to the ex-
19 tent feasible and necessary as determined by
20 the local educational agency, with other agen-
21 cies providing services to children, youth, and
22 families.

23 “(2) SPECIAL RULE.—In carrying out subpara-
24 graph (G) of paragraph (1), the Secretary—

1 “(A) shall consult with the Secretary of
2 Health and Human Services on the implemen-
3 tation of such subparagraph and shall establish
4 procedures (taking into consideration existing
5 State and local laws, and local teacher con-
6 tracts) to assist local educational agencies to
7 comply with such subparagraph; and

8 “(B) shall disseminate to local educational
9 agencies the Head Start academic achievement
10 standards as in effect under section 641A(a) of
11 the Head Start Act (42 U.S.C. 9836a(a)), and
12 such agencies affected by such subparagraph
13 shall plan for the implementation of such sub-
14 paragraph (taking into consideration existing
15 State and local laws, and local teacher con-
16 tracts), including pursuing the availability of
17 other Federal, State, and local funding sources
18 to assist in compliance with such subparagraph.

19 “(3) INAPPLICABILITY.—The provisions of this
20 subsection shall not apply to preschool programs
21 using the Even Start model or to Even Start pro-
22 grams which are expanded through the use of funds
23 under this part.

24 “(d) PLAN DEVELOPMENT AND DURATION.—

1 “(1) CONSULTATION.—Each local educational
2 agency plan shall be developed in consultation with
3 teachers, principals, administrators (including ad-
4 ministrators of programs described in other parts of
5 this title), and other appropriate school personnel,
6 and with parents of children in schools served under
7 this part.

8 “(2) DURATION.—Each such plan shall be sub-
9 mitted for the first year for which this part is in ef-
10 fect following the date of the enactment of the No
11 Child Left Behind Act of 2001 and shall remain in
12 effect for the duration of the agency’s participation
13 under this part.

14 “(3) REVIEW.—Each local educational agency
15 shall periodically review, and as necessary, revise its
16 plan.

17 “(e) STATE APPROVAL.—

18 “(1) IN GENERAL.—Each local educational
19 agency plan shall be filed according to a schedule es-
20 tablished by the State educational agency.

21 “(2) APPROVAL.—The State educational agency
22 shall approve a local educational agency’s plan only
23 if the State educational agency determines that the
24 local educational agency’s plan—

1 “(A) enables schools served under this part
2 to substantially help children served under this
3 part meet the academic standards expected of
4 all children described in section 1111(b)(1); and

5 “(B) meets the requirements of this sec-
6 tion.

7 “(f) PROGRAM RESPONSIBILITY.—The local edu-
8 cational agency plan shall reflect the shared responsibility
9 of schools, teachers, and the local educational agency in
10 making decisions regarding activities under sections 1114
11 and 1115.

12 “(g) PARENTAL NOTIFICATION AND CONSENT FOR
13 ENGLISH LANGUAGE INSTRUCTION.—

14 “(1) NOTIFICATION.—If a local educational
15 agency uses funds under this part to provide English
16 language instruction to limited English proficient
17 children, the agency shall inform a parent or the
18 parents of a child participating in an English lan-
19 guage instruction program for limited English pro-
20 ficient children assisted under this part of—

21 “(A) the reasons for the identification of
22 the child as being in need of English language
23 instruction;

1 “(B) the child’s level of English pro-
2 ficiency, how such level was assessed, and the
3 status of the child’s academic achievement;

4 “(C) how the English language instruction
5 program will specifically help the child acquire
6 English and meet age-appropriate academic
7 standards for grade promotion and graduation;

8 “(D) what the specific exit requirements
9 are for the program;

10 “(E) the expected rate of transition from
11 the program into a classroom that is not tai-
12 lored for limited English proficient children;
13 and

14 “(F) the expected rate of graduation from
15 high school for students in the program if funds
16 under this part are used for children in sec-
17 ondary schools.

18 “(2) CONSENT.—

19 “(A) AGENCY REQUIREMENTS.—

20 “(i) INFORMED CONSENT.—For a
21 child who has been identified as limited
22 English proficient prior to the beginning of
23 a school year, each local educational agen-
24 cy that receives funds under this part shall
25 make a reasonable and substantial effort

1 to obtain informed parental consent prior
2 to the placement of a child in an English
3 language instruction program for limited
4 English proficient children funded under
5 this part if the program does not include
6 classes which exclusively or almost exclu-
7 sively use the English language in instruc-
8 tion.

9 “(ii) WRITTEN CONSENT NOT OB-
10 TAINED.—If written consent is not ob-
11 tained, the local educational agency shall
12 maintain a written record that includes the
13 date and the manner in which such in-
14 formed consent was sought, including the
15 specific efforts made to obtain such con-
16 sent.

17 “(iii) PROOF OF EFFORT.—Notice, in
18 an understandable form, of specific efforts
19 made to obtain written consent and a copy
20 of the written record required in clause (ii)
21 shall be mailed or delivered in writing to a
22 parent, parents, or guardian of a child
23 prior to placing the child in a program de-
24 scribed in clause (i) and shall include a
25 final request for parental consent for such

1 services. After such notice has been mailed
2 or delivered in writing, the local edu-
3 cational agency shall provide appropriate
4 educational services.

5 “(iv) SPECIAL RULE APPLICABLE
6 DURING SCHOOL YEAR.—For those chil-
7 dren who have not been identified as lim-
8 ited English proficient prior to the begin-
9 ning of the school year, the local edu-
10 cational agency shall make a reasonable
11 and substantial effort to obtain parental
12 consent under this clause. For such chil-
13 dren, the agency shall document, in writ-
14 ing, its specific efforts made to obtain such
15 consent prior to placing the child in a pro-
16 gram described in clause (i). After such
17 documentation has been made, the local
18 educational agency shall provide appro-
19 priate educational services to such child.
20 The proof of documentation shall be
21 mailed or delivered in writing to a parent
22 or parents of the child in a timely manner
23 and shall include information on how to
24 have their child immediately removed from
25 the program upon their request. Nothing

1 in this clause shall be construed as exempt-
2 ing a local educational agency from com-
3 plying with the notification requirements of
4 subsection (g)(1) and the consent require-
5 ments of this paragraph.

6 “(3) PARENTAL RIGHTS.—A parent or the par-
7 ents of a child participating in an English language
8 instruction program for limited English proficient
9 children assisted under this part shall—

10 “(A) select among methods of instruction,
11 if more than one method is offered in the pro-
12 gram; and

13 “(B) have the right to have their child im-
14 mediately removed from the program upon their
15 request.

16 “(4) RECEIPT OF INFORMATION.—A parent or
17 the parents of a limited English proficient child who
18 is identified for participation in an English language
19 instruction program for limited English proficient
20 children assisted under this part shall receive, in a
21 manner and form understandable to the parent or
22 parents, the information required by this subsection.
23 At a minimum, the parent or parents shall receive—

1 “(A) timely information about English lan-
2 guage instruction programs for limited English
3 proficient children assisted under this part;

4 “(B) if a parent or parents of a partici-
5 pating child so desires, notice of opportunities
6 for regular meetings for the purpose of formu-
7 lating and responding to recommendations from
8 the parent or parents; and

9 “(C) procedural information for removing
10 a child from a program for limited English pro-
11 ficient children.

12 “(5) BASIS FOR ADMISSION OR EXCLUSION.—
13 Students shall not be admitted to, or excluded from,
14 any federally-assisted education program on the
15 basis of a surname or language-minority status.

16 **“SEC. 1113. ELIGIBLE SCHOOL ATTENDANCE AREAS.**

17 “(a) DETERMINATION.—

18 “(1) IN GENERAL.—A local educational agency
19 shall use funds received under this part only in eligi-
20 ble school attendance areas.

21 “(2) ELIGIBLE SCHOOL ATTENDANCE AREAS.—

22 For the purposes of this part—

23 “(A) the term ‘school attendance area’
24 means, in relation to a particular school, the

1 geographical area in which the children who are
2 normally served by that school reside; and

3 “(B) the term ‘eligible school attendance
4 area’ means a school attendance area in which
5 the percentage of children from low-income
6 families is at least as high as the percentage of
7 children from low-income families in the local
8 educational agency as a whole.

9 “(3) LOCAL EDUCATIONAL AGENCY DISCRE-
10 TION.—

11 “(A) IN GENERAL.—Notwithstanding para-
12 graph (2), a local educational agency may—

13 “(i) designate as eligible any school
14 attendance area or school in which at least
15 35 percent of the children are from low-in-
16 come families;

17 “(ii) use funds received under this
18 part in a school that is not in an eligible
19 school attendance area, if the percentage
20 of children from low-income families en-
21 rolled in the school is equal to or greater
22 than the percentage of such children in a
23 participating school attendance area of
24 such agency;

1 “(iii) designate and serve a school at-
2 tendance area or school that is not eligible
3 under subsection (b), but that was eligible
4 and that was served in the preceding fiscal
5 year, but only for 1 additional fiscal year;
6 and

7 “(iv) elect not to serve an eligible
8 school attendance area or eligible school
9 that has a higher percentage of children
10 from low-income families if—

11 “(I) the school meets the com-
12 parability requirements of section
13 1120A(c);

14 “(II) the school is receiving sup-
15 plemental funds from other State or
16 local sources that are spent according
17 to the requirements of section 1114 or
18 1115; and

19 “(III) the funds expended from
20 such other sources equal or exceed the
21 amount that would be provided under
22 this part.

23 “(B) SPECIAL RULE.—Notwithstanding
24 subparagraph (A)(iv), the number of children
25 attending private elementary and secondary

1 schools who are to receive services, and the as-
2 sistance such children are to receive under this
3 part, shall be determined without regard to
4 whether the public school attendance area in
5 which such children reside is assisted under
6 subparagraph (A).

7 “(b) RANKING ORDER.—If funds allocated in accord-
8 ance with subsection (f) are insufficient to serve all eligible
9 school attendance areas, a local educational agency—

10 “(1) shall annually rank from highest to lowest
11 according to the percentage of children from low-in-
12 come families in each agency’s eligible school attend-
13 ance areas in the following order—

14 “(A) eligible school attendance areas in
15 which the concentration of children from low-in-
16 come families exceeds 75 percent; and

17 “(B) all remaining eligible school attend-
18 ance areas in which the concentration of chil-
19 dren from low-income families is 75 percent or
20 lower either by grade span or for the entire
21 local educational agency;

22 “(2) shall, within each category listed in para-
23 graph (1), serve schools in rank order from highest
24 to lowest according to the ranking assigned under
25 paragraph (1);

1 “(3) notwithstanding paragraph (2), may give
2 priority, within each such category and in rank order
3 from highest to lowest subject to paragraph (4), to
4 eligible school attendance areas that serve children
5 in elementary schools; and

6 “(4) not serve a school described in paragraph
7 (1)(B) before serving a school described in para-
8 graph (1)(A).

9 “(c) LOW-INCOME MEASURES.—In determining the
10 number of children ages 5 through 17 who are from low-
11 income families, the local educational agency shall apply
12 the measures described in paragraphs (1) and (2) of this
13 subsection:

14 “(1) ALLOCATION TO PUBLIC SCHOOL ATTEND-
15 ANCE AREAS.—The local educational agency shall
16 use the same measure of poverty, which measure
17 shall be the number of children ages 5 through 17
18 in poverty counted in the most recent census data
19 approved by the Secretary, the number of children
20 eligible for free and reduced priced lunches under
21 the Richard B. Russell National School Lunch Act
22 (42 U.S.C. 1751 et seq.), the number of children in
23 families receiving assistance under the State pro-
24 gram funded under part A of title IV of the Social
25 Security Act, or the number of children eligible to

1 receive medical assistance under the Medicaid pro-
2 gram, or a composite of such indicators, with respect
3 to all school attendance areas in the local edu-
4 cational agency—

5 “(A) to identify eligible school attendance
6 areas;

7 “(B) to determine the ranking of each
8 area; and

9 “(C) to determine allocations under sub-
10 section (f).

11 “(2) ALLOCATION FOR EQUITABLE SERVICE TO
12 PRIVATE SCHOOL STUDENTS.—

13 “(A) CALCULATION.—A local educational
14 agency shall have the final authority, consistent
15 with section 1120 to calculate the number of
16 private school children, ages 5 through 17, who
17 are low-income by—

18 “(i) using the same measure of low-in-
19 come used to count public school children;

20 “(ii) using the results of a survey
21 that, to the extent possible, protects the
22 identity of families of private school stu-
23 dents and allowing such survey results to
24 be extrapolated if complete actual data are
25 not available; or

1 “(iii) applying the low-income percent-
2 age of each participating public school at-
3 tendance area, determined pursuant to this
4 section, to the number of private school
5 children who reside in that attendance
6 area.

7 “(B) COMPLAINT PROCESS.—Any dispute
8 regarding low-income data on private school
9 students shall be subject to the complaint proc-
10 ess authorized in section 8505.

11 “(d) EXCEPTION.—This section (other than sub-
12 sections (a)(3) and (f)) shall not apply to a local edu-
13 cational agency with a total enrollment of less than 1,500
14 children.

15 “(e) WAIVER FOR DESEGREGATION PLANS.—The
16 Secretary may approve a local educational agency’s writ-
17 ten request for a waiver of the requirements of subsections
18 (a) and (f), and permit such agency to treat as eligible,
19 and serve, any school that children attend under a deseg-
20 regation plan ordered by a State or court or approved by
21 the Secretary, or such a plan that the agency continues
22 to implement after it has expired, if—

23 “(1) the number of economically disadvantaged
24 children enrolled in the school is not less than 25
25 percent of the school’s total enrollment; and

1 “(2) the Secretary determines on the basis of a
2 written request from such agency and in accordance
3 with such criteria as the Secretary establishes, that
4 approval of that request would further the purposes
5 of this part.

6 “(f) ALLOCATIONS.—

7 “(1) IN GENERAL.—A local educational agency
8 shall allocate funds received under this part to eligi-
9 ble school attendance areas or eligible schools, iden-
10 tified under subsection (b) in rank order on the
11 basis of the total number of children from low-in-
12 come families in each area or school.

13 “(2) SPECIAL RULE.—(A) Except as provided
14 in subparagraph (B), the per-pupil amount of funds
15 allocated to each school attendance area or school
16 under paragraph (1) shall be at least 125 percent of
17 the per-pupil amount of funds a local educational
18 agency received for that year under the poverty cri-
19 teria described by the local educational agency in the
20 plan submitted under section 1112, except that this
21 paragraph shall not apply to a local educational
22 agency that only serves schools in which the percent-
23 age of such children is 35 percent or greater.

24 “(B) A local educational agency may reduce the
25 amount of funds allocated under subparagraph (A)

1 for a school attendance area or school by the amount
2 of any supplemental State and local funds expended
3 in that school attendance area or school for pro-
4 grams that meet the requirements of section 1114 or
5 1115.

6 “(3) RESERVATION.—A local educational agen-
7 cy shall reserve such funds as are necessary under
8 this part to provide services comparable to those
9 provided to children in schools funded under this
10 part to serve—

11 “(A) homeless children who do not attend
12 participating schools, including providing educa-
13 tionally related support services to children in
14 shelters and other locations where children may
15 live;

16 “(B) children in local institutions for ne-
17 glected children; and

18 “(C) if appropriate, children in local insti-
19 tutions for delinquent children and neglected or
20 delinquent children in community day school
21 programs.

22 “(4) SCHOOL IMPROVEMENT RESERVATION.—
23 In addition to the funding a local educational agency
24 receives under section 1003(b), a local educational
25 agency may reserve such funds as are necessary

1 under this part to meet such agency’s school im-
2 provement responsibilities under section 1116, in-
3 cluding taking corrective actions under paragraphs
4 (7) and (8) of section 1116(b).

5 “(5) FINANCIAL INCENTIVES AND REWARDS
6 RESERVATION.—A local educational agency may re-
7 serve such funds as are necessary under this part to
8 provide financial incentives and rewards to teachers
9 who serve in schools eligible under subsection
10 (b)(1)(A) and identified for improvement under sec-
11 tion 1116(b)(1) for the purpose of attracting and re-
12 taining qualified and effective teachers.

13 **“SEC. 1114. SCHOOLWIDE PROGRAMS.**

14 “(a) PURPOSE.—The purpose of a schoolwide pro-
15 gram under this section is—

16 “(1) to enable a local educational agency to
17 consolidate funds under this part with other Federal,
18 State, and local funds, to upgrade the entire edu-
19 cational program in a high poverty school; and

20 “(2) to help ensure that all children in such a
21 school meet challenging State academic standards
22 for student achievement, particularly those children
23 who are most at-risk of not meeting those standards.

24 “(b) USE OF FUNDS FOR SCHOOLWIDE PRO-
25 GRAMS.—

1 “(1) IN GENERAL.—A local educational agency
2 may consolidate funds under this part, together with
3 other Federal, State, and local funds, in order to up-
4 grade the entire educational program of a school
5 that serves an eligible school attendance area in
6 which not less than 40 percent of the children are
7 from low-income families, or not less than 40 per-
8 cent of the children enrolled in the school are from
9 such families.

10 “(2) IDENTIFICATION OF STUDENTS NOT RE-
11 QUIRED.—

12 “(A) IN GENERAL.—No school partici-
13 pating in a schoolwide program shall be re-
14 quired to identify particular children under this
15 part as eligible to participate in a schoolwide
16 program or to provide supplemental services to
17 such children.

18 “(B) SUPPLEMENT FUNDS.—A school par-
19 ticipating in a schoolwide program shall use
20 funds available to carry out this section only to
21 supplement the amount of funds that would, in
22 the absence of funds under this part, be made
23 available from non-Federal sources for the
24 school, including funds needed to provide serv-
25 ices that are required by law for children with

1 disabilities and children with limited English
2 proficiency.

3 “(3) EXEMPTION FROM STATUTORY AND REGU-
4 LATORY REQUIREMENTS.—

5 “(A) EXEMPTION.—Except as provided in
6 subsection (c), the Secretary may, through pub-
7 lication of a notice in the Federal Register, ex-
8 empt schoolwide programs under this section
9 from statutory or regulatory provisions of any
10 other noncompetitive formula grant program
11 administered by the Secretary (other than for-
12 mula or discretionary grant programs under the
13 Individuals with Disabilities Education Act, ex-
14 cept as provided in section 613(a)(2)(D) of
15 such Act), or any discretionary grant program
16 administered by the Secretary, to support
17 schoolwide programs if the intent and purposes
18 of such other programs are met.

19 “(B) REQUIREMENTS.—A school that
20 chooses to use funds from such other programs
21 shall not be relieved of the requirements relat-
22 ing to health, safety, civil rights, student and
23 parental participation and involvement, services
24 to private school children, maintenance of ef-
25 fort, uses of Federal funds to supplement, not

1 supplant non-Federal funds, or the distribution
2 of funds to State or local educational agencies
3 that apply to the receipt of funds from such
4 programs.

5 “(C) RECORDS.—A school that consoli-
6 dates funds from different Federal programs
7 under this section shall not be required to
8 maintain separate fiscal accounting records, by
9 program, that identify the specific activities
10 supported by those particular funds as long as
11 it maintains records that demonstrate that the
12 schoolwide program, considered as a whole ad-
13 dresses the intent and purposes of each of the
14 Federal programs that were consolidated to
15 support the schoolwide program.

16 “(4) PROFESSIONAL DEVELOPMENT.—Each
17 school receiving funds under this part for any fiscal
18 year shall devote sufficient resources to effectively
19 carry out the activities described in subsection
20 (c)(1)(D) in accordance with section 1119A for such
21 fiscal year, except that a school may enter into a
22 consortium with another school to carry out such ac-
23 tivities.

24 “(c) COMPONENTS OF A SCHOOLWIDE PROGRAM.—

1 “(1) IN GENERAL.—A schoolwide program shall
2 include the following components:

3 “(A) A comprehensive needs assessment of
4 the entire school (including taking into account
5 the needs of migratory children as defined in
6 section 1309(2)) that is based on information
7 which includes the performance of children in
8 relation to the State academic content stand-
9 ards and the State student academic achieve-
10 ment standards described in section 1111(b)(1).

11 “(B) Schoolwide reform strategies that—

12 “(i) provide opportunities for all chil-
13 dren to meet the State’s proficient and ad-
14 vanced levels of student achievement de-
15 scribed in section 1111(b)(1)(D);

16 “(ii) use effective methods and in-
17 structional strategies that are based upon
18 scientifically based research that—

19 “(I) strengthen the core aca-
20 demic program in the school;

21 “(II) increase the amount and
22 quality of learning time, such as pro-
23 viding an extended school year and
24 before- and after-school and summer
25 programs and opportunities, and help

1 provide an enriched and accelerated
2 curriculum; and

3 “(III) include strategies for meet-
4 ing the educational needs of histori-
5 cally underserved populations;

6 “(iii)(I) address the needs of all chil-
7 dren in the school, but particularly the
8 needs of low-achieving children and those
9 at risk of not meeting the State student
10 academic achievement standards who are
11 members of the target population of any
12 program that is included in the schoolwide
13 program; and

14 “(II) address how the school will de-
15 termine if such needs have been met; and

16 “(iv) are consistent with, and are de-
17 signed to implement, the State and local
18 improvement plans, if any.

19 “(C) Instruction by fully qualified (as de-
20 fined in section 8101) teachers.

21 “(D) In accordance with section 1119A
22 and subsection (b)(4), high quality and ongoing
23 professional development for teachers and para-
24 professionals, and, where appropriate, pupil
25 services personnel, parents, principals, and

1 other staff to enable all children in the school
2 to meet the State’s student academic achieve-
3 ment standards.

4 “(E) Strategies to attract high quality
5 teachers to high need schools, such as differen-
6 tial pay systems or performance based pay.

7 “(F) Strategies to increase parental in-
8 volvement in accordance with section 1118,
9 such as family literary services.

10 “(G) Plans for assisting preschool children
11 in the transition from early childhood programs,
12 such as Head Start, Even Start, Early Reading
13 First, or a State-run preschool program, to
14 local elementary school programs.

15 “(H) Measures to include teachers in the
16 decisions regarding the use of academic assess-
17 ments described in section 1111(b)(4) in order
18 to provide information on, and to improve, the
19 performance of individual students and the
20 overall instructional program.

21 “(I) Activities to ensure that students who
22 experience difficulty mastering the proficient or
23 advanced levels of academic achievement stand-
24 ards required by section 1111(b) shall be pro-
25 vided with effective, timely additional assistance

1 which shall include measures to ensure that stu-
2 dents' difficulties are identified on a timely
3 basis and to provide sufficient information on
4 which to base effective assistance.

5 “(2) PLAN.—Any eligible school that desires to
6 operate a schoolwide program shall first develop (or
7 amend a plan for such a program that was in exist-
8 ence on the day before the effective date of the No
9 Child Left Behind Act of 2001), a comprehensive
10 plan for reforming the total instructional program in
11 the school that—

12 “(A) incorporates the components de-
13 scribed in paragraph (1);

14 “(B) describes how the school will use re-
15 sources under this part and from other sources
16 to implement those components; and

17 “(C) includes a list of State and local edu-
18 cational agency programs and other Federal
19 programs under subsection (b)(3) that will be
20 consolidated in the schoolwide program.

21 “(3) PLAN DEVELOPMENT.—The comprehen-
22 sive plan shall be—

23 “(A) developed during a 1-year period,
24 unless—

1 “(i) the local educational agency de-
2 termines that less time is needed to de-
3 velop and implement the schoolwide pro-
4 gram; or

5 “(ii) the school operated a schoolwide
6 program on the day preceding the effective
7 date of the No Child Left Behind Act of
8 2001, in which case such school may con-
9 tinue to operate such program, but shall
10 develop amendments to its existing plan
11 during the first year of assistance after
12 that date to reflect the provisions of this
13 section;

14 “(B) developed with the involvement of
15 parents and other members of the community
16 to be served and individuals who will carry out
17 such plan, including teachers, principals, and
18 administrators (including administrators of pro-
19 grams described in other parts of this title),
20 and, if appropriate, pupil services personnel,
21 technical assistance providers, school staff, and,
22 if the plan relates to a secondary school, stu-
23 dents from such school;

1 “(C) in effect for the duration of the
2 school’s participation under this part and re-
3 viewed and revised, as necessary, by the school;

4 “(D) available to the local educational
5 agency, parents, and the public, and the infor-
6 mation contained in such plan shall be provided
7 in a format, and to the extent practicable, in a
8 language that they can understand; and

9 “(E) if appropriate, developed in coordina-
10 tion with programs under Reading First, Early
11 Reading First, Even Start, Carl D. Perkins Vo-
12 cational and Technical Education Act of 1998,
13 and the Head Start Act.

14 “(d) ACCOUNTABILITY.—A schoolwide program
15 under this section shall be subject to the school improve-
16 ment provisions of section 1116.

17 “(e) PREKINDERGARTEN PROGRAM.—A school that
18 is eligible for a schoolwide program under this section may
19 use funds made available under this title to establish or
20 enhance prekindergarten programs for 3-, 4-, and 5-year-
21 old children, such as Even Start programs or Early Read-
22 ing First programs.

23 **“SEC. 1115. TARGETED ASSISTANCE SCHOOLS.**

24 “(a) IN GENERAL.—In all schools selected to receive
25 funds under section 1113(f) that are ineligible for a

1 schoolwide program under section 1114, or that choose
2 not to operate such a schoolwide program, a local edu-
3 cational agency may use funds received under this part
4 only for programs that provide services to eligible children
5 under subsection (b) identified as having the greatest need
6 for special assistance.

7 “(b) ELIGIBLE CHILDREN.—

8 “(1) ELIGIBLE POPULATION.—(A) The eligible
9 population for services under this section is—

10 “(i) children not older than age 21 who are
11 entitled to a free public education through
12 grade 12; and

13 “(ii) children who are not yet at a grade
14 level at which the local educational agency pro-
15 vides a free public education.

16 “(B) From the population described in subpara-
17 graph (A), eligible children are children identified by
18 the school as failing, or most at risk of failing, to
19 meet the State’s challenging student academic
20 achievement standards on the basis of academic as-
21 sessments under this part, and, as appropriate, on
22 the basis of multiple, educationally related, objective
23 criteria established by the local educational agency
24 and supplemented by the school, except that children
25 from preschool through grade 2 may be selected

1 solely on the basis of such criteria as teacher judg-
2 ment, interviews with parents, and other appropriate
3 measures.

4 “(2) CHILDREN INCLUDED.—(A)(i) Children
5 with disabilities, migrant children, and children with
6 limited English proficiency are eligible for services
7 under this part on the same basis as other children.

8 “(ii) Funds received under this part may not be
9 used to provide services that are otherwise required
10 by law to be made available to such children but
11 may be used to coordinate or supplement such serv-
12 ices.

13 “(B) A child who, at any time in the 2 years
14 preceding the year for which the determination is
15 made, participated in a Head Start, Even Start, or
16 Early Reading First program, or in preschool serv-
17 ices under this title, is eligible for services under this
18 part.

19 “(C)(i) A child who, at any time in the 2 years
20 preceding the year for which the determination is
21 made, received services under part C is eligible for
22 services under this part.

23 “(ii) A child in a local institution for neglected
24 or delinquent children or attending a community day

1 program for such children is eligible for services
2 under this part.

3 “(D) A child who is homeless and attending any
4 school in the local educational agency is eligible for
5 services under this part.

6 “(c) COMPONENTS OF A TARGETED ASSISTANCE
7 SCHOOL PROGRAM.—

8 “(1) IN GENERAL.—To assist targeted assist-
9 ance schools and local educational agencies to meet
10 their responsibility to provide for all their students
11 served under this title the opportunity to meet the
12 State’s challenging student academic achievement
13 standards in subjects as determined by the State,
14 each targeted assistance program under this section
15 shall—

16 “(A) use such program’s resources under
17 this part to help participating children meet
18 such State’s challenging student academic
19 achievement standards expected for all children;

20 “(B) ensure that planning for students
21 served under this part is incorporated into ex-
22 isting school planning;

23 “(C) use effective methods and instruc-
24 tional strategies that are based upon scientif-

1 ically based research that strengthens the core
2 academic program of the school and that—

3 “(i) give primary consideration to pro-
4 viding extended learning time such as an
5 extended school year, before- and after-
6 school, and summer programs and oppor-
7 tunities;

8 “(ii) help provide an accelerated, high-
9 quality curriculum, including applied learn-
10 ing; and

11 “(iii) minimize removing children
12 from the regular classroom during regular
13 school hours for instruction provided under
14 this part;

15 “(D) coordinate with and support the reg-
16 ular education program, which may include
17 services to assist preschool children in the tran-
18 sition from early childhood programs such as
19 Head Start, Even Start, Early Reading First or
20 State-run preschool programs to elementary
21 school programs;

22 “(E) provide instruction by fully qualified
23 teachers as defined in section 8101;

24 “(F) in accordance with subsection (e)(3)
25 and section 1119A, provide opportunities for

1 professional development with resources pro-
2 vided under this part, and, to the extent prac-
3 ticable, from other sources, for teachers, prin-
4 cipals, and administrators and other school
5 staff, including, if appropriate, pupil services
6 personnel, who work with participating children
7 in programs under this section or in the regular
8 education program; and

9 “(G) provide strategies to increase paren-
10 tal involvement in accordance with section
11 1118, such as family literacy services.

12 “(2) REQUIREMENTS.—Each school conducting
13 a program under this section shall assist partici-
14 pating children selected in accordance with sub-
15 section (b) to meet the State’s proficient and ad-
16 vanced levels of achievement by—

17 “(A) the coordination of resources provided
18 under this part with other resources; and

19 “(B) reviewing, on an ongoing basis, the
20 progress of participating children and revising
21 the targeted assistance program, if necessary,
22 to provide additional assistance to enable such
23 children to meet the State’s challenging student
24 academic achievement standards, such as an ex-
25 tended school year, before- and after-school,

1 and summer programs and opportunities, train-
2 ing for teachers regarding how to identify stu-
3 dents that require additional assistance, and
4 training for teachers regarding how to imple-
5 ment student academic achievement standards
6 in the classroom.

7 “(d) INTEGRATION OF PROFESSIONAL DEVELOP-
8 MENT.—To promote the integration of staff supported
9 with funds under this part, public school personnel who
10 are paid with funds received under this part may partici-
11 pate in general professional development and school plan-
12 ning activities.

13 “(e) SPECIAL RULES.—

14 “(1) SIMULTANEOUS SERVICE.—Nothing in this
15 section shall be construed to prohibit a school from
16 serving students served under this section simulta-
17 neously with students with similar educational
18 needs, in the same educational settings where appro-
19 priate.

20 “(2) COMPREHENSIVE SERVICES.—If medical,
21 nutrition, and other social services are not otherwise
22 available to eligible children in a targeted assistance
23 school and such school, if appropriate, has engaged
24 in a comprehensive needs assessment and established
25 a collaborative partnership with local service pro-

1 viders, and if funds are not reasonably available
 2 from other public or private sources to provide such
 3 services, then a portion of the funds provided under
 4 this part may be used as a last resort to provide
 5 such services, including—

6 “(A) the provision of basic medical equip-
 7 ment, such as eyeglasses and hearing aids; and

8 “(B) professional development necessary to
 9 assist teachers, pupil services personnel, other
 10 staff, and parents in identifying and meeting
 11 the comprehensive needs of eligible children.

12 “(3) PROFESSIONAL DEVELOPMENT.—Each
 13 school receiving funds under this part for any fiscal
 14 year shall devote sufficient resources to carry out ef-
 15 fectively the professional development activities de-
 16 scribed in subparagraph (F) of subsection (c)(1) in
 17 accordance with section 1119A for such fiscal year,
 18 except that a school may enter into a consortium
 19 with another school to carry out such activities.”.

20 **SEC. 105. SCHOOL CHOICE.**

21 Section 1115A is amended to read as follows:

22 **“SEC. 1115A. SCHOOL CHOICE.**

23 “(a) CHOICE PROGRAMS.—A local educational agen-
 24 cy may use funds under this part, in combination with
 25 State, local, and private funds, to develop and implement

1 public school choice programs, for children eligible for as-
2 sistance under this part, which permit parents to select
3 the public school that their child will attend.

4 “(b) CHOICE PLAN.—A local educational agency that
5 chooses to implement a public school choice program shall
6 first develop a plan that includes a description of how the
7 local educational agency will use resources under this part
8 and from other resources to implement the plan, and as-
9 surances that—

10 “(1) all eligible students across grade levels
11 served under this part will have equal access to the
12 program;

13 “(2) the plan will be developed with the involve-
14 ment of parents and others in the community to be
15 served and individuals who will carry out the plan,
16 including administrators, teachers, principals, and
17 other staff;

18 “(3) parents of eligible students in the local
19 educational agency will be given prompt notice of the
20 existence of the public school choice program and its
21 availability to them, and a clear explanation of how
22 the program will operate;

23 “(4) the program will include charter schools
24 and any other public school and shall not include a
25 school that is or has been identified as a school in

1 school improvement or is or has been in corrective
2 action for the past 2 consecutive years; and

3 “(5) such local educational agency will comply
4 with the other requirements of this part.

5 “(c) TRANSPORTATION.—Transportation services or
6 the costs of transportation may be provided by the local
7 educational agency, except that such agency may not use
8 more than a total of 15 percent of its allocation under
9 this part for such purposes.”.

10 **SEC. 106. ACADEMIC ASSESSMENT AND LOCAL EDU-**
11 **CATIONAL AGENCY AND SCHOOL IMPROVE-**
12 **MENT.**

13 The section heading and subsections (a) through (d)
14 of section 1116 are amended to read as follows:

15 **“SEC. 1116. ACADEMIC ASSESSMENT AND LOCAL EDU-**
16 **CATIONAL AGENCY AND SCHOOL IMPROVE-**
17 **MENT.**

18 “(a) LOCAL REVIEW.—Each local educational agency
19 receiving funds under this part shall—

20 “(1) use the State academic assessments de-
21 scribed in the State plan to review annually the
22 progress of each school served under this part to de-
23 termine whether the school is making adequate year-
24 ly progress as defined in section 1111(b)(2)(B);

1 “(2) publicize and disseminate to teachers and
2 other staff, parents, students, and the community,
3 the results of the annual review under paragraph
4 (2);

5 “(3) review the effectiveness of the actions and
6 activities the schools are carrying out under this
7 part with respect to parental involvement assisted
8 under this Act.

9 “(b) SCHOOL IMPROVEMENT.—

10 “(1) IN GENERAL.—

11 “(A) IDENTIFICATION.—A local edu-
12 cational agency shall identify for school im-
13 provement any elementary or secondary school
14 served under this part that—

15 “(i) fails, for any year, to make ade-
16 quate yearly progress as defined in the
17 State’s plan under section 1111(b)(2); or

18 “(ii) was in school improvement status
19 under this section immediately before the
20 effective date of the No Child Left Behind
21 Act of 2001.

22 “(B) DEADLINE.—The identification de-
23 scribed in subparagraph (A) shall take place
24 not later than the first day of the school year

1 following such failure to make adequate yearly
2 progress.

3 “(C) APPLICATION.—This paragraph does
4 not apply to a school if almost every student in
5 the school is meeting the State’s advanced level
6 of performance.

7 “(D) REVIEW.—To determine if an ele-
8 mentary school or a secondary school that is
9 conducting a targeted assistance program under
10 section 1115 should be identified for school im-
11 provement under this subsection, a local edu-
12 cational agency may choose to review the
13 progress of only the students in the school who
14 are served, or are eligible for services, under
15 this part.

16 “(E) PUBLIC SCHOOL CHOICE.—In the
17 case of a school identified for school improve-
18 ment under subparagraph (A), the local edu-
19 cational agency shall, not later than the first
20 day of the school year following identification,
21 provide all students enrolled in the school with
22 the option to transfer to another public school
23 within the local educational agency, including a
24 public charter school, that has not been identi-
25 fied for school improvement under subpara-

1 graph (A), unless such an option is prohibited
2 by State law.

3 “(F) TRANSFER.—Students who use the
4 option to transfer under subparagraph (E) shall
5 be enrolled in classes and other activities in the
6 public school to which they transfer in the same
7 manner as all other children at the public
8 school.

9 “(2) OPPORTUNITY TO REVIEW AND PRESENT
10 EVIDENCE; TIME LIMIT.—

11 “(A) IDENTIFICATION.—Before identifying
12 an elementary school or a secondary school for
13 school improvement under paragraph (1), for
14 corrective action under paragraph (7), or for re-
15 structuring under paragraph (8), the local edu-
16 cational agency shall provide the school with an
17 opportunity to review the school-level data, in-
18 cluding academic assessment data, on which the
19 proposed identification is based.

20 “(B) EVIDENCE.—If the principal of a
21 school proposed for identification under para-
22 graph (1), (7), or (8) believes, or a majority of
23 the parents of the students enrolled in such
24 school believe, that the proposed identification
25 is in error for statistical or other substantive

1 reasons, the principal may provide supporting
2 evidence to the local educational agency, which
3 shall consider that evidence before making a
4 final determination.

5 “(C) FINAL DETERMINATION.—Not later
6 than 30 days after a local educational agency
7 provides the school with the opportunity to re-
8 view such school level data, the local edu-
9 cational agency shall make public a final deter-
10 mination on the status of the school.

11 “(3) SCHOOL PLAN.—

12 “(A) REVISED PLAN.—After the resolution
13 of a review under paragraph (2), each school
14 identified under paragraph (1) for school im-
15 provement shall, not later than 3 months after
16 being so identified, develop or revise a school
17 plan, in consultation with parents, school staff,
18 the local educational agency serving the school,
19 the local school board, and other outside ex-
20 perts, for approval by such local educational
21 agency. The school plan shall cover a 2-year pe-
22 riod and—

23 “(i) incorporate scientifically based re-
24 search strategies that strengthen the core
25 academic subjects in the school and ad-

1 dress the specific academic issues that
2 caused the school to be identified for
3 school improvement;

4 “(ii) adopt policies and practices con-
5 cerning the school’s core academic subjects
6 that have the greatest likelihood of ensur-
7 ing that all groups of students specified in
8 section 1111(b)(2)(C)(iii)(I) and (II) and
9 enrolled in the school will meet the State’s
10 proficient level of achievement on the State
11 academic assessment described in section
12 1111(b)(4) not later than 10 years after
13 the date of enactment of the No Child Left
14 Behind Act of 2001;

15 “(iii) provide an assurance that the
16 school shall reserve not less than 10 per-
17 cent of the funds made available to the
18 school under this part for each fiscal year
19 that the school is in school improvement
20 status, for the purpose of providing to the
21 school’s teachers and principal high-quality
22 professional development that—

23 “(I) directly addresses the aca-
24 demic performance problem that

1 caused the school to be identified for
2 school improvement;

3 “(II) meets the requirements for
4 professional development activities
5 under section 1119A; and

6 “(III) is provided in a manner
7 that affords greater opportunity for
8 participating in such professional de-
9 velopment;

10 “(iv) specify how the funds described
11 in clause (iii) will be used to remove the
12 school from school improvement status;

13 “(v) establish specific annual, measur-
14 able goals for continuous and significant
15 progress by each group of students speci-
16 fied in section 1111(b)(2)(C)(iii)(I) and
17 (II) and enrolled in the school that will en-
18 sure that all such groups of students shall
19 meet the State’s proficient level of achieve-
20 ment on the State academic assessment
21 described in section 1111(b)(4) not later
22 than 10 years after the date of enactment
23 of the No Child Left Behind Act of 2001;

24 “(vi) identify how the school will pro-
25 vide written notification about the identi-

1 fication to parents of each student enrolled
2 in such school, in a format and, to the ex-
3 tent practicable, in a language the parents
4 can understand;

5 “(vii) specify the responsibilities of
6 the school, the local educational agency,
7 and the State educational agency serving
8 the school under the plan, including the
9 technical assistance to be provided by the
10 local educational agency under paragraph
11 (4);

12 “(viii) incorporate, as appropriate, ex-
13 tended learning time for students, such as
14 before school, after school, during the sum-
15 mer and extension of the school year; and

16 “(ix) ensure that a mentoring pro-
17 gram is available to teachers in the school
18 who have been in the teaching profession
19 for 3 years or less, which provides men-
20 toring to beginning teachers from exem-
21 plary veteran teachers with expertise in the
22 same subject matter that the beginning
23 teachers will be teaching, to the extent
24 practicable be school-based, and provides
25 mentors time for activities such as coach-

1 ing, observing, and assisting the teachers
2 who are mentored.

3 “(B) **CONDITIONAL APPROVAL.**—The local
4 educational agency may condition approval of a
5 school plan on—

6 “(i) inclusion of one or more of the
7 corrective actions specified in paragraph
8 (6)(D)(ii); or

9 “(ii) feedback on the school improve-
10 ment plan from parents and community
11 leaders.

12 “(C) **PLAN IMPLEMENTATION.**—Except as
13 provided in subparagraph (D), a school shall
14 implement the school plan (including a revised
15 plan) expeditiously, but not later than the be-
16 ginning of the school year following the school
17 year in which the failure to make adequate
18 yearly progress took place.

19 “(D) Notwithstanding subparagraph (C),
20 in a case in which a plan is not approved prior
21 to the beginning of a school year, such plan
22 shall be implemented immediately upon ap-
23 proval.

24 “(E) **LOCAL EDUCATIONAL AGENCY AP-**
25 **PROVAL.**—The local educational agency shall—

1 “(i) establish a peer-review process to
2 assist with review of a school plan pre-
3 pared by a school served by the local edu-
4 cational agency; and

5 “(ii) promptly review the school plan,
6 work with the school as necessary, and ap-
7 prove the school plan if it meets the re-
8 quirements of this paragraph.

9 “(4) TECHNICAL ASSISTANCE.—

10 “(A) IN GENERAL.—For each school iden-
11 tified for school improvement under paragraph
12 (1), the local educational agency serving the
13 school shall provide technical assistance as the
14 school develops and implements the school plan
15 throughout the duration of such plan.

16 “(B) SPECIFIC ASSISTANCE.—Such tech-
17 nical assistance—

18 “(i) shall include assistance in ana-
19 lyzing data from the academic assessments
20 required under section 1111(b)(4), and
21 other samples of student work, to identify
22 and address instructional problems and so-
23 lutions;

24 “(ii) shall include assistance in identi-
25 fying and implementing professional devel-

1 opment, instructional strategies, and meth-
2 ods of instruction that are based upon sci-
3 entifically based research and that have
4 proven effective in addressing the specific
5 instructional issues that caused the school
6 to be identified for school improvement;

7 “(iii) shall include assistance in ana-
8 lyzing and revising the school’s budget so
9 that the school resources are more effec-
10 tively allocated for the activities most likely
11 to increase student achievement and to re-
12 move the school from school improvement
13 status; and

14 “(iv) may be provided—

15 “(I) by the local educational
16 agency, through mechanisms author-
17 ized under section 1117; or

18 “(II) by the State educational
19 agency, an institution of higher edu-
20 cation (in full compliance with all the
21 reporting provisions of title II of the
22 Higher Education Act of 1965), a pri-
23 vate not-for-profit organization or for-
24 profit organization, an educational
25 service agency, or another entity with

1 experience in helping schools improve
2 performance.

3 “(C) SCIENTIFICALLY BASED RE-
4 SEARCH.—Technical assistance provided under
5 this section by a local educational agency or an
6 entity approved by that agency shall be based
7 on scientifically based research.

8 “(5) NOTIFICATION TO PARENTS.—A local edu-
9 cational agency shall promptly provide parents (in a
10 format and, to the extent practicable, in a language
11 they can understand) of each student in an elemen-
12 tary school or a secondary school identified for
13 school improvement—

14 “(A) an explanation of what the school im-
15 provement identification means, and how the
16 school identified for school improvement com-
17 pares in terms of academic achievement to
18 other elementary schools or secondary schools
19 served by the local educational agency and the
20 State educational agency involved;

21 “(B) the reasons for the identification;

22 “(C) an explanation of what the school
23 identified for school improvement is doing to
24 address the problem of low achievement;

1 “(D) an explanation of what the local edu-
2 cational agency or State educational agency is
3 doing to help the school address the achieve-
4 ment problem;

5 “(E) an explanation of how parents de-
6 scribed in this paragraph can become involved
7 in addressing the academic issues that caused
8 the school to be identified for school improve-
9 ment; and

10 “(F) an explanation regarding the option
11 of their child to transfer to another public
12 school, including a public charter school.

13 “(6) Additional notification.—Not less than
14 once each year, each State educational agency shall
15 provide the Secretary with the name of each school
16 identified for school improvement under this sub-
17 section.

18 “(7) CORRECTIVE ACTION.—

19 “(A) IN GENERAL.—In this subsection, the
20 term ‘corrective action’ means action, consistent
21 with State law, that—

22 “(i) substantially and directly re-
23 sponds to—

24 “(I) the consistent academic fail-
25 ure of a school that caused the local

1 educational agency to take such ac-
2 tion; and

3 “(II) any underlying staffing,
4 curriculum, or other problems in the
5 school; and

6 “(ii) is designed to increase substan-
7 tially the likelihood that students enrolled
8 in the school identified for corrective action
9 will perform at the State’s proficient and
10 advanced levels of achievement on the
11 State academic assessment described in
12 section 1111(b)(4).

13 “(B) SYSTEM.—In order to help students
14 served under this part meet challenging State
15 academic standards, each local educational
16 agency shall implement a system of corrective
17 action in accordance with subparagraphs (C)
18 through (F) and paragraphs (8) through (10).

19 “(C) ROLE OF LOCAL EDUCATIONAL AGEN-
20 CY.—The local educational agency—

21 “(i) after providing public school
22 choice under paragraph (1)(E) and tech-
23 nical assistance under paragraph (4), shall
24 identify for corrective action and take cor-
25 rective action with respect to any school

1 served by the local educational agency
2 under this part that—

3 “(I) fails to make adequate year-
4 ly progress, as defined by the State
5 under section 1111(b)(2), at the end
6 of the first full school year following
7 identification under paragraph (1); or

8 “(II) was in school-improvement
9 status for 2 years or in corrective-ac-
10 tion status under this subsection im-
11 mediately before the effective date of
12 the No Child Left Behind Act of
13 2001; and

14 “(ii) shall continue to provide tech-
15 nical assistance consistent with paragraph
16 (4) while instituting any corrective action
17 under clause (i); and

18 “(D) REQUIREMENTS.—In the case of a
19 school described in subparagraph (C)(i), the
20 local educational agency shall both—

21 “(i) continue to provide all students
22 enrolled in the school with the option to
23 transfer to another public school within the
24 local educational agency, including a public
25 charter school, that has not been identified

1 for school improvement under paragraph
2 (1), unless such an option is prohibited by
3 State law; and

4 “(ii) take at least one of the following
5 corrective actions:

6 “(I) Replace the school staff
7 which are relevant to the failure to
8 make adequate yearly progress.

9 “(II) Institute and fully imple-
10 ment a new curriculum, including pro-
11 viding appropriate professional devel-
12 opment for all relevant staff, that is
13 based on scientifically based research
14 and offers substantial promise of im-
15 proving educational performance for
16 low-performing students and the
17 school meeting adequate yearly
18 progress.

19 “(III) Significantly decrease
20 management authority at the school
21 level.

22 “(IV) Appoint an outside expert
23 to advise the school on its progress to-
24 ward meeting adequate yearly

1 progress, based on its school plan
2 under this subsection.

3 “(V) Extend the school year or
4 school day.

5 “(VI) Restructure the internal
6 organizational structure of the school.

7 “(E) DELAY.—A local educational agency
8 may delay, for a period not to exceed 1 year,
9 implementation of corrective action only if the
10 school’s failure to make adequate yearly
11 progress was justified due to exceptional or un-
12 controllable circumstances, such as a natural
13 disaster or a precipitous and unforeseen decline
14 in the financial resources of the local edu-
15 cational agency or school.

16 “(F) PUBLICATION AND DISSEMINA-
17 TION.—The local educational agency shall pub-
18 lish and disseminate information regarding any
19 corrective action the local educational agency
20 takes under this paragraph at a school—

21 “(i) to the public and to the parents
22 of each student enrolled in the school sub-
23 ject to corrective action;

1 “(ii) in a format and, to the extent
2 practicable, in a language that the parents
3 can understand; and

4 “(iii) through such means as the
5 Internet, the media, and public agencies.

6 “(8) RESTRUCTURING.—

7 “(A) FAILURE TO MAKE ADEQUATE YEAR-
8 LY PROGRESS.—If—

9 “(i) a school is subject to corrective
10 action under paragraph (7) for one full
11 school year, and at the end of such year
12 continues to fail to make adequate yearly
13 progress and students in the school who
14 are from economically disadvantaged fami-
15 lies are not making statistically significant
16 progress in the subjects included in the
17 State’s definition of adequate yearly
18 progress; or

19 “(ii) for 2 additional years a school
20 subject to corrective action under para-
21 graph (7) fails to make adequate yearly
22 progress, the local educational agency
23 shall—

24 “(I) provide all students enrolled
25 in the school with the option to trans-

1 fer to another public school within the
2 local educational agency, including a
3 public charter school, that has not
4 been identified for school improvement
5 under paragraph (1), unless prohib-
6 ited by State law;

7 “(II) make supplemental instruc-
8 tional services available, consistent
9 with subsection (d)(1); and

10 “(III) prepare a plan and make
11 necessary arrangements to carry out
12 subparagraph (B).

13 “(B) ALTERNATIVE GOVERNANCE.—Not
14 later than the beginning of the school year fol-
15 lowing the year in which the local educational
16 agency implements subparagraph (A), the local
17 educational agency shall implement one of the
18 following alternative governance arrangements
19 for the school consistent with State law:

20 “(i) Reopening the school as a public
21 charter school.

22 “(ii) Replacing the principal and all or
23 most of the school staff that are relevant
24 to the failure to make adequate yearly
25 progress.

1 “(iii) Entering into a contract with an
2 entity, such as a private management com-
3 pany, to operate the public school.

4 “(iv) Turning the operation of the
5 school over to the State, if permitted under
6 State law and agreed to by the State.

7 “(C) AVAILABLE RESULTS.—The State
8 educational agency shall ensure that, for any
9 school year in which a school is subject to
10 school improvement under this subsection, the
11 results of State academic assessments for that
12 school are available to the local educational
13 agency by the end of the school year in which
14 the academic assessments are administered.

15 “(D) PROMPT NOTICE.—The local edu-
16 cational agency shall provide prompt notice to
17 teachers and parents whenever subparagraph
18 (A) or (B) applies, shall provide them adequate
19 opportunity to comment before taking any ac-
20 tion under those subparagraphs and, to the ex-
21 tent practicable, to participate in developing
22 any plan under subparagraph (A)(ii)(III), and
23 shall provide parents an explanation of the op-
24 tions under subparagraph (A)(i) and (ii).

1 “(9) TRANSPORTATION.—In any case described
2 in paragraph (1)(E) for schools described in para-
3 graphs (1)(A)(i), (7)(D)(i), and (8)(A)(ii)(I) the
4 local educational agency—

5 “(A) shall provide, or shall pay for the pro-
6 vision of, transportation for the student to the
7 public school the child attends; and

8 “(B) may use not more than a total of 15
9 percent of its allocation under this part for that
10 purpose.

11 “(10) COOPERATIVE AGREEMENT.—In any case
12 described in paragraph (1)(E), (7)(D)(i), or
13 (8)(A)(ii)(I), if all public schools in the local edu-
14 cational agency to which a child may transfer to, are
15 identified for school improvement, the agency shall,
16 to the extent practicable, establish a cooperative
17 agreement with other local educational agencies in
18 the area for a transfer.

19 “(11) DURATION.—If any school identified for
20 corrective action or restructuring—

21 “(A) makes adequate yearly progress for 2
22 consecutive years, the local educational agency
23 need no longer subject it to corrective action or
24 restructuring nor identify it as in need of im-
25 provement; or

1 “(B) fails to make adequate yearly
2 progress, but children from low-income families
3 in the school make statistically significant edu-
4 cational progress for 1 year, the local edu-
5 cational agency shall place or continue as ap-
6 propriate the school in corrective action under
7 paragraph (7).

8 “(12) STATE RESPONSIBILITIES.—The State
9 shall—

10 “(A) make technical assistance under sec-
11 tion 1117 available to all schools identified for
12 school improvement and restructuring under
13 this subsection;

14 “(B) if it determines that a local edu-
15 cational agency has failed to carry out its re-
16 sponsibilities under this subsection, take such
17 corrective actions as the State finds appropriate
18 and in compliance with State law; and

19 “(C) ensure that academic assessment re-
20 sults under this part are provided to schools
21 within the same school year in which the assess-
22 ment was given.

23 “(c) STATE REVIEW AND LOCAL EDUCATIONAL
24 AGENCY IMPROVEMENT.—

25 “(1) IN GENERAL.—A State shall—

1 “(A) annually review the progress of each
2 local educational agency receiving funds under
3 this part to determine whether schools receiving
4 assistance under this part are making adequate
5 yearly progress as defined in section 1111(b)(2)
6 toward meeting the State’s student academic
7 achievement standards; and

8 “(B) publicize and disseminate to local
9 educational agencies, teachers and other staff,
10 parents, students, and the community the re-
11 sults of the State review consistent with section
12 1111, including statistically sound
13 disaggregated results, as required by section
14 1111(b)(2).

15 “(2) IDENTIFICATION OF LOCAL EDUCATIONAL
16 AGENCY FOR IMPROVEMENT.—A State shall identify
17 for improvement any local educational agency that—

18 “(A) for 2 consecutive years failed to make
19 adequate yearly progress as defined in the
20 State’s plan under section 1111(b)(2); or

21 “(B) was in improvement status under this
22 section as this section was in effect on the day
23 preceding the date of the enactment of the No
24 Child Left Behind Act of 2001.

1 “(3) TRANSITION.—The 2-year period described
2 in paragraph (2)(A) shall include any continuous pe-
3 riod of time immediately preceding the date of the
4 enactment of the No Child Left Behind Act of 2001,
5 during which a local educational agency did not
6 make adequate yearly progress as defined in the
7 State’s plan, as such plan was in effect on the day
8 preceding the date of such enactment.

9 “(4) TARGETED ASSISTANCE SCHOOLS.—For
10 purposes of targeted assistance schools in a local
11 educational agency, a State educational agency may
12 choose to review the progress of only the students in
13 such schools who are served or are eligible for serv-
14 ices under this part.

15 “(5) OPPORTUNITY TO REVIEW AND PRESENT
16 EVIDENCE.—

17 “(A) REVIEW.—Before identifying a local
18 educational agency for improvement under
19 paragraph (2), a State educational agency shall
20 provide the local educational agency with an op-
21 portunity to review the local educational agency
22 data, including academic assessment data, on
23 which that proposed identification is based.

24 “(B) SUPPORTING EVIDENCE.—If the local
25 educational agency believes that the proposed

1 identification is in error for statistical or other
2 substantive reasons, it may provide supporting
3 evidence to the State educational agency, which
4 such agency shall consider before making a
5 final determination not later than 30 days after
6 the State educational agency provides the local
7 educational agency with the opportunity to re-
8 view such data under subparagraph (A).

9 “(6) NOTIFICATION TO PARENTS.—The State
10 educational agency shall promptly notify parents in
11 a format, and to the extent practicable in a language
12 they can understand, of each student enrolled in a
13 school in a local educational agency identified for
14 improvement, of the results of the review under
15 paragraph (1) and, if the agency is identified as in
16 need of improvement, the reasons for that identifica-
17 tion and how parents can participate in upgrading
18 the quality of the local educational agency.

19 “(7) LOCAL EDUCATIONAL AGENCY REVI-
20 SIONS.—

21 “(A) PLAN.—Each local educational agen-
22 cy identified under paragraph (2) shall, not
23 later than 3 months after being so identified,
24 develop or revise a local educational agency

1 plan, in consultation with parents, school staff,
2 and others. Such plan shall—

3 “(i) incorporate scientifically based re-
4 search strategies that strengthen the core
5 academic program in the local educational
6 agency;

7 “(ii) identify specific goals and objec-
8 tives the local educational agency will un-
9 dertake to make adequate yearly progress
10 and which—

11 “(I) have the greatest likelihood
12 of improving the performance of par-
13 ticipating children in meeting the
14 State’s student academic achievement
15 standards;

16 “(II) address the professional de-
17 velopment needs of staff; and

18 “(III) include specific measurable
19 achievement goals and targets for
20 each of the groups of students identi-
21 fied in the disaggregated data pursu-
22 ant to section 1111(b)(2)(C)(iii)(I)
23 and (II);

24 “(iii) incorporate, as appropriate, ex-
25 tended learning time for students such as

1 before school, after school, during the sum-
2 mer, and extension of the school year.

3 “(iv) identify how the local edu-
4 cational agency will provide written notifi-
5 cation to parents in a format, and to the
6 extent practicable in a language, that they
7 can understand, pursuant to paragraph
8 (6); and

9 “(v) specify the responsibilities of the
10 State educational agency and the local edu-
11 cational agency under the plan.

12 “(B) IMPLEMENTATION.—The local edu-
13 cational agency shall implement its plan or re-
14 vised plan expeditiously, but not later than the
15 beginning of the school year after which the
16 school has been identified for improvement.

17 “(8) STATE RESPONSIBILITY.—

18 “(A) IN GENERAL.—For each local edu-
19 cational agency identified under paragraph (2),
20 the State shall provide technical or other assist-
21 ance, if requested, as authorized under section
22 1117, to better enable the local educational
23 agency—

24 “(i) to develop and implement its re-
25 vised plan as approved by the State edu-

1 cational agency consistent with the require-
2 ments of this section; and

3 “(ii) to work with schools needing im-
4 provement.

5 “(B) TECHNICAL ASSISTANCE.—Technical
6 assistance provided under this section by the
7 State educational agency or an entity author-
8 ized by such agency shall be based upon sci-
9 entifically based research.

10 “(9) CORRECTIVE ACTION.—In order to help
11 students served under this part meet challenging
12 State academic standards, each State shall imple-
13 ment a system of corrective action in accordance
14 with the following:

15 “(A) IN GENERAL.—After providing tech-
16 nical assistance under paragraph (8) and sub-
17 ject to subparagraph (D), the State—

18 “(i) may take corrective action at any
19 time with respect to a local educational
20 agency that has been identified under
21 paragraph (2);

22 “(ii) shall take corrective action with
23 respect to any local educational agency
24 that fails to make adequate yearly
25 progress, as defined by the State, after the

1 end of the second year following its identi-
2 fication under paragraph (2); and

3 “(iii) shall continue to provide tech-
4 nical assistance while instituting any cor-
5 rective action under clause (i) or (ii).

6 “(B) DEFINITION.—As used in this para-
7 graph, the term ‘corrective action’ means ac-
8 tion, consistent with State law, that—

9 “(i) substantially and directly re-
10 sponds to the consistent academic failure
11 that caused the State to take such action
12 and to any underlying staffing, curricular,
13 or other problems in the school; and

14 “(ii) is designed to meet the goal of
15 having all students served under this part
16 perform at the proficient and advanced
17 performance levels.

18 “(C) CERTAIN LOCAL EDUCATIONAL AGEN-
19 CIES.—In the case of a local educational agency
20 described in this paragraph, the State edu-
21 cational agency shall take not less than one of
22 the following corrective actions:

23 “(i) Withhold funds from the local
24 educational agency.

1 “(ii) Replace the school district per-
2 sonnel who are relevant to the failure to
3 make adequate year progress.

4 “(iii) Remove particular schools from
5 the jurisdiction of the local educational
6 agency and establish alternative arrange-
7 ments for public governance and super-
8 vision of such schools.

9 “(iv) Appoint, through the State edu-
10 cational agency, a receiver or trustee to ad-
11 minister the affairs of the local educational
12 agency in place of the superintendent and
13 school board.

14 “(v) Abolish or restructure the local
15 educational agency.

16 “(vi) Authorize students to transfer
17 from a school operated by a local edu-
18 cational agency to a higher performing
19 public school operated by another local
20 educational agency, or to a public charter
21 school and provide such students transpor-
22 tation (or the costs of transportation to
23 such schools), in conjunction with not less
24 than one additional action described under
25 this paragraph.

1 “(D) HEARING.—Prior to implementing
2 any corrective action, the State educational
3 agency shall provide due process and a hearing
4 to the affected local educational agency, if State
5 law provides for such process and hearing.

6 “(E) PUBLICATION.—The State edu-
7 cational agency shall publish, and disseminate
8 to parents and the public any corrective action
9 it takes under this paragraph through such
10 means as the Internet, the media, and public
11 agencies.

12 “(F) DELAY.—A local educational agency
13 may delay, for a period not to exceed 1 year,
14 implementation of corrective action if the fail-
15 ure to make adequate yearly progress was justi-
16 fied due to exceptional or uncontrollable cir-
17 cumstances such as a natural disaster or a pre-
18 cipitous and unforeseen decline in the financial
19 resources of the local educational agency or
20 school.

21 “(10) SPECIAL RULE.—A local educational
22 agency, that, for at least 2 of the 3 years following
23 identification under paragraph (2), makes adequate
24 yearly progress shall no longer be identified for im-
25 provement.

1 “(d) PARENTAL OPTIONS.—

2 “(1) In any case described in subsection
3 (b)(7)(A)(ii)(II), the local educational agency shall
4 permit the parents of each eligible child to obtain
5 supplemental educational services for such child
6 from a provider, as approved by the State edu-
7 cational agency in accordance with reasonable cri-
8 teria that it shall adopt. Such criteria shall require
9 a provider to demonstrate a record of effectiveness,
10 or the potential of effectiveness, in providing supple-
11 mental instructional services to children, consistent
12 with the instructional program of the local edu-
13 cational agency and the academic standards de-
14 scribed under section 1111.

15 “(2) SELECTION.—In obtaining services under
16 this paragraph, a parent shall select a provider that
17 meets the criteria described under paragraph (1).
18 The local educational agency shall provide assist-
19 ance, upon request, to parents in the selection of a
20 provider to provide supplemental instructional serv-
21 ices.

22 “(3) CONTRACT.—In the case of the selection of
23 a provider under paragraph (2) by a parent, the
24 local educational agency shall enter into a contract
25 with such provider. Such contract shall—

1 “(A) require the local educational agency
2 to develop, with parents (and the provider they
3 have chosen), a statement of specific perform-
4 ance goals for the student, how the student’s
5 progress will be measured, and a timetable for
6 improving achievement;

7 “(B) provide for the termination of such
8 contract with a provider that is unable to meet
9 such goals and timetables; and

10 “(C) contain provisions with respect to the
11 making of payments to the provider by the local
12 educational agency.

13 “(4) ADDITIONAL LOCAL EDUCATIONAL AGEN-
14 CY RESPONSIBILITIES.—Each local educational
15 agency subject to this paragraph shall provide an-
16 nual notice to parents (if feasible, in the parents’
17 language) of the availability of services under this
18 paragraph and the eligible providers of those serv-
19 ices.

20 “(5) STATE EDUCATIONAL AGENCY RESPON-
21 SIBILITIES.—Each State educational agency shall—

22 “(A) consult with local educational agen-
23 cies and promote maximum participation by
24 providers to ensure, to the extent practicable,

1 that parents have as many choices of those pro-
2 viders as possible;

3 “(B) develop criteria consistent with para-
4 graph (6) and apply such criteria to potential
5 providers to determine which, based on the
6 quality and effectiveness of their services, are
7 eligible to participate;

8 “(C) maintain an updated list of approved
9 providers across the State, from which parents
10 may select;

11 “(D) develop and implement standards and
12 techniques for monitoring the quality and effec-
13 tiveness of the services offered by providers,
14 and withdraw approval from those that fail to
15 meet those standards for two consecutive years;

16 “(E) provide annual notice to potential
17 providers of supplemental services of the oppor-
18 tunity to provide services under this paragraph
19 and of the applicable procedures for obtaining
20 approval from the State educational agency to
21 be a provider of those services.

22 “(6) CRITERIA FOR PROVIDERS.—In order for a
23 provider to be included on the State list under para-
24 graph (5)(c), a provider shall agree to the following:

1 “(A) Provide parents of children receiving
2 supplemental instructional services under this
3 paragraph and the appropriate local educational
4 agency with information on the progress of
5 their children in increasing achievement, in a
6 format and, to the extent practicable, a lan-
7 guage such parents can understand.

8 “(B) Ensure that instruction and content
9 used by the provider is consistent with the in-
10 struction and content used by the local edu-
11 cational agency and State.

12 “(C) Require a provider to meet all appli-
13 cable Federal, State, and local health, safety
14 and civil rights laws.

15 “(D) Ensure that all instruction and con-
16 tent under this paragraph shall be secular, neu-
17 tral, and nonideological.

18 “(7) COSTS.—

19 “(A) The costs of administration of this
20 paragraph and the costs of providing such sup-
21 plemental instructional services shall be limited
22 to the total of 40 percent of the per child allo-
23 cation under subpart 2 of each school identified
24 under subsection (b)(7)(A)(ii)(II);

1 “(B) ADDITIONAL FUNDS.—If the allocation
2 under subparagraph (A) is insufficient to pro-
3 vide services for all eligible students that have
4 selected a provider, a local educational agency
5 may use funds under subpart 1 of part A of
6 title IV to pay for additional costs;

7 “(C) TRANSPORTATION COSTS.—A local
8 educational agency may use up to 15 percent of
9 its allocation under subpart 2 for transportation
10 costs.

11 “(8) FUNDS PROVIDED BY STATE EDU-
12 CATIONAL AGENCY.—Each State educational agency
13 may use funds that it reserves under this part, and
14 subpart 1 of part A of title IV to provide local edu-
15 cational agencies that do not have sufficient funds to
16 provide services under this paragraph for all eligible
17 students requesting such services.

18 “(9) DURATION.—The local educational agency
19 shall continue to provide supplemental instructional
20 services to enrolled children receiving such services
21 under this paragraph until the child completes the
22 grade corresponding to the highest grade offered at
23 the public school which was identified for restruc-
24 turing under subsection (b)(7), or until such school,
25 so long as the child attends such school, is not iden-

1 tified under subsection (b)(1), (b)(6), or (b)(7),
2 whichever comes earlier.

3 “(10) DEFINITIONS.—As used in this sub-
4 section, the term—

5 “(A) ‘eligible child’ means a child from a
6 low-income family, as determined by the local
7 educational agency for purposes of allocating
8 funds to schools under section 1113(c)(1);

9 “(B) ‘supplemental instructional services’
10 means tutoring and other supplemental aca-
11 demic enrichment services that are in addition
12 to instruction provided during the school day
13 and are specifically designed to increase the
14 academic achievement of eligible children on the
15 academic assessments required under section
16 1111; and

17 “(C) ‘provider’ means a non-profit or a
18 for-profit entity which has a demonstrated
19 record of effectiveness or the potential of
20 effectiveness—

21 “(i) in providing supplemental instruc-
22 tional services that are consistent with the
23 instructional program of the local edu-
24 cational agency and the academic stand-
25 ards described under section 1111; and

1 “(ii) in sound fiscal management;

2 “(D) ‘per child allocation’ means an
3 amount that is equal to at least—

4 “(i) the amount of the school’s alloca-
5 tion under subpart 2; divided by

6 “(ii) the number of children from low-
7 income families enrolled in the school.

8 “(11) PROHIBITION.—Nothing contained in this
9 subsection shall permit the making of any payment
10 for religious worship or instruction.

11 “(e) TREATMENT OF BUREAU FUNDED SCHOOLS.—
12 For the purposes of applying the requirements of sub-
13 section (b) to schools funded by the Bureau of Indian Af-
14 fairs, the Secretary of Interior shall implement such sub-
15 section in a manner that treats the appropriate tribe or
16 tribal organization as a local educational agency for the
17 purpose of implementing school improvement, corrective
18 action and restructuring actions. If such tribe or tribal
19 organization does not take the appropriate action required
20 under subsection (b), the Secretary shall take such appro-
21 priate action as required under subsection (b) after final
22 notice to such tribe or tribal organization.”.

23 **SEC. 107. STATE ASSISTANCE FOR SCHOOL SUPPORT AND**
24 **IMPROVEMENT.**

25 Section 1117 is amended to read as follows:

1 **“SEC. 1117. STATE ASSISTANCE FOR SCHOOL SUPPORT AND**
2 **IMPROVEMENT.**

3 “(a) SYSTEM FOR SUPPORT.—Each State shall es-
4 tablish a statewide system of intensive and sustained sup-
5 port and improvement for local educational agencies and
6 schools receiving funds under this part, in order to in-
7 crease the opportunity for all students in those agencies
8 and schools to meet the State’s academic content stand-
9 ards and student academic achievement standards.

10 “(b) PRIORITIES.—In carrying out this section, a
11 State shall—

12 “(1) first, provide support and assistance to
13 local educational agencies subject to corrective action
14 under section 1116 and assist schools, in accordance
15 with section 1116(b)(11), for which a local edu-
16 cational agency has failed to carry out its respon-
17 sibilities under paragraphs (7) and (8) of section
18 1116(b);

19 “(2) second, provide support and assistance to
20 other local educational agencies identified as in need
21 of improvement under section 1116(b); and

22 “(3) third, provide support and assistance to
23 other local educational agencies and schools partici-
24 pating under this part that need that support and
25 assistance in order to achieve the purpose of this
26 part.

1 “(c) APPROACHES.—In order to achieve the purpose
2 described in subsection (a), each such system shall provide
3 technical assistance and support through such approaches
4 as—

5 “(1) school support teams, composed of individ-
6 uals who are knowledgeable about scientifically
7 based research and practice on teaching and learn-
8 ing, particularly about strategies for improving edu-
9 cational results for low-achieving children; and

10 “(2) the designation and use of “Distinguished
11 Educators”, chosen from schools served under this
12 part that have been especially successful in improv-
13 ing academic achievement.

14 “(d) FUNDS.—Each State—

15 “(1) shall use funds reserved under section
16 1003(a); and

17 “(2) may use State administrative funds au-
18 thorized under section 1002(i) for such purpose to
19 establish a Statewide system of support.

20 “(e) ALTERNATIVES.—The State may devise addi-
21 tional approaches to providing the assistance described in
22 paragraphs (1) and (2) of subsection (c), such as pro-
23 viding assistance through institutions of higher education
24 and educational service agencies or other local consortia,
25 and private providers of scientifically based technical as-

1 sistance and the State may seek approval from the Sec-
2 retary to use funds made available under section 1002(j)
3 for such approaches as part of the State plan.”.

4 **SEC. 108. ACADEMIC ACHIEVEMENT AWARDS PROGRAM.**

5 Sections 1118 through 1127 are amended to read as
6 follows:

7 **“SEC. 1117A. ACADEMIC ACHIEVEMENT AWARDS PROGRAM.**

8 “(a) **ESTABLISHMENT OF ACADEMIC ACHIEVEMENT**
9 **AWARDS PROGRAM.—**

10 “(1) **IN GENERAL.—**Each State receiving a
11 grant under this part may establish a program for
12 making academic achievement awards to recognize
13 and financially reward schools served under this part
14 that have—

15 “(A) significantly closed the achievement
16 gap between the groups of students defined in
17 section 1111(b)(2); or

18 “(B) exceeded their adequate yearly
19 progress goals, consistent with section
20 1111(b)(2), for 2 or more consecutive years.

21 “(2) **AWARDS TO TEACHERS.—**A State program
22 under paragraph (1) may also recognize and provide
23 financial awards to teachers teaching in a school de-
24 scribed in such paragraph whose students consist-
25 ently make significant gains in academic achieve-

1 ment in the areas in which the teacher provides in-
2 struction.

3 “(b) FUNDING.—

4 “(1) RESERVATION OF FUNDS BY STATE.—For
5 the purpose of carrying out this section, each State
6 receiving a grant under this part may reserve, from
7 the amount (if any) by which the funds received by
8 the State under this part for a fiscal year exceed the
9 amount received by the State under this part for the
10 preceding fiscal year, not more than 30 percent of
11 such excess amount.

12 “(2) USE WITHIN 3 YEARS.—Notwithstanding
13 any other provision of law, the amount reserved
14 under paragraph (1) by a State for each fiscal year
15 shall remain available to the State until expended
16 for a period not exceeding 3 years.

17 “(3) SPECIAL ALLOCATION RULE FOR SCHOOLS
18 IN HIGH-POVERTY AREAS.—

19 “(A) IN GENERAL.—Each State receiving
20 a grant under this part shall distribute at least
21 75 percent of the amount reserved under para-
22 graph (1) for each fiscal year to schools de-
23 scribed in subparagraph (B), or to teachers
24 teaching in such schools.

1 “(B) SCHOOL DESCRIBED.—A school de-
2 scribed in subparagraph (A) is a school whose
3 student population is in the highest quartile of
4 schools statewide in terms of the percentage of
5 children from low income families.

6 **“SEC. 1118. PARENTAL INVOLVEMENT.**

7 “(a) LOCAL EDUCATIONAL AGENCY POLICY.—

8 “(1) IN GENERAL.—A local educational agency
9 may receive funds under this part only if such agen-
10 cy implements programs, activities, and procedures
11 for the involvement of parents in programs assisted
12 under this part consistent with the provisions of this
13 section. Such activities shall be planned and imple-
14 mented with meaningful consultation with parents of
15 participating children.

16 “(2) WRITTEN POLICY.—Each local educational
17 agency that receives funds under this part shall de-
18 velop jointly with, agree upon with, and distribute
19 to, parents of participating children a written parent
20 involvement policy that is incorporated into the local
21 educational agency’s plan developed under section
22 1112, establishes the expectations for parent involve-
23 ment, and describes how the local educational agen-
24 cy will—

1 “(A) involve parents in the joint develop-
2 ment of the plan under section 1112, and the
3 process of school review and improvement under
4 section 1116;

5 “(B) provide the coordination, technical as-
6 sistance, and other support necessary to assist
7 participating schools in planning and imple-
8 menting effective parent involvement;

9 “(C) build the schools’ and parents’ capac-
10 ity for strong parent involvement as described
11 in subsection (e);

12 “(D) coordinate and integrate parental in-
13 volvement strategies under this part with paren-
14 tal involvement strategies under other pro-
15 grams, such as Head Start, Early Reading
16 First, Reading First, Even Start, the Parents
17 as Teachers Program, the Home Instruction
18 Program for Preschool Youngsters, and State-
19 run preschool programs;

20 “(E) conduct, with the involvement of par-
21 ents, an annual evaluation of the content and
22 effectiveness of the parental involvement policy
23 in improving the academic quality of the schools
24 served under this part; and

1 “(F) involve parents in the activities of the
2 schools served under this part.

3 “(3) RESERVATION.—

4 “(A) IN GENERAL.—Each local educational
5 agency shall reserve not less than 1 percent of
6 such agency’s allocation under this part to
7 carry out this section, including family literacy
8 and parenting skills, except that this paragraph
9 shall not apply if 1 percent of such agency’s al-
10 location under this part (other than funds allo-
11 cated under section 1002(g) for the fiscal year
12 for which the determination is made is \$5,000
13 or less.

14 “(B) PARENTAL INPUT.—Parents of chil-
15 dren receiving services under this part shall be
16 involved in the decisions regarding how funds
17 reserved under subparagraph (A) are allotted
18 for parental involvement activities.

19 “(C) DISTRIBUTION OF FUNDS.—Not less
20 than 95 percent of the funds reserved under
21 subparagraph (A) shall be distributed to schools
22 served under this part.

23 “(b) SCHOOL PARENTAL INVOLVEMENT POLICY.—

24 “(1) IN GENERAL.—Each school served under
25 this part shall jointly develop with, and distribute to,

1 parents of participating children a written parental
2 involvement policy, agreed upon by such parents,
3 that shall describe the means for carrying out the
4 requirements of subsections (e) through (f). Parents
5 shall be notified of the policy in a format, and to the
6 extent practicable in a language they can under-
7 stand. Such policy shall be updated periodically to
8 meet the changing needs of parents and the school.

9 “(2) SPECIAL RULE.—If the school has a pa-
10 rental involvement policy that applies to all parents,
11 such school may amend that policy, if necessary, to
12 meet the requirements of this subsection.

13 “(3) AMENDMENT.—If the local educational
14 agency has a school district-level parental involve-
15 ment policy that applies to all parents, such agency
16 may amend that policy, if necessary, to meet the re-
17 quirements of this subsection.

18 “(4) PARENTAL COMMENTS.—If the plan under
19 section 1112 is not satisfactory to the parents of
20 participating children, the local educational agency
21 shall submit any parent comments with such plan
22 when such local educational agency submits the plan
23 to the State.

24 “(c) POLICY INVOLVEMENT.—Each school served
25 under this part shall—

1 “(1) convene an annual meeting, at a conven-
2 ient time, to which all parents of participating chil-
3 dren shall be invited and encouraged to attend, to
4 inform parents of their school’s participation under
5 this part and to explain this part, its requirements,
6 and their right to be involved;

7 “(2) offer a flexible number of meetings, such
8 as meetings in the morning or evening, and may
9 provide, with funds provided under this part, trans-
10 portation, child care, or home visits, as such services
11 relate to parental involvement;

12 “(3) involve parents, in an organized, ongoing,
13 and timely way, in the planning, review, and im-
14 provement of programs under this part, including
15 the school parental involvement policy and the joint
16 development of the schoolwide program plan under
17 section 1114(c)(2) and (c)(3), except that if a school
18 has in place a process for involving parents in the
19 joint planning and design of its programs, the school
20 may use that process, if such process includes an
21 adequate representation of parents of participating
22 children;

23 “(4) provide parents of participating children—
24 “(A) timely information about programs
25 under this part;

1 “(B) a description and explanation of the
2 curriculum in use at the school, the forms of
3 academic assessment used to measure student
4 progress, and the proficiency levels students are
5 expected to meet; and

6 “(5) if the schoolwide program plan under sec-
7 tion 1114(c)(2) and (c)(3) is not satisfactory to the
8 parents of participating children, submit any parent
9 comments on the plan when the school makes the
10 plan available to the local educational agency.

11 “(d) SHARED RESPONSIBILITIES FOR HIGH STU-
12 DENT PERFORMANCE.—As a component of the school-
13 level parental involvement policy developed under sub-
14 section (b), each school served under this part shall agree
15 with parents of children served under this part regarding
16 how parents, the entire school staff, and students will
17 share the responsibility for improved student achievement
18 and the means by which the school and parents will build
19 and develop a partnership to help children achieve the
20 State’s high academic standards.

21 “(e) BUILDING CAPACITY FOR INVOLVEMENT.—To
22 ensure effective involvement of parents and to support a
23 partnership among the school, parents, and the commu-
24 nity to improve student achievement, each school and local
25 educational agency—

1 “(1) shall provide assistance to participating
2 parents in such areas as understanding the State’s
3 academic content standards and State student aca-
4 demic achievement standards, State and local aca-
5 demic assessments, the requirements of this part,
6 and how to monitor a child’s progress and work with
7 educators to improve the performance of their chil-
8 dren;

9 “(2) shall provide materials and training to
10 help parents to work with their children to improve
11 their children’s achievement;

12 “(3) shall educate teachers, pupil services per-
13 sonnel, principals and other staff, with the assist-
14 ance of parents, in the value and utility of contribu-
15 tions of parents, and in how to reach out to, commu-
16 nicate with, and work with parents as equal part-
17 ners, implement and coordinate parent programs,
18 and build ties between parents and the school;

19 “(4) shall coordinate and integrate parent in-
20 volvement programs and activities with Head Start,
21 Reading First, Early Reading First, Even Start, the
22 Home Instruction Programs for Preschool Young-
23 sters, the Parents as Teachers Program, and public
24 preschool programs and other programs, to the ex-
25 tent feasible and appropriate;

1 “(5) shall ensure, to the extent possible, that
2 information related to school and parent programs,
3 meetings, and other activities is sent to the parents
4 of participating children in the language used by
5 such parents;

6 “(6) may involve parents in the development of
7 training for teachers, principals, and other educators
8 to improve the effectiveness of such training in im-
9 proving instruction and services to the children of
10 such parents in a format, and to the extent prac-
11 ticable, in a language the parent can understand;

12 “(7) may provide necessary literacy training
13 from funds received under this part if the local edu-
14 cational agency has exhausted all other reasonably
15 available sources of funding for such activities;

16 “(8) may pay reasonable and necessary ex-
17 penses associated with local parental involvement ac-
18 tivities, including transportation and child care
19 costs, to enable parents to participate in school-re-
20 lated meetings and training sessions;

21 “(9) may train parents to enhance the involve-
22 ment of other parents;

23 “(10) may arrange for teachers or other edu-
24 cators, who work directly with participating children,

1 to conduct in-home conferences with parents who are
2 unable to attend such conferences at school;

3 “(11) may adopt and implement model ap-
4 proaches to improving parental involvement;

5 “(12) may establish a districtwide parent advi-
6 sory council to provide advice on all matters related
7 to parental involvement in programs supported
8 under this part; and

9 “(13) may develop appropriate roles for com-
10 munity-based organizations and businesses in parent
11 involvement activities.

12 “(f) ACCESSIBILITY.—In carrying out the parental
13 involvement requirements of this part, local educational
14 agencies and schools, to the extent practicable, shall pro-
15 vide full opportunities for the participation of parents with
16 limited English proficiency or with disabilities and parents
17 of migratory children, including providing information and
18 school reports required under section 1111 in a format,
19 and to the extent practicable, in a language such parents
20 understand.

21 **“SEC. 1119. QUALIFICATIONS FOR TEACHERS AND PARA-**
22 **PROFESSIONALS.**

23 “(a) TEACHERS.—

24 “(1) IN GENERAL.—Each local educational
25 agency receiving assistance under this part shall en-

1 sure that all teachers hired on or after the effective
2 date of the No Child Left Behind Act of 2001 and
3 teaching in a program supported with funds under
4 this part are fully qualified.

5 “(2) PLAN.—Each State receiving assistance
6 under this part shall develop and submit to the Sec-
7 retary a plan to ensure that all teachers teaching
8 within the State are fully qualified not later than
9 December 31, 2005. Such plan shall include an as-
10 surance that the State will require each local edu-
11 cational agency and school receiving funds under
12 this part publicly to report their annual progress on
13 the agency’s and the school’s performance in in-
14 creasing the percentage of classes in core academic
15 areas taught by fully qualified teachers.

16 “(b) NEW PARAPROFESSIONALS.—

17 “(1) IN GENERAL.—Each local educational
18 agency receiving assistance under this part shall en-
19 sure that all paraprofessionals hired 1 year or more
20 after the effective date of the No Child Left Behind
21 Act of 2001 and working in a program supported
22 with funds under this part shall—

23 “(A) have completed at least 2 years of
24 study at an institution of higher education;

1 “(B) have obtained an associate’s (or high-
2 er) degree; or

3 “(C) have met a rigorous standard of qual-
4 ity that demonstrates, through a formal aca-
5 demic assessment—

6 “(i) knowledge of, and the ability to
7 assist in instructing reading, writing, and
8 math; or

9 “(ii) knowledge of, and the ability to
10 assist in instructing reading readiness,
11 writing readiness, and math readiness, as
12 appropriate.

13 “(2) CLARIFICATION.—For purposes of para-
14 graph (1)(C), the receipt of a high school diploma
15 (or its recognized equivalent) shall be necessary but
16 not by itself sufficient to satisfy the requirements of
17 such paragraph.

18 “(c) EXISTING PARAPROFESSIONALS.—Each local
19 educational agency receiving assistance under this part
20 shall ensure that all paraprofessionals hired before the
21 date that is 1 year after the effective date of the No Child
22 Left Behind Act of 2001 and working in a program sup-
23 ported with funds under this part shall, not later than 3
24 years after such effective date, satisfy the requirements
25 of subsection (b).

1 “(d) EXCEPTIONS FOR TRANSLATION AND PAREN-
2 TAL INVOLVEMENT ACTIVITIES.—Subsections (b) and (c)
3 shall not apply to a paraprofessional—

4 “(1) who is proficient in English and a lan-
5 guage other than English and who provides services
6 primarily to enhance the participation of children in
7 programs under this part by acting as a translator;
8 or

9 “(2) whose duties consist solely of conducting
10 parental involvement activities consistent with sec-
11 tion 1118.

12 “(e) GENERAL REQUIREMENT FOR ALL PARA-
13 PROFESSIONALS.—Each local educational agency receiving
14 assistance under this part shall ensure that all paraprofes-
15 sionals working in a program supported with funds under
16 this part, regardless of the paraprofessional’s hiring date,
17 possess a high school diploma or its recognized equivalent.

18 “(f) DUTIES OF PARAPROFESSIONALS.—

19 “(1) IN GENERAL.—Each local educational
20 agency receiving assistance under this part shall en-
21 sure that a paraprofessional working in a program
22 supported with funds under this part is not assigned
23 a duty inconsistent with this subsection.

1 “(2) RESPONSIBILITIES PARAPROFESSIONALS
2 MAY BE ASSIGNED.—A paraprofessional described in
3 paragraph (1) may only be assigned—

4 “(A) to provide one-on-one tutoring for eli-
5 gible students, if the tutoring is scheduled at a
6 time when a student would not otherwise re-
7 ceive instruction from a teacher;

8 “(B) to assist with classroom management,
9 such as organizing instructional and other ma-
10 terials;

11 “(C) to provide assistance in a computer
12 laboratory;

13 “(D) to conduct parental involvement ac-
14 tivities;

15 “(E) to provide support in a library or
16 media center;

17 “(F) to act as a translator; or

18 “(G) to provide instructional services to
19 students.

20 “(3) ADDITIONAL LIMITATIONS.—A paraprofes-
21 sional described in paragraph (1)—

22 “(A) may not provide any instructional
23 service to a student unless the paraprofessional
24 is working under the direct supervision of a
25 fully qualified teacher; and

1 “(B) may not provide instructional services
2 to students in the area of reading, writing, or
3 math unless the paraprofessional has dem-
4 onstrated, through a State or local academic as-
5 sessment, the ability to effectively carry out
6 reading, writing, or math instruction.

7 “(g) USE OF FUNDS.—

8 “(1) PROFESSIONAL DEVELOPMENT.—A local
9 educational agency receiving funds under this part
10 may use such funds to support ongoing training and
11 professional development to assist teachers and
12 paraprofessionals in satisfying the requirements of
13 this section.

14 “(2) LIMITATION ON USE OF FUNDS FOR PARA-
15 PROFESSIONALS.—

16 “(A) IN GENERAL.—Beginning on and
17 after the effective date of the No Child Left Be-
18 hind Act of 2001, a local educational agency
19 may not use funds received under this part to
20 fund any paraprofessional hired after such date
21 unless the hiring is to fill a vacancy created by
22 the departure of another paraprofessional fund-
23 ed under this part and such new paraprofes-
24 sional satisfies the requirements of subsection
25 (b), except as provided in subsection (d).

1 “(B) EXCEPTION.—Subparagraph (A)
2 shall not apply for a fiscal year to a local edu-
3 cational agency that can demonstrate to the
4 State that all teachers under the jurisdiction of
5 the agency are fully qualified.

6 “(h) VERIFICATION OF COMPLIANCE.—

7 “(1) IN GENERAL.—In verifying compliance
8 with this section, each local educational agency at a
9 minimum shall require that the principal of each
10 school operating a program under section 1114 or
11 1115 annually attest in writing as to whether such
12 school is in compliance with the requirements of this
13 section.

14 “(2) AVAILABILITY OF INFORMATION.—Copies
15 of attestations under paragraph (1)—

16 “(A) shall be maintained at each school op-
17 erating a program under section 1114 or 1115
18 and at the main office of the local educational
19 agency; and

20 “(B) shall be available to any member of
21 the general public upon request.

22 **“SEC. 1119A. PROFESSIONAL DEVELOPMENT.**

23 “(a) PURPOSE.—The purpose of this section is to as-
24 sist each local educational agency receiving assistance
25 under this part in increasing the academic achievement

1 of children served under this part through improved teach-
2 er quality.

3 “(b) PROFESSIONAL DEVELOPMENT ACTIVITIES.—
4 Professional development activities under this section
5 shall—

6 “(1) give teachers, principals, and administra-
7 tors the knowledge and skills to provide students
8 with the opportunity to meet challenging State or
9 local academic content standards and student aca-
10 demic achievement standards;

11 “(2) support the recruiting, hiring, and training
12 of fully qualified teachers, including teachers fully
13 qualified through State and local alternative routes;

14 “(3) advance teacher understanding of effective
15 instructional strategies based on scientifically based
16 research for improving student achievement, at a
17 minimum, in reading or language arts and mathe-
18 matics;

19 “(4) be directly related to the curriculum and
20 content areas in which the teacher provides instruc-
21 tion, except this requirement does not apply to ac-
22 tivities that instruct in methods of improving stu-
23 dent behavior;

24 “(5) be designed to enhance the ability of a
25 teacher to understand and use the State’s academic

1 standards for the subject area in which the teacher
2 provides instruction;

3 “(6) be tied to scientifically based research
4 demonstrating the effectiveness of such professional
5 development activities or programs in increasing stu-
6 dent achievement or substantially increasing the
7 knowledge and teaching skills of teachers;

8 “(7) be of sufficient intensity and duration (not
9 to include 1-day or short-term workshops and con-
10 ferences) to have a positive and lasting impact on
11 the teacher’s performance in the classroom;

12 “(8) be developed with extensive participation
13 of teachers, principals, parents, and administrators
14 of schools to be served under this part;

15 “(9) be designed to give teachers of limited
16 English proficient children, other teachers, and in-
17 structional staff the knowledge and skills to provide
18 instruction and appropriate language and academic
19 support services to such children, including the ap-
20 propriate use of curriculum and academic assess-
21 ments;

22 “(10) to the extent appropriate, provide train-
23 ing for teachers in the use of technology so that
24 technology and its applications are effectively used
25 in the classroom to improve teaching and learning in

1 the curriculum and academic content areas in which
2 the teachers provide instruction; and

3 “(11) as a whole, be regularly evaluated for
4 their impact on increased teacher effectiveness and
5 improved student achievement, with the findings of
6 such evaluations used to improve the quality of pro-
7 fessional development.

8 “(c) ADDITIONAL PROFESSIONAL DEVELOPMENT
9 ACTIVITIES.—Such professional development activities
10 may include—

11 “(1) instruction in the use of data and aca-
12 demic assessments to inform and instruct classroom
13 practice;

14 “(2) instruction in ways that teachers, prin-
15 cipals, pupil services personnel, and school adminis-
16 trators may work more effectively with parents;

17 “(3) the forming of partnerships with institu-
18 tions of higher education to establish school-based
19 teacher training programs that provide prospective
20 teachers and novice teachers with an opportunity to
21 work under the guidance of experienced teachers and
22 college faculty;

23 “(4) the creation of career ladder programs for
24 paraprofessionals (assisting teachers under this
25 part) to obtain the education necessary for such

1 paraprofessionals to become licensed and certified
2 teachers; and

3 “(5) instruction in ways to teach special needs
4 children.

5 “(d) PROGRAM PARTICIPATION.—Each local edu-
6 cational agency receiving assistance under this part may
7 design professional development programs so that—

8 “(1) all school staff in schools participating in
9 a schoolwide program under section 1114 can par-
10 ticipate in professional development activities; and

11 “(2) all school staff in targeted assistance
12 schools may participate in professional development
13 activities if such participation will result in better
14 addressing the needs of students served under this
15 part.

16 “(e) PARENTAL PARTICIPATION.—Parents may par-
17 ticipate in professional development activities under this
18 part if the school determines that parental participation
19 is appropriate.

20 “(f) CONSORTIA.—In carrying out such professional
21 development programs, local educational agencies may
22 provide services through consortia arrangements with
23 other local educational agencies, educational service agen-
24 cies or other local consortia, institutions of higher edu-

1 cation, or other public or private institutions or organiza-
2 tions.

3 “(g) CONSOLIDATION OF FUNDS.—Funds provided
4 under this part that are used for professional development
5 purposes may be consolidated with funds provided under
6 title II of this Act and other sources.

7 “(h) SPECIAL RULE.—No State educational agency
8 shall require a school or a local educational agency to ex-
9 pend a specific amount of funds for professional develop-
10 ment activities under this part, except that this paragraph
11 shall not apply with respect to requirements under section
12 1116(b)(3)(A)(iii).

13 **“SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN**
14 **PRIVATE SCHOOLS.**

15 “(a) GENERAL REQUIREMENT.—

16 “(1) IN GENERAL.—To the extent consistent
17 with the number of eligible children identified under
18 section 1115(b) in a local educational agency who
19 are enrolled in private elementary and secondary
20 schools, a local educational agency shall, after timely
21 and meaningful consultation with appropriate pri-
22 vate school officials, provide such children, on an eq-
23 uitable basis, special educational services or other
24 benefits under this part (such as dual enrollment,
25 educational radio and television, computer equip-

1 ment and materials, other technology, and mobile
2 educational services and equipment) that address
3 their needs, and shall ensure that teachers and fami-
4 lies of these students participate, on an equitable
5 basis, in services and activities developed pursuant
6 to sections 1118 and 1119A.

7 “(2) SECULAR, NEUTRAL, NONIDEOLOGICAL.—
8 Such educational services or other benefits, including
9 materials and equipment, shall be secular, neutral,
10 and nonideological.

11 “(3) EQUITY.—Educational services and other
12 benefits for such private school children shall be eq-
13 uitable in comparison to services and other benefits
14 for public school children participating under this
15 part, and shall be provided in a timely manner.

16 “(4) EXPENDITURES.—Expenditures for edu-
17 cational services and other benefits to eligible private
18 school children shall be equal to the proportion of
19 funds allocated to participating school attendance
20 areas based on the number of children from low-in-
21 come families who attend private schools, which the
22 local educational agency may determine each year or
23 every 2 years.

24 “(5) PROVISION OF SERVICES.—The local edu-
25 cational agency shall provide services under this sec-

1 tion directly or through contracts with public and
2 private agencies, organizations, and institutions.

3 “(b) CONSULTATION.—

4 “(1) IN GENERAL.—To ensure timely and
5 meaningful consultation, a local educational agency
6 shall consult with appropriate private school officials
7 during the design and development of such agency’s
8 programs under this part, on issues such as—

9 “(A) how the children’s needs will be iden-
10 tified;

11 “(B) what services will be offered;

12 “(C) how, where, and by whom the services
13 will be provided;

14 “(D) how the services will be academically
15 assessed and how the results of that assessment
16 will be used to improve those services;

17 “(E) the size and scope of the equitable
18 services to be provided to the eligible private
19 school children, and the amount of funds gen-
20 erated by low-income private school children in
21 each participating attendance area;

22 “(F) the method or sources of data that
23 are used under subsection (a)(4) and section
24 1113(c)(2) to determine the number of children
25 from low-income families in participating school

1 attendance areas who attend private schools;
2 and

3 “(G) how and when the agency will make
4 decisions about the delivery of services to such
5 children, including a thorough consideration
6 and analysis of the views of the private school
7 officials on the provision of contract services
8 through potential third party providers.

9 If the local educational agency disagrees with the
10 views of the private school officials on the provision
11 of services, through a contract, the local educational
12 agency shall provide in writing to such private school
13 officials, an analysis of the reasons why the local
14 educational agency has chosen not to use a con-
15 tractor.

16 “(2) TIMING.—Such consultation shall include
17 meetings of agency and private school officials and
18 shall occur before the local educational agency
19 makes any decision that affects the opportunities of
20 eligible private school children to participate in pro-
21 grams under this part. Such meetings shall continue
22 throughout implementation and assessment of serv-
23 ices provided under this section.

24 “(3) DISCUSSION.—Such consultation shall in-
25 clude a discussion of service delivery mechanisms a

1 local educational agency can use to provide equitable
2 services to eligible private school children.

3 “(4) DOCUMENTATION.—Each local educational
4 agency shall maintain in its records and provide to
5 the State educational agency a written affirmation
6 signed by officials of each participating private
7 school that the consultation required by this section
8 has occurred.

9 “(5) COMPLIANCE.—Private school officials
10 shall have the right to appeal to the State as to
11 whether the consultation provided for in this section
12 was meaningful and timely, and that due consider-
13 ation was given to the views of private school offi-
14 cials. If the private school wishes to appeal, the basis
15 of the claim of noncompliance with this section by
16 a local educational agency shall be provided to the
17 State, and the local educational agency shall forward
18 the documentation provided in subsection (b)(4) to
19 the State.

20 “(c) PUBLIC CONTROL OF FUNDS.—

21 “(1) IN GENERAL.—The control of funds pro-
22 vided under this part, and title to materials, equip-
23 ment, and property purchased with such funds, shall
24 be in a public agency, and a public agency shall ad-
25 minister such funds and property.

1 “(2) PROVISION OF SERVICES.—(A) The provi-
2 sion of services under this section shall be
3 provided—

4 “(i) by employees of a public agency; or

5 “(ii) through contract by such public agen-
6 cy with an individual, association, agency, or or-
7 ganization.

8 “(B) In the provision of such services, such em-
9 ployee, person, association, agency, or organization
10 shall be independent of such private school and of
11 any religious organization, and such employment or
12 contract shall be under the control and supervision
13 of such public agency.

14 “(d) STANDARDS FOR A BYPASS.—If a local edu-
15 cational agency is prohibited by law from providing for
16 the participation on an equitable basis of eligible children
17 enrolled in private elementary and secondary schools or
18 if the Secretary determines that a local educational agency
19 has substantially failed or is unwilling to provide for such
20 participation, as required by this section, the Secretary
21 shall—

22 “(1) waive the requirements of this section for
23 such local educational agency;

24 “(2) arrange for the provision of services to
25 such children through arrangements that shall be

1 subject to the requirements of this section and sec-
2 tions 8505 and 8506; and

3 “(3) in making the determination, consider one
4 or more factors, including the quality, size, scope,
5 and location of the program and the opportunity of
6 eligible children to participate.

7 “(e) CAPITAL EXPENSES.—

8 “(1) IN GENERAL.—(A) From the amount ap-
9 propriated for this subsection under section 1002(g)
10 for any fiscal year, each State is eligible to receive
11 an amount that bears the same ratio to the amount
12 so appropriated as the number of private school chil-
13 dren who received services under this part in the
14 State in the most recent year for which data satis-
15 factory to the Secretary are available bears to the
16 number of such children in all States in that same
17 year.

18 “(B) The Secretary shall reallocate any
19 amounts allocated under subparagraph (A) that are
20 not used by a State for the purpose of this sub-
21 section to other States on the basis of their respec-
22 tive needs, as determined by the Secretary.

23 “(2) CAPITAL EXPENSES.—(A) A local edu-
24 cational agency may apply to the State educational

1 agency for payments for capital expenses consistent
2 with this subsection.

3 “(B) State educational agencies shall distribute
4 such funds under this subsection to local educational
5 agencies based on the degree of need set forth in
6 their respective applications for assistance under this
7 subsection.

8 “(3) USES OF FUNDS.—Any funds appropriated
9 to carry out this subsection shall be used only for
10 capital expenses incurred to provide equitable serv-
11 ices for private school children under this section.

12 **“SEC. 1120A. FISCAL REQUIREMENTS.**

13 “(a) MAINTENANCE OF EFFORT.—A local edu-
14 cational agency may receive funds under this part for any
15 fiscal year only if the State educational agency finds that
16 the local educational agency has maintained its fiscal ef-
17 fort in accordance with section 8501 of this Act.

18 “(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUP-
19 PLANT, NON-FEDERAL FUNDS.—

20 “(1) IN GENERAL.—A State or local edu-
21 cational agency shall use funds received under this
22 part only to supplement the amount of funds that
23 would, in the absence of such Federal funds, be
24 made available from non-Federal sources for the
25 education of pupils participating in programs as-

1 sisted under this part, and not to supplant such
2 funds.

3 “(2) SPECIAL RULE.—No local educational
4 agency shall be required to provide services under
5 this part through a particular instructional method
6 or in a particular instructional setting in order to
7 demonstrate such agency’s compliance with para-
8 graph (1).

9 “(c) COMPARABILITY OF SERVICES.—

10 “(1) IN GENERAL.—(A) Except as provided in
11 paragraphs (4) and (5), a local educational agency
12 may receive funds under this part only if State and
13 local funds will be used in schools served under this
14 part to provide services that, taken as a whole, are
15 at least comparable to services in schools that are
16 not receiving funds under this part.

17 “(B) If the local educational agency is serving
18 all of such agency’s schools under this part, such
19 agency may receive funds under this part only if
20 such agency will use State and local funds to provide
21 services that, taken as a whole, are substantially
22 comparable in each school.

23 “(C) A local educational agency may meet the
24 requirements of subparagraphs (A) and (B) on a

1 grade-span by grade-span basis or a school-by-school
2 basis.

3 “(2) WRITTEN ASSURANCE.—(A) A local edu-
4 cational agency shall be considered to have met the
5 requirements of paragraph (1) if such agency has
6 filed with the State educational agency a written as-
7 surance that such agency has established and
8 implemented—

9 “(i) a local educational agency-wide salary
10 schedule;

11 “(ii) a policy to ensure equivalence among
12 schools in teachers, administrators, and other
13 staff; and

14 “(iii) a policy to ensure equivalence among
15 schools in the provision of curriculum materials
16 and instructional supplies.

17 “(B) For the purpose of subparagraph (A), in
18 the determination of expenditures per pupil from
19 State and local funds, or instructional salaries per
20 pupil from State and local funds, staff salary dif-
21 ferentials for years of employment shall not be in-
22 cluded in such determinations.

23 “(C) A local educational agency need not in-
24 clude unpredictable changes in student enrollment or
25 personnel assignments that occur after the beginning

1 of a school year in determining comparability of
2 services under this subsection.

3 “(3) PROCEDURES AND RECORDS.—Each local
4 educational agency assisted under this part shall—

5 “(A) develop procedures for compliance
6 with this subsection; and

7 “(B) maintain records that are updated bi-
8 ennially documenting such agency’s compliance
9 with this subsection.

10 “(4) INAPPLICABILITY.—This subsection shall
11 not apply to a local educational agency that does not
12 have more than one building for each grade span.

13 “(5) COMPLIANCE.—For the purpose of deter-
14 mining compliance with paragraph (1), a local edu-
15 cational agency may exclude State and local funds
16 expended for—

17 “(A) English language instruction for chil-
18 dren of limited English proficiency; and

19 “(B) excess costs of providing services to
20 children with disabilities as determined by the
21 local educational agency.

22 “(d) EXCLUSION OF FUNDS.—For the purpose of
23 complying with subsections (b) and (c), a State or local
24 educational agency may exclude supplemental State or
25 local funds expended in any school attendance area or

1 school for programs that meet the intent and purposes of
2 this part.

3 **“SEC. 1120B. COORDINATION REQUIREMENTS.**

4 “(a) IN GENERAL.—Each local educational agency
5 receiving assistance under this part shall carry out the ac-
6 tivities described in subsection (b) with Head Start Agen-
7 cies, and if feasible, other early childhood development
8 programs such as Early Reading First.

9 “(b) ACTIVITIES.—The activities referred to in sub-
10 section (a) are activities that increase coordination be-
11 tween the local educational agency and a Head Start agen-
12 cy, and, if feasible, other early childhood development pro-
13 grams, such as Early Reading First serving children who
14 will attend the schools of such agency, including—

15 “(1) developing and implementing a systematic
16 procedure for receiving records regarding such chil-
17 dren transferred with parental consent from a Head
18 Start program or, where applicable, other early
19 childhood development programs such as Early
20 Reading First;

21 “(2) establishing channels of communication be-
22 tween school staff and their counterparts in such
23 Head Start agencies (including teachers, social
24 workers, and health staff) or other early childhood
25 development programs such as Early Reading First,

1 as appropriate, to facilitate coordination of pro-
2 grams;

3 “(3) conducting meetings involving parents,
4 kindergarten or elementary school teachers, and
5 Head Start teachers or, if appropriate, teachers
6 from other early childhood development programs
7 such as Early Reading First, to discuss the develop-
8 mental and other needs of individual children;

9 “(4) organizing and participating in joint tran-
10 sition related training of school staff, Head Start
11 staff, Early Reading First staff and, where appro-
12 priate, other early childhood staff; and

13 “(5) linking the educational services provided in
14 such local educational agency with the services pro-
15 vided in local Head Start agencies and Early Read-
16 ing First programs.

17 “(c) COORDINATION OF REGULATIONS.—The Sec-
18 retary shall work with the Secretary of Health and Human
19 Services to coordinate regulations promulgated under this
20 part with regulations promulgated under the Head Start
21 Act.

“Subpart 2—Allocations**“SEC. 1121. GRANTS FOR THE OUTLYING AREAS AND THE
SECRETARY OF THE INTERIOR.**

“(a) RESERVATION OF FUNDS.—From the amount appropriated for payments to States for any fiscal year under section 1002(a), the Secretary shall reserve a total of 1 percent to provide assistance to—

“(1) the outlying areas in the amount determined in accordance with subsection (b); and

“(2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (d).

“(b) ASSISTANCE TO OUTLYING AREAS.—

“(1) FUNDS RESERVED.—From the amount made available for any fiscal year under subsection (a), the Secretary shall award grants to the outlying areas.

“(2) COMPETITIVE GRANTS.—For each of fiscal years 2002 and 2003, the Secretary shall carry out the competition described in paragraph (3), except that the amount reserved to carry out such competition shall not exceed the amount reserved under this section for the freely associated states for fiscal year 1999.

“(3) LIMITATION FOR COMPETITIVE GRANTS.—

1 “(A) COMPETITIVE GRANTS.—The Sec-
2 retary shall use funds described in paragraph
3 (2) to award grants, on a competitive basis, to
4 the outlying areas and freely associated States
5 to carry out the purposes of this part.

6 “(B) AWARD BASIS.—The Secretary shall
7 award grants under subparagraph (A) on a
8 competitive basis, pursuant to the recommenda-
9 tions of the Pacific Region Educational Labora-
10 tory in Honolulu, Hawaii.

11 “(C) ADMINISTRATIVE COSTS.—The Sec-
12 retary may provide not more than 5 percent of
13 the amount reserved for grants under this para-
14 graph to pay the administrative costs of the Pa-
15 cific Region Educational Laboratory under sub-
16 paragraph (B).

17 “(4) SPECIAL RULE.—The provisions of Public
18 Law 95–134, permitting the consolidation of grants
19 by the outlying areas, shall not apply to funds pro-
20 vided to the freely associated States under this sec-
21 tion.

22 “(c) DEFINITIONS.—For the purposes of subsections
23 (a) and (b)—

1 “(1) the term ‘freely associated States’ means
2 the Republic of the Marshall Islands, the Federated
3 States of Micronesia, and the Republic of Palau; and

4 “(2) the term ‘outlying area’ means the United
5 States Virgin Islands, Guam, American Samoa, and
6 the Commonwealth of the Northern Mariana Is-
7 lands.

8 “(d) ALLOTMENT TO THE SECRETARY OF THE INTE-
9 RIOR.—

10 “(1) IN GENERAL.—The amount allotted for
11 payments to the Secretary of the Interior under sub-
12 section (a)(2) for any fiscal year shall be, as deter-
13 mined pursuant to criteria established by the Sec-
14 retary, the amount necessary to meet the special
15 educational needs of—

16 “(A) Indian children on reservations served
17 by elementary and secondary schools for Indian
18 children operated or supported by the Depart-
19 ment of the Interior; and

20 “(B) out-of-State Indian children in ele-
21 mentary and secondary schools in local edu-
22 cational agencies under special contracts with
23 the Department of the Interior.

24 “(2) PAYMENTS.—From the amount allotted
25 for payments to the Secretary of the Interior under

1 subsection (a)(2), the Secretary of the Interior shall
2 make payments to local educational agencies, upon
3 such terms as the Secretary determines will best
4 carry out the purposes of this part, with respect to
5 out-of-State Indian children described in paragraph
6 (1). The amount of such payment may not exceed,
7 for each such child, the greater of—

8 “(A) 40 percent of the average per-pupil
9 expenditure in the State in which the agency is
10 located; or

11 “(B) 48 percent of such expenditure in the
12 United States.

13 **“SEC. 1122. AMOUNTS FOR BASIC GRANTS, CONCENTRA-**
14 **TION GRANTS, AND TARGETED GRANTS.**

15 “(a) ALLOCATION FORMULA.—Of the amount appro-
16 priated to carry out this part for each of fiscal years 2002
17 through 2006 (referred to in this subsection as the current
18 fiscal year)—

19 “(1) an amount equal to the amount appro-
20 priated to carry out section 1124 for fiscal year
21 2001 shall be allocated in accordance with section
22 1124;

23 “(2) an amount equal to the amount appro-
24 priated to carry out section 1124A for fiscal year

1 2001 shall be allocated in accordance with section
2 1124A; and

3 “(3) an amount equal to 100 percent of the
4 amount, if any, by which the amount appropriated
5 under section 1002(a) for the current fiscal year ex-
6 ceeds the amount appropriated under such section
7 for fiscal year 2001 shall be allocated in accordance
8 with section 1125.

9 “(b) ADJUSTMENTS WHERE NECESSITATED BY AP-
10 PROPRIATIONS.—

11 “(1) IN GENERAL.—If the sums available under
12 this part for any fiscal year are insufficient to pay
13 the full amounts that all local educational agencies
14 in States are eligible to receive under sections 1124,
15 1124A, and 1125 for such year, the Secretary shall
16 ratably reduce the allocations to such local edu-
17 cational agencies, subject to subsections (c) and (d)
18 of this section.

19 “(2) ADDITIONAL FUNDS.—If additional funds
20 become available for making payments under sec-
21 tions 1124, 1124A, and 1125 for such fiscal year,
22 allocations that were reduced under paragraph (1)
23 shall be increased on the same basis as they were re-
24 duced.

25 “(c) HOLD-HARMLESS AMOUNTS.—

1 “(1) AMOUNTS FOR SECTIONS 1124 AND 1125.—
2 For each fiscal year, the amount made available to
3 each local educational agency under each of sections
4 1124 and 1125 shall be—

5 “(A) not less than 95 percent of the
6 amount made available in the preceding fiscal
7 year if the number of children counted for
8 grants under section 1124 is not less than 30
9 percent of the total number of children aged 5
10 to 17 years, inclusive, in the local educational
11 agency;

12 “(B) not less than 90 percent of the
13 amount made available in the preceding fiscal
14 year if the percentage described in subpara-
15 graph (A) is between 15 percent and 30 per-
16 cent; and

17 “(C) not less than 85 percent of the
18 amount made available in the preceding fiscal
19 year if the percentage described in subpara-
20 graph (A) is below 15 percent.

21 “(2) AMOUNT FOR SECTION 1124A.—The
22 amount made available to each local educational
23 agency under section 1124A shall be not less than
24 85 percent of the amount made available in the pre-
25 ceding fiscal year.

1 “(3) PAYMENTS.—If sufficient funds are appro-
2 priated, the amounts described in paragraph (2)
3 shall be paid to all local educational agencies that
4 received grants under section 1124A for the pre-
5 ceding fiscal year, regardless of whether the local
6 educational agency meets the minimum eligibility
7 criteria for that fiscal year provided in section
8 1124A(a)(1)(A) except that a local educational agen-
9 cy that does not meet such minimum eligibility cri-
10 teria for 4 consecutive years shall no longer be eligi-
11 ble to receive a hold harmless amount referred to in
12 paragraph (2).

13 “(4) POPULATION DATA.—In any fiscal year for
14 which the Secretary calculates grants on the basis of
15 population data for counties, the Secretary shall
16 apply the hold harmless percentages in paragraphs
17 (1) and (2) to counties, and if the Secretary’s alloca-
18 tion for a county is not sufficient to meet the hold-
19 harmless requirements of this subsection for every
20 local educational agency within that county, the
21 State educational agency shall reallocate funds pro-
22 portionately from all other local educational agencies
23 in the State that are receiving funds in excess of the
24 hold harmless amounts specified in this subsection.

25 “(d) RATABLE REDUCTIONS.—

1 “(1) IN GENERAL.—If the sums made available
2 under this part for any fiscal year are insufficient to
3 pay the full amounts that all States are eligible to
4 receive under subsection (c) for such year, the Sec-
5 retary shall ratably reduce such amounts for such
6 year.

7 “(2) ADDITIONAL FUNDS.—If additional funds
8 become available for making payments under sub-
9 section (c) for such fiscal year, amounts that were
10 reduced under paragraph (1) shall be increased on
11 the same basis as such amounts were reduced.

12 “(e) DEFINITION.—For the purpose of this section
13 and sections 1124, 1124A, and 1125, the term ‘State’
14 means each of the 50 States, the District of Columbia,
15 and the Commonwealth of Puerto Rico.

16 **“SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGEN-**
17 **CIES.**

18 “(a) AMOUNT OF GRANTS.—

19 “(1) GRANTS FOR LOCAL EDUCATIONAL AGEN-
20 CIES AND PUERTO RICO.—Except as provided in
21 paragraph (4) and in section 1126, the grant that
22 a local educational agency is eligible to receive under
23 this section for a fiscal year is the amount deter-
24 mined by multiplying—

1 “(A) the number of children counted under
2 subsection (c); and

3 “(B) 40 percent of the average per-pupil
4 expenditure in the State, except that the
5 amount determined under this subparagraph
6 shall not be less than 32 percent or more than
7 48 percent, of the average per-pupil expenditure
8 in the United States.

9 “(2) CALCULATION OF GRANTS.—

10 “(A) ALLOCATIONS TO LOCAL EDU-
11 CATIONAL AGENCIES.—The Secretary shall cal-
12 culate grants under this section on the basis of
13 the number of children counted under sub-
14 section (c) for local educational agencies, unless
15 the Secretary and the Secretary of Commerce
16 determine that some or all of those data are un-
17 reliable or that their use would be otherwise in-
18 appropriate, in which case—

19 “(i) the two Secretaries shall publicly
20 disclose the reasons for their determination
21 in detail; and

22 “(ii) paragraph (3) shall apply.

23 “(B) ALLOCATIONS TO LARGE AND SMALL
24 LOCAL EDUCATIONAL AGENCIES.—(i) For any
25 fiscal year in which this paragraph applies, the

1 Secretary shall calculate grants under this sec-
2 tion for each local educational agency.

3 “(ii) The amount of a grant under this
4 section for each large local educational agency
5 shall be the amount determined under clause
6 (i).

7 “(iii) For small local educational agencies,
8 the State educational agency may either—

9 “(I) distribute grants under this sec-
10 tion in amounts determined by the Sec-
11 retary under clause (i); or

12 “(II) use an alternative method ap-
13 proved by the Secretary to distribute the
14 portion of the State’s total grants under
15 this section that is based on those small
16 agencies.

17 “(iv) An alternative method under clause
18 (iii)(II) shall be based on population data that
19 the State educational agency determines best
20 reflect the current distribution of children in
21 poor families among the State’s small local edu-
22 cational agencies that meet the eligibility cri-
23 teria of subsection (b).

24 “(v) If a small local educational agency is
25 dissatisfied with the determination of its grant

1 by the State educational agency under clause
2 (iii)(II), it may appeal that determination to the
3 Secretary, who shall respond not later than 45
4 days after receipt of such appeal.

5 “(vi) As used in this subparagraph—

6 “(I) the term ‘large local educational
7 agency’ means a local educational agency
8 serving an area with a total population of
9 20,000 or more; and

10 “(II) the term ‘small local educational
11 agency’ means a local educational agency
12 serving an area with a total population of
13 less than 20,000.

14 “(3) ALLOCATIONS TO COUNTIES.—

15 “(A) CALCULATION.—For any fiscal year
16 to which this paragraph applies, the Secretary
17 shall calculate grants under this section on the
18 basis of the number of children counted under
19 section 1124(c) for counties, and State edu-
20 cational agencies shall suballocate county
21 amounts to local educational agencies, in ac-
22 cordance with regulations issued by the Sec-
23 retary.

24 “(B) DIRECT ALLOCATIONS.—In any State
25 in which a large number of local educational

1 agencies overlap county boundaries, or for
2 which the State believes it has data that would
3 better target funds than allocating them by
4 county, the State educational agency may apply
5 to the Secretary for authority to make the allo-
6 cations under this part for a particular fiscal
7 year directly to local educational agencies with-
8 out regard to counties.

9 “(C) ASSURANCES.—If the Secretary ap-
10 proves the State educational agency’s applica-
11 tion under subparagraph (B), the State edu-
12 cational agency shall provide the Secretary an
13 assurance that such allocations shall be made—

14 “(i) using precisely the same factors
15 for determining a grant as are used under
16 this part; or

17 “(ii) using data that the State edu-
18 cational agency submits to the Secretary
19 for approval that more accurately target
20 poverty.

21 “(D) APPEAL.—The State educational
22 agency shall provide the Secretary an assurance
23 that it shall establish a procedure through
24 which a local educational agency that is dissat-
25 isfied with its determinations under subpara-

1 graph (B) may appeal directly to the Secretary
2 for a final determination.

3 “(4) PUERTO RICO.—

4 “(A) IN GENERAL.—For each fiscal year,
5 the grant which the Commonwealth of Puerto
6 Rico shall be eligible to receive under this sec-
7 tion shall be the amount determined by multi-
8 plying the number of children counted under
9 subsection (c) for the Commonwealth of Puerto
10 Rico by the product of—

11 “(i) the percentage which the average
12 per-pupil expenditure in the Common-
13 wealth of Puerto Rico is of the lowest aver-
14 age per-pupil expenditure of any of the 50
15 States; and

16 “(ii) 32 percent of the average per-
17 pupil expenditure in the United States.

18 “(B) MINIMUM PERCENTAGE.—The per-
19 centage in subparagraph (A)(i) shall not be less
20 than—

21 “(i) for fiscal year 2002, 77.5 percent;

22 “(ii) for fiscal year 2003, 80.0 per-
23 cent;

24 “(iii) for fiscal year 2004, 82.5 per-
25 cent; and

1 “(iv) for fiscal year 2005 and suc-
2 ceeding fiscal years, 85.0 percent.

3 “(C) LIMITATION.—If the application of
4 subparagraph (B) would result in any of the 50
5 States or the District of Columbia receiving less
6 under this part than it received under this part
7 for the preceding fiscal year, the percentage in
8 subparagraph (A) shall be the greater of the
9 percentage in subparagraph (A)(i) or the per-
10 centage used for the preceding fiscal year.

11 “(5) DEFINITION.—For purposes of this sub-
12 section, the term ‘State’ does not include Guam,
13 American Samoa, the Virgin Islands, and the North-
14 ern Mariana Islands.

15 “(b) MINIMUM NUMBER OF CHILDREN TO QUAL-
16 IFY.—A local educational agency is eligible for a basic
17 grant under this section for any fiscal year only if the
18 number of children counted under subsection (c) for that
19 agency is both—

20 “(1) 10 or more; and

21 “(2) more than 2 percent of the total school-age
22 population in the agency’s jurisdiction.

23 “(c) CHILDREN TO BE COUNTED.—

1 “(1) CATEGORIES OF CHILDREN.—The number
2 of children to be counted for purposes of this section
3 is the aggregate of—

4 “(A) the number of children aged 5 to 17,
5 inclusive, in the school district of the local edu-
6 cational agency from families below the poverty
7 level as determined under paragraph (2);

8 “(B) the number of children (determined
9 under paragraph (4) for either the preceding
10 year as described in that paragraph, or for the
11 second preceding year, as the Secretary finds
12 appropriate) aged 5 to 17, inclusive, in the
13 school district of such agency in institutions for
14 neglected and delinquent children (other than
15 such institutions operated by the United
16 States), but not counted pursuant to subpart 1
17 of part D for the purposes of a grant to a State
18 agency, or being supported in foster homes with
19 public funds; and

20 “(C) the number of children aged 5 to 17,
21 inclusive, in the school district of such agency
22 from families above the poverty level as deter-
23 mined under paragraph (4).

24 “(2) DETERMINATION OF NUMBER OF CHIL-
25 DREN.—For the purposes of this section, the Sec-

1 retary shall determine the number of children aged
2 5 to 17, inclusive, from families below the poverty
3 level on the basis of the most recent satisfactory
4 data, described in paragraph (3), available from the
5 Department of Commerce. The District of Columbia
6 and the Commonwealth of Puerto Rico shall be
7 treated as individual local educational agencies. If a
8 local educational agency contains two or more coun-
9 ties in their entirety, then each county will be treat-
10 ed as if such county were a separate local edu-
11 cational agency for purposes of calculating grants
12 under this part. The total of grants for such coun-
13 ties shall be allocated to such a local educational
14 agency, which local educational agency shall dis-
15 tribute to schools in each county within such agency
16 a share of the local educational agency's total grant
17 that is no less than the county's share of the popu-
18 lation counts used to calculate the local educational
19 agency's grant.

20 “(3) POPULATION UPDATES.—In fiscal year
21 2001 and every 2 years thereafter, the Secretary
22 shall use updated data on the number of children,
23 aged 5 to 17, inclusive, from families below the pov-
24 erty level for local educational agencies or counties,
25 published by the Department of Commerce, unless

1 the Secretary and the Secretary of Commerce deter-
2 mine that use of the updated population data would
3 be inappropriate or unreliable. If the Secretary and
4 the Secretary of Commerce determine that some or
5 all of the data referred to in this paragraph are in-
6 appropriate or unreliable, they shall publicly disclose
7 their reasons. In determining the families which are
8 below the poverty level, the Secretary shall utilize
9 the criteria of poverty used by the Bureau of the
10 Census in compiling the most recent decennial cen-
11 sus, in such form as those criteria have been up-
12 dated by increases in the Consumer Price Index for
13 all urban consumers, published by the Bureau of
14 Labor Statistics.

15 “(4) OTHER CHILDREN TO BE COUNTED.—For
16 the purposes of this section, the Secretary shall de-
17 termine the number of children aged 5 to 17, inclu-
18 sive, from families above the poverty level on the
19 basis of the number of such children from families
20 receiving an annual income, in excess of the current
21 criteria of poverty, from payments under a State
22 program funded under part A of title IV of the So-
23 cial Security Act; and in making such determina-
24 tions the Secretary shall utilize the criteria of pov-
25 erty used by the Bureau of the Census in compiling

1 the most recent decennial census for a family of 4
2 in such form as those criteria have been updated by
3 increases in the Consumer Price Index for all urban
4 consumers, published by the Bureau of Labor Statis-
5 tics. The Secretary shall determine the number of
6 such children and the number of children aged 5
7 through 17 living in institutions for neglected or de-
8 linquent children, or being supported in foster homes
9 with public funds, on the basis of the caseload data
10 for the month of October of the preceding fiscal year
11 (using, in the case of children described in the pre-
12 ceding sentence, the criteria of poverty and the form
13 of such criteria required by such sentence which
14 were determined for the calendar year preceding
15 such month of October) or, to the extent that such
16 data are not available to the Secretary before Janu-
17 ary of the calendar year in which the Secretary's de-
18 termination is made, then on the basis of the most
19 recent reliable data available to the Secretary at the
20 time of such determination. The Secretary of Health
21 and Human Services shall collect and transmit the
22 information required by this subparagraph to the
23 Secretary not later than January 1 of each year.
24 For the purpose of this section, the Secretary shall
25 consider all children who are in correctional institu-

1 tions to be living in institutions for delinquent chil-
2 dren.

3 “(5) ESTIMATE.—When requested by the Sec-
4 retary, the Secretary of Commerce shall make a spe-
5 cial updated estimate of the number of children of
6 such ages who are from families below the poverty
7 level (as determined under subparagraph (A) of this
8 paragraph) in each school district, and the Secretary
9 is authorized to pay (either in advance or by way of
10 reimbursement) the Secretary of Commerce the cost
11 of making this special estimate. The Secretary of
12 Commerce shall give consideration to any request of
13 the chief executive of a State for the collection of ad-
14 ditional census information.

15 “(d) STATE MINIMUM.—Notwithstanding section
16 1122, the aggregate amount allotted for all local edu-
17 cational agencies within a State may not be less than the
18 lesser of—

19 “(1) 0.25 percent of total grants under this sec-
20 tion; or

21 “(2) the average of—

22 “(A) one-quarter of 1 percent of the total
23 amount available for such fiscal year under this
24 section; and

1 “(B) the number of children in such State
2 counted under subsection (c) in the fiscal year
3 multiplied by 150 percent of the national aver-
4 age per-pupil payment made with funds avail-
5 able under this section for that year.

6 **“SEC. 1124A. CONCENTRATION GRANTS TO LOCAL EDU-**
7 **CATIONAL AGENCIES.**

8 “(a) ELIGIBILITY FOR AND AMOUNT OF GRANTS.—

9 “(1) IN GENERAL.—(A) Except as otherwise
10 provided in this paragraph, each local educational
11 agency, in a State other than Guam, American
12 Samoa, the Virgin Islands, and the Commonwealth
13 of the Northern Mariana Islands, which is eligible
14 for a grant under section 1124 for any fiscal year
15 is eligible for an additional grant under this section
16 for that fiscal year if the number of children counted
17 under section 1124(c) in the agency exceeds either—

18 “(i) 6,500; or

19 “(ii) 15 percent of the total number of
20 children aged 5 through 17 in the agency.

21 “(B) Notwithstanding section 1122, no State
22 described in subparagraph (A) shall receive less than
23 the lesser of—

24 “(i) 0.25 percent of total grants; or

25 “(ii) the average of—

1 “(I) one-quarter of 1 percent of the
2 sums available to carry out this section for
3 such fiscal year; and

4 “(II) the greater of—

5 “(aa) \$340,000; or

6 “(bb) the number of children in
7 such State counted for purposes of
8 this section in that fiscal year multi-
9 plied by 150 percent of the national
10 average per-pupil payment made with
11 funds available under this section for
12 that year.

13 “(2) SPECIAL RULE.—For each county or local
14 educational agency eligible to receive an additional
15 grant under this section for any fiscal year the Sec-
16 retary shall determine the product of—

17 “(A) the number of children counted under
18 section 1124(c) for that fiscal year; and

19 “(B) the quotient resulting from the divi-
20 sion of the amount determined for those agen-
21 cies under section 1124(a)(1) for the fiscal year
22 for which the determination is being made di-
23 vided by the total number of children counted
24 under section 1124(c) for that agency for that
25 fiscal year.

1 “(3) AMOUNT.—The amount of the additional
2 grant for which an eligible local educational agency
3 or county is eligible under this section for any fiscal
4 year shall be an amount which bears the same ratio
5 to the amount available to carry out this section for
6 that fiscal year as the product determined under
7 paragraph (2) for such local educational agency for
8 that fiscal year bears to the sum of such products
9 for all local educational agencies in the United
10 States for that fiscal year.

11 “(4) LOCAL ALLOCATIONS.—(A) Grant
12 amounts under this section shall be determined in
13 accordance with section 1124(a)(2) and (3).

14 “(B) For any fiscal year for which the Sec-
15 retary allocates funds under this section on the basis
16 of counties, a State may reserve not more than 2
17 percent of its allocation under this section to make
18 grants to local educational agencies that meet the
19 criteria of paragraph (1)(A)(i) or (ii) and are in in-
20 eligible counties that do not meet these criteria.

21 “(b) STATES RECEIVING MINIMUM GRANTS.—In
22 States that receive the minimum grant under subsection
23 (a)(1)(B), the State educational agency shall allocate such
24 funds among the local educational agencies in each State
25 either—

1 “(1) in accordance with paragraphs (2) and (4)
2 of subsection (a); or

3 “(2) based on their respective concentrations
4 and numbers of children counted under section
5 1124(e), except that only those local educational
6 agencies with concentrations or numbers of children
7 counted under section 1124(e) that exceed the state-
8 wide average percentage of such children or the
9 statewide average number of such children shall re-
10 ceive any funds on the basis of this paragraph.

11 **“SEC. 1125. TARGETED GRANTS TO LOCAL EDUCATIONAL**
12 **AGENCIES.**

13 “(a) **ELIGIBILITY OF LOCAL EDUCATIONAL AGEN-**
14 **CIES.**—A local educational agency in a State is eligible to
15 receive a targeted grant under this section for any fiscal
16 year if the number of children in the local educational
17 agency counted under subsection 1124(e), before applica-
18 tion of the weighting factor described in subsection (e),
19 is at least 10, and if the number of children counted for
20 grants under section 1124 is at least 5 percent of the total
21 population aged 5 to 17 years, inclusive, in the local edu-
22 cational agency. For each fiscal year for which the Sec-
23 retary uses county population data to calculate grants,
24 funds made available as a result of applying this sub-
25 section shall be reallocated by the State educational agen-

1 cy to other eligible local educational agencies in the State
2 in proportion to the distribution of other funds under this
3 section.

4 “(b) GRANTS FOR LOCAL EDUCATIONAL AGENCIES,
5 THE DISTRICT OF COLUMBIA, AND PUERTO RICO.—

6 “(1) IN GENERAL.—The amount of the grant
7 that a local educational agency in a State or that the
8 District of Columbia is eligible to receive under this
9 section for any fiscal year shall be the product of—

10 “(A) the weighted child count determined
11 under subsection (c); and

12 “(B) the amount in paragraph
13 1124(a)(1)(B).

14 “(2) PUERTO RICO.—For each fiscal year, the
15 amount of the grant for which the Commonwealth of
16 Puerto Rico is eligible under this section shall be
17 equal to the number of children counted under sub-
18 section (c) for Puerto Rico, multiplied by the
19 amount determined in subparagraph 1124(a)(4).

20 “(c) WEIGHTED CHILD COUNT.—

21 “(1) WEIGHTS FOR ALLOCATIONS TO COUN-
22 TIES.—

23 “(A) IN GENERAL.—For each fiscal year
24 for which the Secretary uses county population
25 data to calculate grants, the weighted child

1 count used to determine a county's allocation
2 under this section is the larger of the 2
3 amounts determined under clause (i) or (ii), as
4 follows:

5 “(i) BY PERCENTAGE OF CHIL-
6 DREN.—This amount is determined by
7 adding—

8 “(I) the number of children de-
9 termined under section 1124(c) for
10 that county constituting up to 15 per-
11 cent, inclusive, of the county's total
12 population aged 5 to 17, inclusive,
13 multiplied by 1.0;

14 “(II) the number of such children
15 constituting more than 15 percent,
16 but not more than 19 percent, of such
17 population, multiplied by 1.75;

18 “(III) the number of such chil-
19 dren constituting more than 19 per-
20 cent, but not more than 24.20 per-
21 cent, of such population, multiplied by
22 2.5;

23 “(IV) the number of such chil-
24 dren constituting more than 24.20
25 percent, but not more than 29.20 per-

1 cent, of such population, multiplied by
2 3.25; and

3 “(V) the number of such children
4 constituting more than 29.20 percent
5 of such population, multiplied by 4.0.

6 “(ii) BY NUMBER OF CHILDREN.—

7 This amount is determined by adding—

8 “(I) the number of children de-
9 termined under section 1124(c) con-
10 stituting up to 2,311, inclusive, of the
11 county’s total population aged 5 to
12 17, inclusive, multiplied by 1.0;

13 “(II) the number of such children
14 between 2,312 and 7,913, inclusive, in
15 such population, multiplied by 1.5;

16 “(III) the number of such chil-
17 dren between 7,914 and 23,917, inclu-
18 sive, in such population, multiplied by
19 2.0;

20 “(IV) the number of such chil-
21 dren between 23,918 and 93,810, in-
22 clusive, in such population, multiplied
23 by 2.5; and

1 “(V) the number of such children
2 in excess of 93,811 in such popu-
3 lation, multiplied by 3.0.

4 “(B) PUERTO RICO.—Notwithstanding
5 subparagraph (A), the weighted child count for
6 Puerto Rico under this paragraph shall not be
7 greater than the total number of children
8 counted under subsection 1124(c) multiplied by
9 1.72.

10 “(2) WEIGHTS FOR ALLOCATIONS TO LOCAL
11 EDUCATIONAL AGENCIES.—

12 “(A) IN GENERAL.—For each fiscal year
13 for which the Secretary uses local educational
14 agency data, the weighted child count used to
15 determine a local educational agency’s grant
16 under this section is the larger of the 2
17 amounts determined under clauses (i) and (ii),
18 as follows:

19 “(i) BY PERCENTAGE OF CHIL-
20 DREN.—This amount is determined by
21 adding—

22 “(I) the number of children de-
23 termined under section 1124(c) for
24 that local educational agency consti-
25 tuting up to 15.233 percent, inclusive,

1 of the agency's total population aged
2 5 to 17, inclusive, multiplied by 1.0;

3 “(II) the number of such children
4 constituting more than 15.233 per-
5 cent, but not more than 22.706 per-
6 cent, of such population, multiplied by
7 1.75;

8 “(III) the number of such chil-
9 dren constituting more than 22.706
10 percent, but not more than 32.213
11 percent, of such population, multiplied
12 by 2.5;

13 “(IV) the number of such chil-
14 dren constituting more than 32.213
15 percent, but not more than 41.452
16 percent, of such population, multiplied
17 by 3.25; and

18 “(V) the number of such children
19 constituting more than 41.452 percent
20 of such population, multiplied by 4.0.

21 “(ii) BY NUMBER OF CHILDREN.—

22 This amount is determined by adding—

23 “(I) the number of children de-
24 termined under section 1124(c) con-
25 stituting up to 710, inclusive, of the

1 agency's total population aged 5 to
2 17, inclusive, multiplied by 1.0;

3 “(II) the number of such children
4 between 711 and 2,384, inclusive, in
5 such population, multiplied by 1.5;

6 “(III) the number of such chil-
7 dren between 2,385 and 9,645, inclu-
8 sive, in such population, multiplied by
9 2.0;

10 “(IV) the number of such chil-
11 dren between 9,646 and 54,600, inclu-
12 sive, in such population, multiplied by
13 2.5; and

14 “(V) the number of such children
15 in excess of 54,601 in such popu-
16 lation, multiplied by 3.0.

17 “(B) PUERTO RICO.—Notwithstanding
18 subparagraph (A), the weighted child count for
19 Puerto Rico under this paragraph shall not be
20 greater than the total number of children
21 counted under section 1124(c) multiplied by
22 1.72.

23 “(d) CALCULATION OF GRANT AMOUNTS.—Grants
24 under this section shall be calculated in accordance with
25 section 1124(a)(2) and (3).

1 “(e) STATE MINIMUM.—Notwithstanding any other
2 provision of this section or section 1122, from the total
3 amount available for any fiscal year to carry out this sec-
4 tion, each State shall be allotted at least the lesser of—

5 “(1) 0.25 percent of total appropriations; or

6 “(2) the average of—

7 “(A) one-quarter of 1 percent of the total
8 amount available to carry out this section; and

9 “(B) 150 percent of the national average
10 grant under this section per child described in
11 section 1124(c), without application of a
12 weighting factor, multiplied by the State’s total
13 number of children described in section
14 1124(c), without application of a weighting fac-
15 tor.

16 **“SEC. 1126. SPECIAL ALLOCATION PROCEDURES.**

17 “(a) ALLOCATIONS FOR NEGLECTED CHILDREN.—

18 “(1) IN GENERAL.—If a State educational
19 agency determines that a local educational agency in
20 the State is unable or unwilling to provide for the
21 special educational needs of children who are living
22 in institutions for neglected children as described in
23 subparagraph (B) of section 1124(c)(1), the State
24 educational agency shall, if such agency assumes re-
25 sponsibility for the special educational needs of such

1 children, receive the portion of such local educational
2 agency's allocation under sections 1124, 1124A, and
3 1125 that is attributable to such children.

4 “(2) SPECIAL RULE.—If the State educational
5 agency does not assume such responsibility, any
6 other State or local public agency that does assume
7 such responsibility shall receive that portion of the
8 local educational agency's allocation.

9 “(b) ALLOCATIONS AMONG LOCAL EDUCATIONAL
10 AGENCIES.—The State educational agency may allocate
11 the amounts of grants under sections 1124, 1124A, and
12 1125 among the affected local educational agencies—

13 “(1) if two or more local educational agencies
14 serve, in whole or in part, the same geographical
15 area;

16 “(2) if a local educational agency provides free
17 public education for children who reside in the
18 school district of another local educational agency;
19 or

20 “(3) to reflect the merger, creation, or change
21 of boundaries of one or more local educational agen-
22 cies.

23 “(c) REALLOCATION.—If a State educational agency
24 determines that the amount of a grant a local educational
25 agency would receive under sections 1124, 1124A, and

1 1125 is more than such local agency will use, the State
2 educational agency shall make the excess amount available
3 to other local educational agencies in the State that need
4 additional funds in accordance with criteria established by
5 the State educational agency.

6 **“SEC. 1127. CARRYOVER AND WAIVER.**

7 “(a) LIMITATION ON CARRYOVER.—Notwithstanding
8 section 421 of the General Education Provisions Act or
9 any other provision of law, not more than 15 percent of
10 the funds allocated to a local educational agency for any
11 fiscal year under this subpart (but not including funds re-
12 ceived through any reallocation under this subpart) may
13 remain available for obligation by such agency for 1 addi-
14 tional fiscal year.

15 “(b) WAIVER.—A State educational agency may,
16 once every 3 years, waive the percentage limitation in sub-
17 section (a) if—

18 “(1) the agency determines that the request of
19 a local educational agency is reasonable and nec-
20 essary; or

21 “(2) supplemental appropriations for this sub-
22 part become available.

23 “(c) EXCLUSION.—The percentage limitation under
24 subsection (a) shall not apply to any local educational

1 agency that receives less than \$50,000 under this subpart
2 for any fiscal year.

3 **“SEC. 1128. SECULAR, NEUTRAL, AND NONIDEOLOGICAL.**

4 “Any school that receives funds under this part shall
5 ensure that educational services or other benefits provided
6 under this part, including materials and equipment, shall
7 be secular, neutral, and nonideological.”.

8 **PART B—STUDENT READING SKILLS**

9 **IMPROVEMENT GRANTS**

10 **SEC. 111. READING FIRST; EARLY READING FIRST.**

11 Part B of title I (20 U.S.C. 6361 et seq.) is
12 amended—

13 (1) by striking the part heading and inserting
14 the following:

15 **“PART B—STUDENT READING SKILLS**

16 **IMPROVEMENT GRANTS”;**

17 (2) by redesignating sections 1201 through
18 1212 as sections 1231 through 1242, respectively;
19 and

20 (3) by inserting after the part heading the fol-
21 lowing:

22 **“Subpart 1—Reading First**

23 **“SEC. 1201. FINDINGS.**

24 “The Congress finds as follows:

1 “(1) The 2000 National Assessment of Edu-
2 cational Progress found that 68 percent of fourth
3 grade students in the United States are reading
4 below the proficient level.

5 “(2) According to the 2000 National Assess-
6 ment of Educational Progress report on reading, 63
7 percent of African Americans, 58 percent of His-
8 panic Americans, 60 percent of children living in
9 poverty, and 47 percent of children in urban schools
10 scored ‘below basic’ in reading.

11 “(3) More than $\frac{1}{2}$ of the students placed in
12 special education classes are identified as learning
13 disabled and, for as many as 80 percent of the stu-
14 dents so identified, reading is the primary difficulty.

15 “(4) It is estimated that, at a minimum,
16 10,000,000 children have difficulty learning to read.
17 10 to 15 percent of those children eventually drop
18 out of high school, and only 2 percent complete a 4-
19 year program at an institution of higher education.

20 “(5) It is estimated that the number of children
21 who are typically identified as poor readers can be
22 significantly reduced through the implementation of
23 early identification and prevention programs that
24 are based on scientifically based reading research.

1 “(6) The report issued by the National Reading
2 Panel in 2000 found that the course of reading in-
3 struction that obtains maximum benefits for stu-
4 dents includes explicit and systematic instruction in
5 phonemic awareness, phonics, vocabulary develop-
6 ment, reading fluency, and reading comprehension
7 strategies.

8 **“SEC. 1202. PURPOSES.**

9 “The purposes of this subpart are as follows:

10 “(1) To provide assistance to States and local
11 educational agencies in establishing reading pro-
12 grams for students in grades kindergarten through
13 3 that are based on scientifically based reading re-
14 search, in order to ensure that every student can
15 read at grade level or above not later than the end
16 of the third grade.

17 “(2) To provide assistance to States and local
18 educational agencies in preparing teachers, including
19 special education teachers, through professional de-
20 velopment and other support, so the teachers can
21 identify specific reading barriers facing their stu-
22 dents and so the teachers have the tools to effec-
23 tively help their students learn to read.

24 “(3) To provide assistance to States and local
25 educational agencies in selecting and administering

1 rigorous diagnostic reading and screening assess-
2 ment tools that are valid and reliable, document the
3 effectiveness of this subpart in improving the read-
4 ing skills of students, and improve classroom in-
5 struction.

6 “(4) To provide assistance to States and local
7 educational agencies in selecting or developing effec-
8 tive classroom instructional materials, programs, and
9 strategies to implement scientific research-based
10 methods that have been proven to prevent or reme-
11 diate reading failure.

12 “(5) To strengthen coordination among schools
13 and early literacy programs in order to improve
14 reading achievement for all children.

15 **“SEC. 1203. FORMULA GRANTS TO STATES.**

16 “(a) IN GENERAL.—

17 “(1) AUTHORIZATION TO MAKE GRANTS.—In
18 the case of each State that in accordance with sec-
19 tion 1204 submits to the Secretary an application
20 for a 5-year period, the Secretary, subject to the ap-
21 plication’s approval, shall make a grant to the State
22 for the uses specified in subsections (c) and (d). For
23 each fiscal year, the funds provided under the grant
24 shall equal the allotment determined for the State
25 under subsection (b).

1 “(2) DURATION OF GRANTS.—

2 “(A) IN GENERAL.—Subject to subpara-
3 graph (B), a grant under this section shall be
4 awarded for a period of not more than 5 years.

5 “(B) INTERIM REVIEW.—

6 “(i) PROGRESS REPORT.—

7 “(I) SUBMISSION.—Not later
8 than 60 days after the termination of
9 the third year of the grant period,
10 each State receiving a grant under
11 this section shall submit a progress
12 report to the Secretary.

13 “(II) INFORMATION IN-
14 CLUDED.—The progress report shall
15 include information on the progress
16 the State, and local educational agen-
17 cies within the State, are making in
18 reducing the number of students
19 served under this subpart in the first
20 and second grades who are reading
21 below grade level, as demonstrated by
22 such information as teacher reports
23 and school evaluations of mastery of
24 the essential components of reading
25 instruction. The report shall also in-

1 clude evidence from the State and its
2 local educational agencies that they
3 have significantly increased the num-
4 ber of students reading at grade level
5 or above, significantly increased the
6 percentages of students in ethnic, ra-
7 cial, and low-income populations who
8 are reading at grade level or above,
9 and successfully implemented this
10 subpart.

11 “(ii) PEER REVIEW.—The progress
12 report described in clause (i) shall be re-
13 viewed by the peer review panel convened
14 under section 1204(c)(2).

15 “(iii) CONSEQUENCES OF INSUFFI-
16 CIENT PROGRESS.—After the submission of
17 the progress report described in clause (i),
18 if the Secretary determines that the State
19 is not making significant progress in meet-
20 ing the purposes of this subpart, the Sec-
21 retary may withhold from the State, in
22 whole or in part, further payments under
23 this section in accordance with section 455
24 of the General Education Provisions Act
25 (20 U.S.C. 1234d) or take such other ac-

1 tion authorized by law as the Secretary
2 deems necessary, including providing tech-
3 nical assistance upon request of the State.

4 “(b) DETERMINATION OF AMOUNT OF ALLOT-
5 MENTS.—

6 “(1) RESERVATIONS FROM APPROPRIATIONS.—
7 From the total amount made available under section
8 1002(b)(1) to carry out this subpart for a fiscal
9 year, the Secretary—

10 “(A) shall reserve $\frac{1}{2}$ of 1 percent for allot-
11 ments for the Virgin Islands, Guam, American
12 Samoa, and the Commonwealth of the Northern
13 Mariana Islands, to be distributed among these
14 outlying areas on the basis of their relative
15 need, as determined by the Secretary in accord-
16 ance with the purposes of this subpart;

17 “(B) shall reserve $\frac{1}{2}$ of 1 percent for the
18 Secretary of the Interior for programs under
19 this subpart in schools operated or funded by
20 the Bureau of Indian Affairs;

21 “(C) shall reserve not more than 3 percent
22 or \$30,000,000, whichever is less, to carry out
23 section 1206;

24 “(D) may reserve not more than 1 percent
25 to carry out section 1207; and

1 “(E) shall reserve \$5,000,000 to carry out
2 section 1208.

3 “(2) STATE ALLOTMENTS.—From the total
4 amount made available under section 1002(b)(1) to
5 carry out this subpart for a fiscal year and not re-
6 served under paragraph (1), the Secretary shall allot
7 80 percent under this section among each of the 50
8 States, the District of Columbia, and the Common-
9 wealth of Puerto Rico.

10 “(3) DETERMINATION OF STATE ALLOTMENT
11 AMOUNTS.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), the Secretary shall allot the amount
14 made available under paragraph (2) for a fiscal
15 year among the States described in such para-
16 graph in proportion to the number of children,
17 aged 5 to 17, who reside within the State from
18 families with incomes below the poverty line (as
19 defined by the Office of Management and
20 Budget and revised annually in accordance with
21 section 673(2) of the Community Services
22 Block Grant Act (42 U.S.C. 9902(2)) applica-
23 ble to a family of the size involved for the most
24 recent fiscal year for which satisfactory data
25 are available, compared to the number of such

1 individuals who reside in all such States for
2 that fiscal year.

3 “(B) EXCEPTIONS.—

4 “(i) IN GENERAL.—Subject to clause
5 (ii), no State receiving an allotment under
6 subparagraph (A) may receive less than $\frac{1}{4}$
7 of 1 percent of the total amount allotted
8 under such subparagraph.

9 “(ii) PUERTO RICO.—The percentage
10 of the amount allotted under subparagraph
11 (A) that is allotted to the Commonwealth
12 of Puerto Rico for a fiscal year may not
13 exceed the percentage that was received by
14 the Commonwealth of Puerto Rico of the
15 funds allocated to all States under subpart
16 2 of part A for the preceding fiscal year.

17 “(4) REALLOTMENT.—If a State described in
18 paragraph (2) does not apply for an allotment under
19 this section for any fiscal year, or if the State’s ap-
20 plication is not approved, the Secretary shall reallo-
21 t such amount to the remaining States in accordance
22 with paragraph (3).

23 “(c) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
24 CIES.—

1 “(1) DISTRIBUTION OF SUBGRANTS.—The Sec-
2 retary may make a grant to a State under this sec-
3 tion only if the State agrees to expend at least 80
4 percent of the amount of the funds provided under
5 the grant for the purpose of making, in accordance
6 with this subsection, competitive subgrants to local
7 educational agencies.

8 “(2) NOTICE.—A State receiving a grant under
9 this section shall provide notice to all local edu-
10 cational agencies in the State of the availability of
11 competitive subgrants under this subsection and of
12 the requirements for applying for the subgrants.

13 “(3) LOCAL APPLICATIONS.—To be eligible to
14 receive a subgrant under this subsection, a local edu-
15 cational agency shall submit an application to the
16 State at such time, in such manner, and containing
17 such information as the State may reasonably re-
18 quire.

19 “(4) LIMITATION TO CERTAIN LOCAL AGEN-
20 CIES.—A State receiving a grant under this section
21 may award subgrants under this subsection only to
22 local educational agencies—

23 “(A) that have the highest percentages of
24 students in grades kindergarten through 3
25 reading below grade level; and

1 “(B) that—

2 “(i) have jurisdiction over—

3 “(I) a geographic area that in-
4 cludes an area designated as an em-
5 powerment zone, or an enterprise
6 community, under part I of sub-
7 chapter U of chapter 1 of the Internal
8 Revenue Code of 1986; or

9 “(II) a significant number of
10 schools that are identified for school
11 improvement under section 1116(b);
12 or

13 “(ii) are located in areas having the
14 greatest numbers or percentages of chil-
15 dren aged 5 through 17 from low-income
16 families.

17 “(5) STATE REQUIREMENT.—In distributing
18 subgrant funds to local educational agencies under
19 this subsection, a State shall provide funds in suffi-
20 cient size and scope to enable local educational agen-
21 cies to improve reading instruction, as determined
22 by rigorous diagnostic reading and screening assess-
23 ment tools.

24 “(6) LIMITATION TO CERTAIN SCHOOLS.—In
25 distributing subgrant funds under this subsection, a

1 local educational agency may provide funds only to
2 schools—

3 “(A) that have the highest percentages of
4 students in grades kindergarten through 3
5 reading below grade level; and

6 “(B) that—

7 “(i) are identified for school improve-
8 ment under section 1116(b); or

9 “(ii) have the greatest numbers or
10 percentages of children aged 5 through 17
11 from low-income families.

12 “(7) LOCAL USES OF FUNDS.—

13 “(A) REQUIRED USES.—Subject to para-
14 graph (8), a local educational agency that re-
15 ceives a subgrant under this subsection shall
16 use the funds provided under the subgrant to
17 carry out the following activities:

18 “(i) Selecting and administering rig-
19 orous diagnostic reading and screening as-
20 sessment tools.

21 “(ii) Selecting and implementing a
22 program or programs of classroom reading
23 instruction based on scientifically based
24 reading research that—

1 “(I) includes the essential compo-
2 nents of reading instruction; and

3 “(II) provides such instruction to
4 all children, including children who—

5 “(aa) may have reading dif-
6 ficulties;

7 “(bb) are at risk of being re-
8 ferred to special education based
9 on these difficulties;

10 “(cc) have been evaluated
11 under section 614 of the Individ-
12 uals with Disabilities Education
13 Act but, in accordance with sec-
14 tion 614(b)(5) of such Act, have
15 not been identified as being a
16 child with a disability (as defined
17 in section 602 of such Act);

18 “(dd) are being served under
19 such Act primarily due to being
20 identified as being a child with a
21 specific learning disability (as de-
22 fined in section 602 of such Act)
23 related to reading;

24 “(ee) are deficient in their
25 phonemic awareness, phonics

1 skills, vocabulary development,
2 oral reading fluency, or com-
3 prehension strategies; or

4 “(ff) are identified as having
5 limited English proficiency.

6 “(iii) Procuring classroom instruc-
7 tional materials based on scientifically
8 based reading research.

9 “(iv) Providing professional develop-
10 ment for teachers of grades kindergarten
11 through 3, and special education teachers
12 of grades kindergarten through 12, that—

13 “(I) will prepare these teachers
14 in all of the essential components of
15 reading instruction;

16 “(II) shall include—

17 “(aa) information, instruc-
18 tional materials, programs, strat-
19 egies, and approaches based on
20 scientifically based reading re-
21 search, including early interven-
22 tion and classroom reading mate-
23 rials and remedial programs and
24 approaches; and

1 “(bb) instruction in the use
2 of rigorous diagnostic reading
3 and screening assessment tools
4 and other procedures that effec-
5 tively identify students who may
6 be at risk for reading failure or
7 who are having difficulty reading;

8 “(III) shall be provided by eligi-
9 ble professional development pro-
10 viders; and

11 “(IV) will assist teachers in be-
12 coming fully qualified in accordance
13 with the requirements of section 1119.

14 “(B) OPTIONAL USES.—Subject to para-
15 graph (8), a local educational agency that re-
16 ceives a subgrant under this subsection may use
17 the funds provided under the subgrant to carry
18 out the following activities:

19 “(i) Providing training to parents and
20 other individuals who volunteer to be read-
21 ing tutors in the essential components of
22 reading instruction.

23 “(ii) Providing family literacy serv-
24 ices, especially to parents enrolled in par-
25 ticipating schools, through the use of li-

1 brary materials and reading programs,
2 strategies, and approaches that are based
3 on scientifically based reading research, to
4 encourage reading and support their chil-
5 dren’s reading development.

6 “(8) LOCAL PLANNING AND ADMINISTRA-
7 TION.—A local educational agency that receives a
8 subgrant under this subsection may use not more
9 than 2 percent of the funds provided under the
10 subgrant for planning and administration.

11 “(d) OTHER STATE USES OF FUNDS.—

12 “(1) PROFESSIONAL DEVELOPMENT.—

13 “(A) IN GENERAL.—A State that receives
14 a grant under this section may expend not more
15 than 15 percent of the amount of the funds
16 provided under the grant—

17 “(i) to develop and implement a pro-
18 gram of in-service professional development
19 for teachers of kindergarten through third
20 grade, and special education teachers of
21 grades kindergarten through 12, that—

22 “(I) will prepare these teachers
23 in all of the essential components of
24 reading instruction;

25 “(II) shall include—

1 “(aa) information on inter-
2 ventions, instructional materials,
3 programs, and approaches based
4 on scientifically based reading re-
5 search, including early interven-
6 tion and reading remediation ma-
7 terials, programs, and ap-
8 proaches; and

9 “(bb) instruction in the use
10 of rigorous diagnostic reading
11 and screening assessment tools
12 and other procedures to improve
13 instruction and effectively iden-
14 tify students who may be at risk
15 for reading failure or who are
16 having difficulty reading; and

17 “(III) shall be provided by eligi-
18 ble professional development pro-
19 viders;

20 “(ii) to strengthen and enhance pro-
21 fessional development courses for students
22 preparing, at all public institutions of high-
23 er education in the State, to teach kinder-
24 garten through third grades by—

1 “(I) reviewing such courses to de-
2 termine whether their content is con-
3 sistent with the findings of the most
4 current scientifically based reading re-
5 search, including findings on the es-
6 sential components of reading instruc-
7 tion;

8 “(II) following up such reviews
9 with recommendations to ensure that
10 such institutions offer courses that
11 meet the highest standards; and

12 “(III) preparing a report on the
13 results of such reviews, submitting it
14 to the reading and literacy partner-
15 ship for the State established under
16 section 1204(d), and making it avail-
17 able for public review via the Internet;
18 and

19 “(iii) to make recommendations on
20 how the State’s licensure and certification
21 standards in the area of reading might be
22 improved.

23 “(B) FUNDS NOT USED FOR PROFES-
24 SIONAL DEVELOPMENT.—Any portion of the
25 funds described in subparagraph (A) that a

1 State does not expend in accordance with such
2 subparagraph shall be expended for the purpose
3 of making subgrants in accordance with sub-
4 section (c).

5 “(2) OTHER STATE-LEVEL ACTIVITIES.—A
6 State that receives a grant under this section may
7 expend not more than 3 percent of the amount of
8 the funds provided under the grant for one or more
9 of the following authorized State activities:

10 “(A) Assisting local educational agencies in
11 accomplishing the tasks required to design and
12 implement a classroom reading program under
13 this subpart, including—

14 “(i) selecting and implementing a pro-
15 gram or programs of classroom reading in-
16 struction based on scientifically based
17 reading research;

18 “(ii) selecting rigorous diagnostic
19 reading and screening assessment tools;
20 and

21 “(iii) identifying eligible professional
22 development providers to help prepare
23 reading teachers to teach students using
24 the programs and assessments described in
25 clauses (i) and (ii);

1 “(B) Providing to students in kindergarten
2 through third grades, through appropriate pro-
3 viders, reading instruction that includes—

4 “(i) rigorous diagnostic reading and
5 screening assessment tools; and

6 “(ii) as need is indicated by such as-
7 sessments, instruction based on scientif-
8 ically based reading research that includes
9 the essential components of reading in-
10 struction.

11 “(3) PLANNING, ADMINISTRATION, AND RE-
12 PORTING.—

13 “(A) IN GENERAL.—A State that receives
14 a grant under this section shall expend not
15 more than 2 percent of the amount of the funds
16 provided under the grant for the activities de-
17 scribed in this paragraph.

18 “(B) PLANNING AND ADMINISTRATION.—A
19 State that receives a grant under this section
20 may expend funds described in subparagraph
21 (A) for—

22 “(i) planning and administration re-
23 lating to the State uses of funds author-
24 ized under this subpart, including admin-
25 istering the distribution of competitive sub-

1 grants to local educational agencies under
2 this section and section 1205; and

3 “(ii) assessing and evaluating, on a
4 regular basis, local educational agency ac-
5 tivities assisted under this subpart, with
6 respect to whether they have been effective
7 in increasing the number of children in
8 first and second grades served under this
9 subpart who can read at or above grade
10 level.

11 “(C) ANNUAL REPORTING.—

12 “(i) IN GENERAL.—A State that re-
13 ceives a grant under this section shall ex-
14 pend funds provided under the grant to
15 provide the Secretary annually with a re-
16 port on the implementation of this subpart.
17 The report shall include evidence that the
18 State is fulfilling its obligations under this
19 subpart. The report shall include a specific
20 identification of those schools and local
21 educational agencies that report the largest
22 gains in reading achievement.

23 “(ii) PRIVACY PROTECTION.—Data in
24 the report shall be set forth in a manner
25 that protects the privacy of individuals.

1 “(iii) CONTRACT.—To the extent
2 practicable, a State shall enter into a con-
3 tract with an entity that conducts scientif-
4 ically based reading research, under which
5 contract the entity will produce the reports
6 required to be submitted under this sub-
7 paragraph.

8 **“SEC. 1204. STATE FORMULA GRANT APPLICATIONS.**

9 “(a) IN GENERAL.—A State that desires to receive
10 a grant under section 1203 shall submit an application
11 to the Secretary at such time and in such form as the
12 Secretary may require. The application shall contain the
13 information described in subsection (b).

14 “(b) CONTENTS.—An application under this section
15 shall contain the following:

16 “(1) An assurance that the Governor of the
17 State, in consultation with the State educational
18 agency, has established a reading and literacy part-
19 nership described in subsection (d), and a descrip-
20 tion of how such partnership—

21 “(A) coordinated the development of the
22 application; and

23 “(B) will assist in the oversight and eval-
24 uation of the State’s activities under this sub-
25 part.

1 “(2) An assurance that the State will submit to
2 the Secretary, at such time and in such manner as
3 the Secretary may reasonably require, a State plan
4 containing a description of a process—

5 “(A) to evaluate programs carried out by
6 local educational agencies under this subpart;

7 “(B) to assist local educational agencies in
8 identifying rigorous diagnostic reading and
9 screening assessment tools; and

10 “(C) to assist local educational agencies in
11 identifying interventions, and instructional ma-
12 terials, programs and approaches, based on sci-
13 entifically based reading research, including
14 early intervention and classroom reading mate-
15 rials and remedial programs and approaches.

16 “(3) An assurance that the State, and local
17 educational agencies in the State, will participate in
18 all national evaluations under this subpart.

19 “(c) APPROVAL OF APPLICATIONS.—

20 “(1) IN GENERAL.—The Secretary, in consulta-
21 tion with the peer review panel convened under para-
22 graph (2), shall approve an application of a State
23 under this section if such application meets the re-
24 quirements of this section.

25 “(2) PEER REVIEW.—

1 “(A) IN GENERAL.—The Secretary, in con-
2 sultation with the National Institute for Lit-
3 eracy, shall convene a panel to evaluate applica-
4 tions under this section. At a minimum, the
5 panel shall include—

6 “(i) three individuals selected by the
7 Secretary;

8 “(ii) three individuals selected by the
9 National Institute for Literacy;

10 “(iii) three individuals selected by the
11 National Research Council of the National
12 Academy of Sciences; and

13 “(iv) three individuals selected by the
14 National Institute of Child Health and
15 Human Development.

16 “(B) EXPERTS.—The panel shall include
17 experts who are competent, by virtue of their
18 training, expertise, or experience, to evaluate
19 applications under this section, and experts who
20 provide professional development to teachers of
21 reading to children and adults, and experts who
22 provide professional development to other in-
23 structional staff, based on scientifically based
24 reading research.

1 “(C) RECOMMENDATIONS.—The panel
2 shall recommend grant applications from States
3 under this section to the Secretary for funding
4 or for disapproval.

5 “(d) READING AND LITERACY PARTNERSHIPS.—

6 “(1) IN GENERAL.—In order for a State to re-
7 ceive a grant under section 1203, the Governor of
8 the State, in consultation with the State educational
9 agency, shall establish a reading and literacy part-
10 nership.

11 “(2) REQUIRED PARTICIPANTS.—The reading
12 and literacy partnership shall include the following
13 participants:

14 “(A) The Governor of the State.

15 “(B) The chief State school officer.

16 “(C) The chairman and the ranking mem-
17 ber of each committee of the State legislature
18 that is responsible for education policy.

19 “(D) A representative, selected jointly by
20 the Governor and the chief State school officer,
21 of at least one local educational agency that is
22 eligible to receive a subgrant under section
23 1203.

24 “(E) A representative, selected jointly by
25 the Governor and the chief State school officer,

1 of a community-based organization working
2 with children to improve their reading skills,
3 particularly a community-based organization
4 using tutors and scientifically based reading re-
5 search.

6 “(F) State directors of appropriate Federal
7 or State programs with a strong reading com-
8 ponent.

9 “(G) A parent of a public or private school
10 student or a parent who educates their child or
11 children in their home, selected jointly by the
12 Governor and the chief State school officer.

13 “(H) A teacher, who may be a special edu-
14 cation teacher, who successfully teaches reading
15 and an instructional staff member, selected
16 jointly by the Governor and the chief State
17 school officer.

18 “(I) A family literacy service provider se-
19 lected jointly by the Governor and the chief
20 state school officer.

21 “(3) OPTIONAL PARTICIPANTS.—The reading
22 and literacy partnership may include additional par-
23 ticipants, who shall be selected jointly by the Gov-
24 ernor and the chief State school officer, and who
25 may include a representative of—

1 “(A) an institution of higher education op-
2 erating a program of teacher preparation based
3 on scientifically based reading research in the
4 State;

5 “(B) a local educational agency;

6 “(C) a private nonprofit or for-profit eligi-
7 ble professional development provider providing
8 instruction based on scientifically based reading
9 research;

10 “(D) an adult education provider;

11 “(E) a volunteer organization that is in-
12 volved in reading programs; or

13 “(F) a school library or a public library
14 that offers reading or literacy programs for
15 children or families.

16 **“SEC. 1205. DISCRETIONARY GRANTS TO STATES.**

17 “(a) IN GENERAL.—In the case of a State that, in
18 accordance with sections 1203 and 1204, has received ap-
19 proval of an application for a 5-year formula grant, the
20 Secretary may make additional 2-year discretionary
21 grants to the State for the use specified in (d). For each
22 fiscal year, the funds provided under the discretionary
23 grant shall equal the allotment determined for the State
24 under subsection (b).

1 “(b) DETERMINATION OF AMOUNT OF ALLOT-
2 MENTS.—From the total amount made available under
3 section 1002(b)(1) to carry out this subpart for a fiscal
4 year and not reserved under paragraph (1), the Secretary,
5 upon the recommendation of the peer review panel con-
6 vened under section 1204(c)(2), shall allot 20 percent
7 under this section among the States described in sub-
8 section (a)—

9 “(1) for fiscal years 2002 and 2003, based
10 upon a determination of such States’ relative likeli-
11 hood of effectively implementing a program under
12 this subpart; and

13 “(2) for fiscal year 2004 and subsequent fiscal
14 years, based upon such States’ applications under
15 subsection (c).

16 “(c) STATE DISCRETIONARY GRANT APPLICA-
17 TIONS.—

18 “(1) IN GENERAL.—A State that desires to re-
19 ceive a grant under this section for a grant period
20 that includes any fiscal year after fiscal year 2003
21 shall submit the information described in paragraph
22 (3) to the Secretary at such time and in such form
23 as the Secretary may require.

24 “(2) PEER REVIEW.—The peer review panel
25 convened under section 1204(c)(2) shall review the

1 information submitted under this subsection. The
2 panel shall recommend such applications to the Sec-
3 retary for funding or for disapproval.

4 “(3) INFORMATION.—The information de-
5 scribed in this paragraph is the following:

6 “(A) An assurance that the State will
7 award competitive subgrants to local edu-
8 cational agencies consistent with subsection
9 (d)(4).

10 “(B) An assurance that the State will en-
11 sure that local educational agencies that receive
12 a subgrant under subsection (d) use the funds
13 provided under the subgrant in accordance with
14 subsection (d)(5).

15 “(C) Evidence that the State has increased
16 significantly the percentage of students reading
17 at grade level or above.

18 “(D) Evidence that the State has been suc-
19 cessful in increasing the percentage of students
20 in ethnic, racial, and low-income populations
21 who are reading at grade level or above.

22 “(E) Any additional evidence that dem-
23 onstrates success in the implementation of this
24 subpart.

1 “(d) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
2 CIES.—

3 “(1) IN GENERAL.—The Secretary may make a
4 grant to a State under this section only if the State
5 agrees to expend 100 percent of the amount of the
6 funds provided under the grant for the purpose of
7 making competitive subgrants in accordance with
8 this subsection to local educational agencies.

9 “(2) NOTICE.—A State receiving a grant under
10 this section shall provide notice to all local edu-
11 cational agencies in the State of the availability of
12 competitive subgrants under this subsection and of
13 the requirements for applying for the subgrants.

14 “(3) APPLICATION.—To be eligible to receive a
15 subgrant under this subsection, a local educational
16 agency shall submit an application to the State at
17 such time, in such manner, and containing such in-
18 formation as the State may reasonably require.

19 “(4) DISTRIBUTION.—

20 “(A) IN GENERAL.—A State shall dis-
21 tribute subgrants under this section through a
22 competitive process based on relative need and
23 the evidence described in this paragraph.

24 “(B) EVIDENCE USED IN ALL YEARS.—

25 For all fiscal years, a State shall distribute sub-

1 grants under this section based on evidence that
2 a local educational agency—

3 “(i) satisfies the requirements of sec-
4 tion 1203(c)(4);

5 “(ii) will carry out its obligations
6 under this subpart, particularly paragraph
7 (5); and

8 “(iii) will work with other local edu-
9 cational agencies in the State that have
10 not received a subgrant under this sub-
11 section to assist such non-receiving agen-
12 cies in increasing the reading achievement
13 of students.

14 “(C) EVIDENCE USED IN FISCAL YEARS
15 AFTER 2003.—For fiscal year 2004 and subse-
16 quent fiscal years, a State shall distribute sub-
17 grants under this section based on the evidence
18 described in subparagraph (B) and, in addition,
19 evidence that a local educational agency—

20 “(i) has significantly increased the
21 percentage of all students reading at grade
22 level or above;

23 “(ii) has significantly increased the
24 percentage of students in ethnic, racial,

1 and low-income populations who are read-
2 ing at grade level or above; and

3 “(iii) has demonstrated success in the
4 implementation of this subpart.

5 “(5) LOCAL USES OF FUNDS.—A local edu-
6 cational agency that receives a subgrant under this
7 subsection—

8 “(A) shall use the funds provided under
9 the subgrant to carry out the activities de-
10 scribed in section 1203(c)(7)(A); and

11 “(B) may use such funds to carry out the
12 activities described in section 1203(c)(7)(B).

13 “(e) DEFINITION.—For purposes of this section, the
14 term ‘State’ means each of the 50 States, the District of
15 Columbia, and the Commonwealth of Puerto Rico.

16 **“SEC. 1206. EXTERNAL EVALUATION.**

17 “(a) IN GENERAL.—From funds reserved under sec-
18 tion 1203(b)(1)(C), the Secretary shall contract with an
19 independent outside organization for a 5-year, rigorous,
20 scientifically valid, quantitative evaluation of this subpart.

21 “(b) PROCESS.—Such evaluation shall be conducted
22 by an organization outside of the Department that is capa-
23 ble of designing and carrying out an independent evalua-
24 tion that identifies the effects of specific activities carried
25 out by States and local educational agencies under this

1 subpart on improving reading instruction. Such evaluation
2 shall use only data relating to students served under this
3 subpart and shall take into account factors influencing
4 student performance that are not controlled by teachers
5 or education administrators.

6 “(c) ANALYSIS.—Such evaluation shall include the
7 following:

8 “(1) An analysis of the relationship between
9 each of the essential components of reading instruc-
10 tion and overall reading proficiency.

11 “(2) An analysis of whether assessment tools
12 used by States and local educational agencies meas-
13 ure the essential components of reading instruction.

14 “(3) An analysis of how State reading stand-
15 ards correlate with the essential components of read-
16 ing instruction.

17 “(4) An analysis of whether the receipt of a dis-
18 cretionary grant under section 1205 results in an in-
19 crease in the number of children who read pro-
20 ficiently.

21 “(5) A measurement of the extent to which spe-
22 cific instructional materials improve reading pro-
23 ficiency.

24 “(6) A measurement of the extent to which spe-
25 cific rigorous diagnostic reading and screening as-

1 assessment tools assist teachers in identifying specific
2 reading deficiencies.

3 “(7) A measurement of the extent to which pro-
4 fessional development programs implemented by
5 States using funds received under this subpart im-
6 prove reading instruction.

7 “(8) A measurement of how well students pre-
8 paring to enter the teaching profession are prepared
9 to teach the essential components of reading instruc-
10 tion.

11 “(9) An analysis of changes in students’ inter-
12 est in reading and time spent reading outside of
13 school.

14 “(10) Any other analysis or measurement perti-
15 nent to this subpart that is determined to be appro-
16 priate by the Secretary.

17 “(d) PROGRAM IMPROVEMENT.—The findings of the
18 evaluation conducted under this section shall be provided
19 to States and local educational agencies on a periodic basis
20 for use in program improvement.

21 **“SEC. 1207. NATIONAL ACTIVITIES.**

22 “From funds reserved under section 1203(b)(1)(D),
23 the Secretary may provide technical assistance in achiev-
24 ing the purposes of this subpart to States, local edu-
25 cational agencies, and schools requesting such assistance.

1 **“SEC. 1208. INFORMATION DISSEMINATION.**

2 “(a) IN GENERAL.—From funds reserved under sec-
3 tion 1203(b)(1)(E), the National Institute for Literacy, in
4 collaboration with the Secretary of Education, the Sec-
5 retary of Health and Human Services, and the Director
6 of the National Institute for Child Health and Human
7 Development—

8 “(1) shall disseminate information on scientif-
9 ically based reading research pertaining to children,
10 youth, and adults;

11 “(2) shall identify and disseminate information
12 about schools, local educational agencies, and States
13 that effectively developed and implemented class-
14 room reading programs that meet the requirements
15 of this subpart, including those effective States, local
16 educational agencies, and schools identified through
17 the evaluation and peer review provisions of this
18 subpart; and

19 “(3) shall support the continued identification
20 and dissemination of information on reading pro-
21 grams that contain the essential components of
22 reading instruction as supported by scientifically
23 based reading research, that can lead to improved
24 reading outcomes for children, youth, and adults.

25 “(b) DISSEMINATION.—

1 “(1) IN GENERAL.—At a minimum, the Na-
2 tional Institute for Literacy shall disseminate such
3 information to—

4 “(A) recipients of Federal financial assist-
5 ance under part A of this title, part A of title
6 III, the Head Start Act, the Individuals with
7 Disabilities Education Act, and the Adult Edu-
8 cation and Family Literacy Act; and

9 “(B) each Bureau funded school (as de-
10 fined in section 1141(3) of the Education
11 Amendments of 1978).

12 “(2) USE OF EXISTING NETWORKS.—In car-
13 rying out this section, the National Institute for Lit-
14 eracy shall, to the extent practicable, utilize existing
15 information and dissemination networks developed
16 and maintained through other public and private en-
17 tities.

18 **“SEC. 1209. DEFINITIONS.**

19 “For purposes of this subpart:

20 “(1) ELIGIBLE PROFESSIONAL DEVELOPMENT
21 PROVIDER.—The term ‘eligible professional develop-
22 ment provider’ means a provider of professional de-
23 velopment in reading instruction to teachers, includ-
24 ing special education teachers, that is based on sci-
25 entifically based reading research.

1 “(2) ESSENTIAL COMPONENTS OF READING IN-
2 STRUCTION.—The term ‘essential components of
3 reading instruction’ means explicit and systematic
4 instruction in—

5 “(A) phonemic awareness;

6 “(B) phonics;

7 “(C) vocabulary development;

8 “(D) oral reading fluency; and

9 “(E) reading comprehension strategies.

10 “(3) INSTRUCTIONAL STAFF.—The term ‘in-
11 structional staff’—

12 “(A) means individuals who have responsi-
13 bility for teaching children to read; and

14 “(B) includes principals, teachers, super-
15 visors of instruction, librarians, library school
16 media specialists, teachers of academic subjects
17 other than reading, and other individuals who
18 have responsibility for assisting children to
19 learn to read.

20 “(4) READING.—The term ‘reading’ means a
21 complex system of deriving meaning from print that
22 requires all of the following:

23 “(A) The skills and knowledge to under-
24 stand how phonemes, or speech sounds, are
25 connected to print.

1 “(B) The ability to decode unfamiliar
2 words.

3 “(C) The ability to read fluently.

4 “(D) Sufficient background information
5 and vocabulary to foster reading comprehen-
6 sion.

7 “(E) The development of appropriate ac-
8 tive strategies to construct meaning from print.

9 “(F) The development and maintenance of
10 a motivation to read.

11 “(5) RIGOROUS DIAGNOSTIC READING AND
12 SCREENING ASSESSMENT TOOLS.—The term ‘rig-
13 orous diagnostic reading and screening assessment
14 tools’ means assessments that—

15 “(A) are valid, reliable, and based on sci-
16 entifically based reading research;

17 “(B) measure progress in developing pho-
18 nemic awareness and phonics skills, vocabulary,
19 reading fluency, and reading comprehension;

20 “(C) identify students who may be at risk
21 for reading failure or who are having difficulty
22 reading; and

23 “(D) are used to improve instruction.

1 “(6) SCIENTIFICALLY BASED READING RE-
2 SEARCH.—The term ‘scientifically based reading
3 research’—

4 “(A) means the application of rigorous,
5 systematic, and objective procedures to obtain
6 valid knowledge relevant to reading develop-
7 ment, reading instruction, and reading difficul-
8 ties; and

9 “(B) shall include research that—

10 “(i) employs systematic, empirical
11 methods that draw on observation or ex-
12 periment;

13 “(ii) involves rigorous data analyses
14 that are adequate to test the stated
15 hypotheses and justify the general conclu-
16 sions drawn;

17 “(iii) relies on measurements or obser-
18 vational methods that provide valid data
19 across evaluators and observers and across
20 multiple measurements and observations;
21 and

22 “(iv) has been accepted by a peer-re-
23 viewed journal or approved by a panel of
24 independent experts through a comparably
25 rigorous, objective, and scientific review.

“Subpart 2—Early Reading First**“SEC. 1221. PURPOSES.**

“The purposes of this subpart are as follows:

“(1) To improve prereading skills in children aged 3 through 5, particularly children from low-income families, in high-quality oral language and literature-rich environments.

“(2) To provide professional development for early childhood teachers that prepares them with scientific research-based knowledge of early reading development to assist in developing the children’s—

“(A) automatic recognition of the letters of the alphabet and letter sounds;

“(B) understanding that spoken words are made up of small segments of speech sounds and that certain letters regularly represent such speech sounds;

“(C) spoken vocabulary and oral comprehension abilities; and

“(D) understanding of semiotic concepts.

“(3) To use scientific research-based screening tools or other appropriate measures to determine whether preschool children are developing the skills identified in this section.

“(4) To identify and provide scientific research-based prereading language and literacy activities and

1 instructional materials that can be used to assist in
2 the development of prereading skills in children.

3 “(5) To integrate such scientific research-based
4 instructional materials and literacy activities with
5 existing programs of preschools, child care agencies
6 and programs, and Head Start centers, and with
7 family literacy services.

8 **“SEC. 1222. LOCAL EARLY READING FIRST GRANTS.**

9 “(a) PROGRAM AUTHORIZED.—From amounts ap-
10 propriated under section 1002(b)(2), the Secretary shall
11 make awards, on a competitive basis and for periods of
12 not more than 5 years, to eligible applicants to enable such
13 applicants to carry out activities that are consistent with
14 the purposes of this subpart.

15 “(b) DEFINITION OF ELIGIBLE APPLICANT.—In this
16 subpart, the term ‘eligible applicant’ means—

17 “(1) a local educational agency;

18 “(2) one or more public or private organizations
19 or agencies, acting on behalf of one or more pro-
20 grams that serve children aged 3 through 5 (such as
21 a program at a child care agency or program or
22 Head Start center or a family literacy program),
23 which organizations or agencies shall be located in a
24 community served by a local educational agency; or

1 “(3) one or more local educational agencies in
2 collaboration with one or more organizations or
3 agencies described in paragraph (2).

4 “(c) APPLICATIONS.—An eligible applicant that de-
5 sires to receive a grant under this subpart shall submit
6 an application to the Secretary, which shall include a de-
7 scription of—

8 “(1) the programs to be served by the proposed
9 project, including general demographic and socio-
10 economic information on the communities in which
11 the proposed project will be administered;

12 “(2) how the proposed project will enhance the
13 school readiness of children aged 3 through 5 in
14 high-quality oral language and literature-rich envi-
15 ronments;

16 “(3) how the proposed project will provide early
17 childhood teachers with scientific research-based
18 knowledge of early reading development and assist
19 such teachers in developing the children’s prereading
20 skills;

21 “(4) how the proposed project will provide serv-
22 ices and utilize instructional materials that are
23 based on scientifically based reading research on
24 early language acquisition, prereading activities, and
25 the development of spoken vocabulary skills;

1 “(5) how the proposed project will integrate
2 such instructional materials and literacy activities
3 with existing preschool programs and family literacy
4 services;

5 “(6) how the proposed project will help staff in
6 the programs to meet the diverse needs of children
7 in the community, including children with limited
8 English proficiency and children with learning dis-
9 abilities;

10 “(7) how the proposed project will help chil-
11 dren, particularly children experiencing difficulty
12 with spoken language, prereading, and early reading
13 skills, to make the transition from preschool to for-
14 mal classroom instruction in school;

15 “(8) how the activities conducted under this
16 subpart will be coordinated with the eligible appli-
17 cant’s activities under subpart 1, if the applicant has
18 received a subgrant under such subpart, at the kin-
19 dergarten through third grade levels;

20 “(9) how the proposed project will evaluate the
21 success of the activities supported under this sub-
22 part in enhancing the early language and reading
23 development of children served by the project; and

24 “(10) such other information as the Secretary
25 may require.

1 “(d) APPROVAL OF LOCAL APPLICATIONS.—The Sec-
2 retary shall select applicants for funding under this sub-
3 part based on the quality of the applications and the rec-
4 ommendations of the peer review panel convened under
5 section 1204(c)(2).

6 “(e) LOCAL USES OF FUNDS.—

7 “(1) REQUIRED ACTIVITIES.—An eligible appli-
8 cant that receives a grant under this subpart shall
9 use the funds provided under the grant to carry out
10 the following activities:

11 “(A) Providing children aged 3 through 5
12 with high-quality oral language and literature-
13 rich environments in which to acquire
14 prereading skills.

15 “(B) Providing professional development
16 for early childhood teachers that prepares them
17 with scientific research-based knowledge of
18 early reading development to assist in devel-
19 oping the children’s—

20 “(i) automatic recognition of the let-
21 ters of the alphabet and letter sounds;

22 “(ii) understanding that spoken words
23 are made up of small segments of speech
24 sounds and that certain letters regularly
25 represent such speech sounds;

1 “(iii) spoken vocabulary and oral com-
2 prehension abilities; and

3 “(iv) understanding of semiotic con-
4 cepts.

5 “(C) Identifying and providing scientific
6 research-based prereading language and literacy
7 activities and instructional materials for use in
8 developing the children’s—

9 “(i) automatic recognition of the let-
10 ters of the alphabet;

11 “(ii) understanding that spoken words
12 are made up of small segments of speech
13 sounds and that certain letters regularly
14 represent such speech sounds;

15 “(iii) spoken vocabulary and oral com-
16 prehension abilities; and

17 “(iv) understanding of semiotic con-
18 cepts.

19 “(2) OPTIONAL ACTIVITIES.—An eligible appli-
20 cant that receives a grant under this subpart may
21 use the funds provided under the grant to carry out
22 the following activities:

23 “(A) Using scientific research-based
24 screening tools or other appropriate measures

1 to determine whether preschool children are de-
2 veloping the skills identified in this subsection.

3 “(B) Integrating such instructional mate-
4 rials and literacy activities with programs of ex-
5 isting child care agencies or programs,
6 preschools, and Head Start centers, and with
7 family literacy services.

8 “(f) AWARD AMOUNTS.—The Secretary may estab-
9 lish a maximum award amount, or ranges of award
10 amounts, for grants under this subpart.

11 **“SEC. 1223. FEDERAL ADMINISTRATION.**

12 “The Secretary shall consult with the Secretary of
13 Health and Human Services in order to coordinate the ac-
14 tivities undertaken under this subpart with programs
15 under the Head Start Act (42 U.S.C. 9831 et seq.).

16 **“SEC. 1224. REPORTING REQUIREMENTS.**

17 “Each eligible applicant receiving a grant under this
18 subpart shall report annually to the Secretary regarding
19 the eligible applicant’s progress in addressing the purposes
20 of this subpart, including information on—

21 “(1) the research-based instruction, materials,
22 and activities being used in the programs funded
23 under the grant;

1 “(2) the types of programs funded under the
2 grant and the ages of children served by such pro-
3 grams;

4 “(3) the qualifications of the program staff who
5 provide early literacy instruction under such pro-
6 grams and the type of ongoing professional develop-
7 ment provided to such staff; and

8 “(4) the curricula, materials, and activities used
9 by the programs funded under the grant to support
10 children’s reading development.

11 **“SEC. 1225. EVALUATION.**

12 “From the total amount made available under section
13 1002(b)(2) for the period beginning October 1, 2002, and
14 ending September 30, 2006, the Secretary shall reserve
15 not more than \$1,000,000 to conduct an independent eval-
16 uation of the effectiveness of this subpart.

17 **“SEC. 1226. ADDITIONAL RESEARCH.**

18 “From the amount made available under section
19 1002(b)(2) for each of the fiscal years 2002 through 2006,
20 the Secretary shall reserve not more than \$3,000,000 to
21 conduct, in consultation with the National Institute for
22 Child Health and Human Development, the National In-
23 stitute for Literacy, and the Department of Health and
24 Human Services, additional research on language and lit-
25 eracy development for children aged 3 through 5.”.

1 **SEC. 112. AMENDMENTS TO EVEN START.**

2 Part B of title I (20 U.S.C. 6361 et seq.), as amend-
3 ed by section 111, is further amended—

4 (1) by inserting before section 1231 (as so re-
5 designated by section 111) the following:

6 **“Subpart 3—William F. Goodling Even Start Family**
7 **Literacy Programs”;**

8 (2) in each of sections 1231 through 1242 (as
9 so redesignated by section 111)—

10 (A) by striking “this part” each place such
11 term appears and inserting “this subpart”; and

12 (B) by striking “1002(b)” each place such
13 term appears and inserting “1002(b)(3)”;

14 (3) in section 1231(4), by striking “2252)” and
15 inserting “1209)”;

16 (4) in section 1232—

17 (A) in subsection (b)—

18 (i) in paragraph (1)(A), by striking
19 “1209;” and inserting “1239;”; and

20 (ii) in paragraph (2), by striking
21 “1211(b)” each place such term appears
22 and inserting “1241(b)”;

23 (B) in subsection (c)—

24 (i) by amending paragraph (2)(C) to
25 read as follows:

1 “(C) COORDINATION WITH SUBPART 1.—

2 The consortium shall coordinate its activities
3 with the activities of the reading and literacy
4 partnership for the State established under sec-
5 tion 1204(d), if the State receives a grant
6 under section 1203.”; and

7 (ii) in paragraph (3), by striking
8 “2252).” and inserting “1209).”;

9 (5) in section 1233—

10 (A) by striking “1202(d)(1)” each place
11 such term appears and inserting “1232(d)(1)”;

12 and

13 (B) by striking “1210.” and inserting
14 “1240.”;

15 (6) in section 1234—

16 (A) in subsection (b)—

17 (i) in paragraph (1)(A), by moving
18 the margins of clauses (v) and (vi) 2 ems
19 to the right; and

20 (ii) in paragraph (3), by striking
21 “1202(a)(1)(C)” and inserting

22 “1232(a)(1)(C)”;

23 (B) in subsection (c)—

24 (i) in paragraph (1)—

1 (I) by striking “1203(a),” and
2 inserting “1233(a),”; and

3 (II) by striking “1203(b)” and
4 inserting “1233(b),”; and

5 (ii) in paragraph (2), by striking
6 “1210.” and inserting “1240.”;

7 (7) in section 1235—

8 (A) in paragraph (10), by striking “2252)”
9 and inserting “1209);”;

10 (B) in paragraph (12), by striking
11 “2252),” and inserting “1209),”; and

12 (C) in paragraph (15), by striking “pro-
13 gram.” and inserting “program to be used for
14 program improvement.”;

15 (8) in section 1237—

16 (A) in subsection (c)(1)—

17 (i) in subparagraph (B), by striking
18 “1205;” and inserting “1235;”; and

19 (ii) in subparagraph (F), by striking
20 “14306;” and inserting “8306;”; and

21 (B) in subsection (d), by striking “14302.”
22 and inserting “8302.”;

23 (9) in section 1238—

24 (A) in subsection (a)(1)—

- 1 (i) in subparagraph (A)(ii), by strik-
2 ing “1205;” and inserting “1235;”; and
- 3 (ii) in subparagraph (F), by striking
4 “1204(b);” and inserting “1234(b);”; and
- 5 (B) in subsection (b)—
- 6 (i) in paragraph (3)—
- 7 (I) by striking “1207(c)(1)(A)”
8 and inserting “1237(c)(1)(A)”; and
- 9 (II) by striking “1210.” and in-
10 sserting “1240.”;
- 11 (ii) in paragraph (4), by striking
12 “1210,” and inserting “1240,”; and
- 13 (iii) in paragraph (5)(B), by striking
14 “1204(b).” and inserting “1234(b).”;
- 15 (10) in section 1239—
- 16 (A) by striking “1202(b)(1),” and insert-
17 ing “1232(b)(1),”; and
- 18 (B) by striking “1205(10)” and inserting
19 “1235(10)”; and
- 20 (11) in section 1241—
- 21 (A) in subsection (b)(1)—
- 22 (i) by striking “1202(b)(2),” and in-
23 sserting “1232(b)(2),”; and
- 24 (ii) by striking “2252);” and inserting
25 “1209);”; and

1 (B) in subsection (c), by striking “2258,”
2 and inserting “1208.”

3 **SEC. 113. INEXPENSIVE BOOK DISTRIBUTION PROGRAM.**

4 (a) TRANSFER AND REDESIGNATION.—Part E of
5 title X (20 U.S.C. 8131) is transferred and redesignated
6 as subpart 4 of part B of title I. Section 10501 is redesignig-
7 nated as section 1251.

8 (b) PURPOSE.—Section 1251 (as so redesignated) is
9 amended—

10 (1) by striking subsection (e);

11 (2) by redesignating subsection (d) as sub-
12 section (g);

13 (3) by redesignating subsections (a) through (c)
14 as subsections (b) through (d), respectively; and

15 (4) by inserting before subsection (b) (as so re-
16 designated) the following:

17 “(a) PURPOSE.—The purpose of this program is to
18 establish and implement a model partnership between a
19 governmental entity and a private entity, to help prepare
20 young children for reading, and motivate older children
21 to read, through the distribution of inexpensive books.
22 Local reading motivation programs assisted under this
23 section shall use such assistance to provide books, training
24 for volunteers, motivational activities, and other essential
25 literacy resources, and shall assign the highest priority to

1 serving the youngest and neediest children in the United
2 States.”.

3 (c) AUTHORIZATION.—Section 1251(b) (as so reded-
4 icated) is amended by striking “books to students, that
5 motivate children to read.” and inserting “books to young
6 and school-aged children that motivate them to read.”.

7 (d) REQUIREMENTS OF CONTRACT.—Section 1251(c)
8 (as so redesignated) is amended—

9 (1) in the matter preceding paragraph (1), by
10 striking “subsection (a)” and inserting “subsection
11 (b)”; and

12 (2) in paragraph (4), by inserting “training
13 and” before “technical”.

14 (e) SPECIAL RULES FOR CERTAIN SUBCONTRAC-
15 TORS; MULTI-YEAR CONTRACTS.—Section 1251 (as so re-
16 designated) is amended by inserting after subsection (d)
17 the following:

18 “(e) SPECIAL RULES FOR CERTAIN SUBCONTRAC-
19 TORS.—

20 “(1) FUNDS FROM OTHER FEDERAL
21 SOURCES.—Subcontractors operating programs
22 under this section in low-income communities with a
23 substantial number or percentage of children with
24 special needs, as described in subsection (c)(3), may
25 use funds from other Federal sources to pay the

1 non-Federal share of the cost of the program, if
2 those funds do not comprise more than 50 percent
3 of the non-Federal share of the funds used for the
4 cost of acquiring and distributing books.

5 “(2) WAIVER AUTHORITY.—Notwithstanding
6 subsection (c), the contractor may waive, in whole or
7 in part, the requirement in subsection (c)(1) for a
8 subcontractor, if the subcontractor demonstrates
9 that it would otherwise not be able to participate in
10 the program, and enters into an agreement with the
11 contractor with respect to the amount of the non-
12 Federal share to which the waiver will apply. In a
13 case in which such a waiver is granted, the require-
14 ment in subsection (c)(2) shall not apply.

15 “(f) MULTI-YEAR CONTRACTS.—The contractor may
16 enter into a multi-year subcontract under this section, if—

17 “(1) the contractor believes that such sub-
18 contract will provide the subcontractor with addi-
19 tional leverage in seeking local commitments; and

20 “(2) the subcontract does not undermine the fi-
21 nances of the national program.”.

22 (f) CONTINUATION OF AWARDS.—Notwithstanding
23 any other provision of this Act, any person or agency that
24 was awarded a contract under part E of title X (20 U.S.C.
25 8131) prior to the date of the enactment of this Act shall

1 continue to receive funds in accordance with the terms of
2 such contract until the date on which the contract period
3 terminates under such terms.

4 **PART C—EDUCATION OF MIGRATORY CHILDREN**

5 **SEC. 121. STATE ALLOCATIONS.**

6 Section 1303 (20 U.S.C. 6393) is amended—

7 (1) by amending subsection (a) to read as fol-
8 lows:

9 “(a) STATE ALLOCATIONS.—

10 “(1) FISCAL YEAR 2002.—For fiscal year 2002,
11 each State (other than the Commonwealth of Puerto
12 Rico) is entitled to receive under this part an
13 amount equal to—

14 “(A) the sum of the estimated number of
15 migratory children aged three through 21 who
16 reside in the State full time and the full-time
17 equivalent of the estimated number of migra-
18 tory children aged three through 21 who reside
19 in the State part time, as determined in accord-
20 ance with subsection (d); multiplied by

21 “(B) 40 percent of the average per-pupil
22 expenditure in the State, except that the
23 amount determined under this paragraph shall
24 not be less than 32 percent, nor more than 48

1 percent, of the average expenditure per pupil in
2 the United States.

3 “(2) SUBSEQUENT YEARS.—

4 “(A) BASE AMOUNT.—

5 “(i) IN GENERAL.—Except as pro-
6 vided in subsection (b) and clause (ii), each
7 State (other than the Commonwealth of
8 Puerto Rico) is entitled to receive under
9 this part, for fiscal year 2003 and suc-
10 ceeding fiscal years, an amount equal to—

11 “(I) the amount that such State
12 received under this part for fiscal year
13 2002; plus

14 “(II) the amount allocated to the
15 State under subparagraph (B).

16 “(ii) NONPARTICIPATING STATES.—In
17 the case of a State (other than the Com-
18 monwealth of Puerto Rico) that did not re-
19 ceive any funds for fiscal year 2002 under
20 this part, the State shall receive, for fiscal
21 year 2003 and succeeding fiscal years, an
22 amount equal to—

23 “(I) the amount that such State
24 would have received under this part
25 for fiscal year 2002 if its application

1 under section 1304 for the year had
2 been approved; plus

3 “(II) the amount allocated to the
4 State under subparagraph (B).

5 “(B) ALLOCATION OF ADDITIONAL
6 AMOUNT.—For fiscal year 2003 and succeeding
7 fiscal years, the amount (if any) by which the
8 funds appropriated to carry out this part for
9 the year exceed such funds for fiscal year 2002
10 shall be allocated to a State (other than the
11 Commonwealth of Puerto Rico) so that the
12 State receives an amount equal to—

13 “(i) the sum of—

14 “(I) the number of identified eli-
15 gible migratory children, aged 3
16 through 21, residing in the State dur-
17 ing the previous year; and

18 “(II) the number of identified eli-
19 gible migratory children, aged 3
20 through 21, who received services
21 under this part in summer or interses-
22 sion programs provided by the State
23 during such year; multiplied by

24 “(ii) 40 percent of the average per-
25 pupil expenditure in the State, except that

1 the amount determined under this clause
2 may not be less than 32 percent, or more
3 than 48 percent, of the average per-pupil
4 expenditure in the United States.”;

5 (2) by amending subsection (b) to read as fol-
6 lows:

7 “(b) ALLOCATION TO PUERTO RICO.—

8 “(1) IN GENERAL.—For each fiscal year, the
9 grant which the Commonwealth of Puerto Rico shall
10 be eligible to receive under this part shall be the
11 amount determined by multiplying the number of
12 children counted under subsection (a)(1)(A) for the
13 Commonwealth of Puerto Rico by the product of—

14 “(A) the percentage which the average per
15 pupil expenditure in the Commonwealth of
16 Puerto Rico is of the lowest average per pupil
17 expenditure of any of the 50 States; and

18 “(B) 32 percent of the average per pupil
19 expenditure in the United States.

20 “(2) MINIMUM PERCENTAGE.—The percentage
21 in paragraph (1)(A) shall not be less than—

22 “(A) for fiscal year 2002, 77.5 percent;

23 “(B) for fiscal year 2003, 80.0 percent;

24 “(C) for fiscal year 2004, 82.5 percent;

25 and

1 “(D) for fiscal year 2005 and succeeding
2 fiscal years, 85.0 percent.

3 “(3) LIMITATION.—If the application of para-
4 graph (2) would result in any of the 50 States or
5 the District of Columbia receiving less under this
6 part than it received under this part for the pre-
7 ceding fiscal year, the percentage in paragraph (1)
8 shall be the greater of the percentage in paragraph
9 (1)(A) or the percentage used for the preceding fis-
10 cal year.”; and

11 (3) by striking subsection (d) and redesignating
12 subsection (e) as subsection (d).

13 **SEC. 122. STATE APPLICATIONS; SERVICES.**

14 (a) PROGRAM INFORMATION.—Section 1304(b) (20
15 U.S.C. 6394(b)) is amended—

16 (1) in paragraph (1), by striking “addressed
17 through” and all that follows through the semicolon
18 at the end and inserting the following:

19 “addressed through—

20 “(A) the full range of services that are
21 available for migratory children from appro-
22 priate local, State, and Federal educational pro-
23 grams;

24 “(B) joint planning among local, State,
25 and Federal educational programs serving mi-

1 grant children, including programs under part
2 A of title III;

3 “(C) the integration of services available
4 under this part with services provided by those
5 other programs; and

6 “(D) measurable program goals and out-
7 comes;”; and

8 (2) in paragraph (5), by striking “the require-
9 ments of paragraph (1);” and inserting “the num-
10 bers and needs of migratory children, the require-
11 ments of subsection (d), and the availability of funds
12 from other Federal, State, and local programs;”.

13 (b) ASSURANCES.—Section 1304(c) (20 U.S.C.
14 6394(c)) is amended—

15 (1) in paragraph (1), by striking “1306(b)(1);”
16 and inserting “1306(a);”;

17 (2) in paragraph (2), by striking “part F;” and
18 inserting “part H;”

19 (3) in paragraph (3)—

20 (A) by striking “appropriate”;

21 (B) by striking “out, to the extent fea-
22 sible,” and inserting “out”; and

23 (C) by striking “1118;” and inserting
24 “1118, unless extraordinary circumstances

1 make implementation consistent with such sec-
2 tion impractical;” and

3 (4) in paragraph (7), by striking “section
4 1303(e)” and inserting “paragraphs (1)(A) and
5 (2)(B)(i) of section 1303(a)”.

6 **SEC. 123. AUTHORIZED ACTIVITIES.**

7 Section 1306 (20 U.S.C. 6396) is amended to read
8 as follows:

9 **“SEC. 1306. AUTHORIZED ACTIVITIES.**

10 “(a) IN GENERAL.—

11 “(1) FLEXIBILITY.—Each State educational
12 agency, through its local educational agencies, shall
13 have the flexibility to determine the activities to be
14 provided with funds made available under this part,
15 except that such funds shall first be used to meet
16 the identified needs of migratory children that result
17 from their migratory lifestyle, and to permit these
18 children to participate effectively in school.

19 “(2) UNADDRESSED NEEDS.—Funds provided
20 under this part shall be used to address the needs
21 of migratory children that are not addressed by serv-
22 ices available from other Federal or non-Federal
23 programs, except that migratory children who are el-
24 igible to receive services under part A of this title
25 may receive those services through funds provided

1 under that part, or through funds under this part
2 that remain after the agency addresses the needs de-
3 scribed in paragraph (1).

4 “(b) CONSTRUCTION.—Nothing in this part shall be
5 construed to prohibit a local educational agency from serv-
6 ing migratory children simultaneously with students with
7 similar educational needs in the same educational settings,
8 where appropriate.

9 “(c) SPECIAL RULE.—Notwithstanding section 1114,
10 a school that receives funds under this part shall continue
11 to address the identified needs described in subsection
12 (a)(1).”.

13 **SEC. 124. COORDINATION OF MIGRANT EDUCATION ACTIVI-**
14 **TIES.**

15 (a) DURATION.—Section 1308(a)(2) (20 U.S.C.
16 6398(a)(2)) is amended by striking “subpart” and insert-
17 ing “subsection”.

18 (b) STUDENT RECORDS.—Section 1308(b) (20
19 U.S.C. 6398(b)) is amended to read as follows:

20 “(b) STUDENT RECORDS.—

21 “(1) ASSISTANCE.—The Secretary shall assist
22 States in developing effective methods for the trans-
23 fer of student records and in determining the num-
24 ber of migratory children in each State. The Sec-
25 retary, in consultation with the States, shall deter-

1 mine the minimum data elements that each State re-
2 ceiving funds under this part shall collect and main-
3 tain. The Secretary shall assist States to implement
4 a system of linking their student record transfer sys-
5 tems for the purpose of electronic records mainte-
6 nance and transfer for migrant students.

7 “(2) NO COST FOR CERTAIN TRANSFERS.—A
8 State educational agency or local educational agency
9 receiving assistance under this part shall make stu-
10 dent records available to another State or local edu-
11 cational agency that requests the records at no cost
12 to the requesting agency, if the request is made in
13 order to meet the needs of a migratory child.”.

14 (c) AVAILABILITY OF FUNDS.—Section 1308(c) (20
15 U.S.C. 6398(c)) is amended by striking “\$6,000,000” and
16 inserting “\$10,000,000”.

17 (d) INCENTIVE GRANTS.—Section 1308(d) (20
18 U.S.C. 6398(d)) is amended to read as follows:

19 “(d) INCENTIVE GRANTS.—From the amounts made
20 available to carry out this section for any fiscal year, the
21 Secretary may reserve not more than \$3,000,000 to award
22 grants of not more than \$250,000 on a competitive basis
23 to State educational agencies that propose a consortium
24 arrangement with another State or other appropriate enti-
25 ty that the Secretary determines, pursuant to criteria that

1 the Secretary shall establish, will improve the delivery of
2 services to migratory children whose education is inter-
3 rupted.”.

4 **PART D—NEGLECTED OR DELINQUENT YOUTH**

5 **SEC. 131. NEGLECTED OR DELINQUENT YOUTH.**

6 The heading for part D of title I is amended to read
7 as follows:

8 **“PART D—PREVENTION AND INTERVENTION**
9 **PROGRAMS FOR NEGLECTED OR DELIN-**
10 **QUENT CHILDREN AND YOUTH”.**

11 **SEC. 132. FINDINGS.**

12 Section 1401(a) (20 U.S.C. 6421(a)) is amended by
13 striking paragraphs (6) through (9) and inserting the fol-
14 lowing:

15 “(6) Youth returning from correctional facilities
16 need to be involved in programs that provide them
17 with high-level skills and other support to help them
18 stay in school and complete their education.

19 “(7) Pregnant and parenting teenagers are a
20 high-at-risk group for dropping out of school and
21 should be targeted by dropout prevention pro-
22 grams.”.

23 **SEC. 133. ALLOCATION OF FUNDS.**

24 Section 1412(b) (20 U.S.C. 6432(b)) is amended to
25 read as follows:

1 “(b) SUBGRANTS TO STATE AGENCIES IN PUERTO
2 RICO.—

3 “(1) IN GENERAL.—For each fiscal year, the
4 amount of the subgrant which a State agency in the
5 Commonwealth of Puerto Rico shall be eligible to re-
6 ceive under this part shall be the amount determined
7 by multiplying the number of children counted under
8 subparagraph (a)(1)(A) for the Commonwealth of
9 Puerto Rico by the product of—

10 “(A) the percentage which the average per-
11 pupil expenditure in the Commonwealth of
12 Puerto Rico is of the lowest average per-pupil
13 expenditure of any of the 50 States; and

14 “(B) 32 percent of the average per-pupil
15 expenditure in the United States.

16 “(2) MINIMUM PERCENTAGE.—The percentage
17 in paragraph (1)(A) shall not be less than—

18 “(A) for fiscal year 2002, 77.5 percent;

19 “(B) for fiscal year 2003, 80.0 percent;

20 “(C) for fiscal year 2004, 82.5 percent;

21 and

22 “(D) for fiscal year 2005 and succeeding
23 fiscal years, 85.0 percent.

24 “(3) LIMITATION.—If the application of para-
25 graph (2) would result in any of the 50 States or

1 the District of Columbia receiving less under this
2 part than it received under this part for the pre-
3 ceding fiscal year, the percentage in paragraph (1)
4 shall be the greater of the percentage in paragraph
5 (1)(A) or the percentage used for the preceding fis-
6 cal year.”.

7 **SEC. 134. STATE PLAN AND STATE AGENCY APPLICATIONS.**

8 Section 1414 (20 U.S.C. 6434) is amended to read
9 as follows:

10 **“SEC. 1414. STATE PLAN AND STATE AGENCY APPLICA-**
11 **TIONS.**

12 “(a) STATE PLAN.—

13 “(1) IN GENERAL.—Each State educational
14 agency that desires to receive a grant under this
15 part shall submit, for approval by the Secretary, a
16 plan for meeting the educational needs of neglected
17 and delinquent youth, for assisting in their transi-
18 tion from institutions to locally operated programs,
19 and which is integrated with other programs under
20 this Act or other Acts, as appropriate, consistent
21 with section 8306.

22 “(2) CONTENTS.—Each such State plan shall—

23 “(A) describe the program goals, objec-
24 tives, and performance measures established by
25 the State that will be used to assess the effec-

1 tiveness of the program in improving academic
2 and vocational and technical skills of children in
3 the program;

4 “(B) provide that, to the extent feasible,
5 such children will have the same opportunities
6 to learn as such children would have if such
7 children were in the schools of local educational
8 agencies in the State; and

9 “(C) contain assurances that the State
10 educational agency will—

11 “(i) ensure that programs assisted
12 under this part will be carried out in ac-
13 cordance with the State plan described in
14 this subsection;

15 “(ii) carry out the evaluation require-
16 ments of section 1416;

17 “(iii) ensure that the State agencies
18 receiving subgrants under this subpart
19 comply with all applicable statutory and
20 regulatory requirements; and

21 “(iv) provide such other information
22 as the Secretary may reasonably require.

23 “(3) DURATION OF THE PLAN.—Each such
24 State plan shall—

1 “(A) remain in effect for the duration of
2 the State’s participation under this part; and

3 “(B) be periodically reviewed and revised
4 by the State, as necessary, to reflect changes in
5 the State’s strategies and programs under this
6 part.

7 “(b) SECRETARIAL APPROVAL AND PEER REVIEW.—

8 “(1) SECRETARIAL APPROVAL.—The Secretary
9 shall approve each State plan that meets the re-
10 quirements of this part.

11 “(2) PEER REVIEW.—The Secretary may review
12 any State plan with the assistance and advice of in-
13 dividuals with relevant expertise.

14 “(c) STATE AGENCY APPLICATIONS.—Any State
15 agency that desires to receive funds to carry out a pro-
16 gram under this part shall submit an application to the
17 State educational agency that—

18 “(1) describes the procedures to be used, con-
19 sistent with the State plan under section 1111, to
20 assess the educational needs of the children to be
21 served;

22 “(2) provides assurances that in making serv-
23 ices available to youth in adult correctional facilities,
24 priority will be given to such youth who are likely to
25 complete incarceration within a 2-year period;

1 “(3) describes the program, including a budget
2 for the first year of the program, with annual up-
3 dates to be provided to the State educational agency;

4 “(4) describes how the program will meet the
5 goals and objectives of the State plan under this
6 subpart;

7 “(5) describes how the State agency will consult
8 with experts and provide the necessary training for
9 appropriate staff, to ensure that the planning and
10 operation of institution-wide projects under section
11 1416 are of high quality;

12 “(6) describes how the agency will carry out the
13 evaluation requirements of section 8651 and how the
14 results of the most recent evaluation are used to
15 plan and improve the program;

16 “(7) includes data showing that the agency has
17 maintained fiscal effort required of a local edu-
18 cational agency, in accordance with section 8501;

19 “(8) describes how the programs will be coordi-
20 nated with other appropriate State and Federal pro-
21 grams, such as job training programs, vocational
22 and technical education programs, State and local
23 dropout prevention programs, and special education
24 programs;

1 “(9) describes how States will encourage correc-
2 tional facilities receiving funds under this subpart to
3 coordinate with local educational agencies or alter-
4 native education programs attended by incarcerated
5 youth prior to their incarceration to ensure that stu-
6 dent assessments and appropriate academic records
7 are shared jointly between the correctional facility
8 and the local educational agency or alternative edu-
9 cation program;

10 “(10) describes how appropriate professional
11 development will be provided to teachers and other
12 staff;

13 “(11) designates an individual in each affected
14 institution to be responsible for issues relating to the
15 transition of children and youth from the institution
16 to locally operated programs;

17 “(12) describes how the agency will endeavor to
18 coordinate with businesses for training and men-
19 toring for participating youth;

20 “(13) provides assurances that the agency will
21 assist in locating alternative programs through
22 which students can continue their education if stu-
23 dents are not returning to school after leaving the
24 correctional facility;

1 “(14) provides assurances that the agency will
2 work with parents to secure parents’ assistance in
3 improving the educational achievement of their chil-
4 dren and preventing their children’s further involve-
5 ment in delinquent activities;

6 “(15) provides assurances that the agency
7 works with special education youth in order to meet
8 an existing individualized education program and an
9 assurance that the agency will notify the youth’s
10 local school if such youth—

11 “(A) is identified as in need of special edu-
12 cation services while the youth is in the facility;
13 and

14 “(B) intends to return to the local school;

15 “(16) provides assurances that the agency will
16 work with youth who dropped out of school before
17 entering the facility to encourage the youth to reen-
18 ter school once the term of incarceration has been
19 completed or provide the youth with the skills nec-
20 essary to gain employment, continue the education
21 of the youth, or achieve a secondary school diploma
22 or the recognized equivalent if the youth does not in-
23 tend to return to school;

24 “(17) provides assurances that teachers and
25 other qualified staff are also trained to work with

1 children with disabilities and other students with
2 special needs, taking into consideration the unique
3 needs of such students;

4 “(18) describes any additional services to be
5 provided to youth, such as career counseling, dis-
6 tance learning, and assistance in securing student
7 loans and grants; and

8 “(19) provides assurances that the program
9 under this subpart will be coordinated with any pro-
10 grams operated under the Juvenile Justice and De-
11 linquency Prevention Act of 1974 (42 U.S.C. 5601
12 et seq.) or other comparable programs, if applica-
13 ble.”.

14 **SEC. 135. USE OF FUNDS.**

15 Section 1415(a) (20 U.S.C. 6435(a)) is amended—

16 (1) in paragraph (1)(B), by inserting “, voca-
17 tional and technical training” after “secondary
18 school completion”;

19 (2) in paragraph (2)(B)—

20 (A) in clause (i), by inserting “and” after
21 the semicolon;

22 (B) in clause (ii), by striking “; and” and
23 inserting a semicolon; and

24 (C) by striking clause (iii);

1 (3) in paragraph (2)(C), by striking “part F of
2 this title” and inserting “part H”; and

3 (4) in paragraph (2)(D), by striking “section
4 14701” and inserting “section 8651”.

5 **SEC. 136. TRANSITION SERVICES.**

6 Section 1418(a) (20 U.S.C. 6438(a)) is amended by
7 striking “10 percent” and inserting “15 percent”.

8 **SEC. 137. PURPOSE.**

9 Section 1421(3) (20 U.S.C. 6451(3)) is amended to
10 read as follows:

11 “(3) operate programs in local schools for youth
12 returning from correctional facilities and programs
13 which may also serve youth at risk of dropping out
14 of school.”.

15 **SEC. 138. PROGRAMS OPERATED BY LOCAL EDUCATIONAL**
16 **AGENCIES.**

17 Section 1422 (20 U.S.C. 6452) is amended—

18 (1) in subsection (a), by striking “retained”;

19 (2) by amending subsection (b) to read as fol-
20 lows:

21 “(b) SPECIAL RULE.—A local educational agency
22 which includes a correctional facility that operates a school
23 is not required to operate a program of support for chil-
24 dren returning from such school to a school not operated
25 by a correctional agency but served by such local edu-

1 cational agency if more than 30 percent of the youth at-
2 tending the school operated by the correctional facility will
3 reside outside the boundaries of the local educational
4 agency after leaving such facility.”; and

5 (3) by adding at the end the following:

6 “(d) TRANSITIONAL AND ACADEMIC SERVICES.—
7 Transitional and supportive programs operated in local
8 educational agencies under this subpart shall be designed
9 primarily to meet the transitional and academic needs of
10 students returning to local educational agencies or alter-
11 native education programs from correctional facilities.
12 Services to students at risk of dropping out of school shall
13 not have a negative impact on meeting the transitional and
14 academic needs of the students returning from correc-
15 tional facilities.”.

16 **SEC. 139. LOCAL EDUCATIONAL AGENCY APPLICATIONS.**

17 Section 1423 (20 U.S.C. 6453) is amended by strik-
18 ing paragraphs (4) through (9) and inserting the fol-
19 lowing:

20 “(4) a description of the program operated by
21 participating schools for children returning from cor-
22 rectional facilities and the types of services that such
23 schools will provide such youth and other at-risk
24 youth;

1 “(5) a description of the characteristics (includ-
2 ing learning difficulties, substance abuse problems,
3 and other special needs) of the youth who will be re-
4 turning from correctional facilities and, as appro-
5 priate, other at-risk youth expected to be served by
6 the program and how the school will coordinate ex-
7 isting educational programs to meet the unique edu-
8 cational needs of such youth;

9 “(6) as appropriate, a description of how
10 schools will coordinate with existing social, health,
11 and other services to meet the needs of students re-
12 turning from correctional facilities, students at risk
13 of dropping out of school, and other participating
14 students, including prenatal health care and nutri-
15 tion services related to the health of the parent and
16 child, parenting and child development classes, child
17 care, targeted reentry and outreach programs, refer-
18 rals to community resources, and scheduling flexi-
19 bility;

20 “(7) as appropriate, a description of any part-
21 nerships with local businesses to develop training,
22 curriculum-based youth entrepreneurship education,
23 and mentoring services for participating students;

24 “(8) as appropriate, a description of how pro-
25 grams will involve parents in efforts to improve the

1 educational achievement of their children, prevent
2 the involvement of their children in delinquent activi-
3 ties, and encourage their children to remain in
4 school and complete their education;

5 “(9) a description of how the program under
6 this subpart will be coordinated with other Federal,
7 State, and local programs, such as job training pro-
8 grams and vocational and technical education pro-
9 grams serving this at-risk population of youth;”.

10 **SEC. 140. USES OF FUNDS.**

11 Section 1424 (20 U.S.C. 6454) is amended by strik-
12 ing paragraphs (1) through (3) and inserting the fol-
13 lowing:

14 “(1) programs that serve youth returning from
15 correctional facilities to local schools, to assist in the
16 transition of such youth to the school environment
17 and help them remain in school in order to complete
18 their education;

19 “(2) providing assistance to other youth at risk
20 of dropping out of school, including pregnant and
21 parenting teenagers;

22 “(3) the coordination of social, health, and
23 other services, including day care, for participating
24 youth, if the provision of such services will improve

1 the likelihood that such youth will complete their
2 education;

3 “(4) special programs to meet the unique aca-
4 demic needs of participating youth, including voca-
5 tional and technical education, special education, ca-
6 reer counseling, curriculum-based youth entrepre-
7 neurship education, and assistance in securing stu-
8 dent loans or grants for postsecondary education;
9 and

10 “(5) programs providing mentoring and peer
11 mediation.”.

12 **SEC. 141. PROGRAM REQUIREMENTS.**

13 Section 1425 (20 U.S.C. 6455) is amended—

14 (1) in the section heading, by striking “**THIS**
15 **SECTION**” and inserting “***this subpart***”;

16 (2) in the matter preceding paragraph (1), by
17 striking “this section” and inserting “this subpart”;

18 (3) in paragraph (1), by striking “where fea-
19 sible, ensure educational programs” and inserting
20 “to the extent practicable, ensure that educational
21 programs”;

22 (4) in paragraphs (3) and (8), by striking
23 “where feasible,” and inserting “to the extent prac-
24 ticable,”;

25 (5) in paragraph (9)—

1 (A) by striking “this program” and insert-
2 ing “this subpart”;

3 (B) by inserting “and technical” after “vo-
4 cational”; and

5 (C) by striking “title I of the Workforce
6 Investment Act of 1998” and inserting “other
7 job training programs”;

8 (6) in paragraph (10), by inserting “(42 U.S.C.
9 5601 et seq.)” after “Juvenile Justice and Delin-
10 quency Prevention Act of 1974”; and

11 (7) by amending paragraph (11) to read as fol-
12 lows:

13 “(11) if appropriate, work with local businesses
14 to develop training, curriculum-based youth entre-
15 preneurship education, and mentoring programs for
16 youth.”.

17 **SEC. 142. PROGRAM EVALUATIONS.**

18 Section 1431(a) (20 U.S.C. 6471(a)) is amended by
19 striking “sex, and if feasible,” and inserting “gender,”.

20 **PART E—FEDERAL EVALUATIONS AND**
21 **DEMONSTRATIONS**

22 **SEC. 151. EVALUATIONS.**

23 Section 1501 (20 U.S.C. 6491) is amended to read
24 as follows:

1 **“SEC. 1501. EVALUATIONS.**

2 “(a) NATIONAL ASSESSMENT.—

3 “(1) IN GENERAL.—In accordance with this
4 section, the Secretary shall conduct a national as-
5 sessment of programs assisted under this title.

6 “(2) ISSUES TO BE EXAMINED.—In conducting
7 the assessment under this subsection, the Secretary
8 shall examine—

9 “(A) the implementation of programs as-
10 sisted under this title and the impact of such
11 implementation on increasing student academic
12 achievement, particularly schools with high con-
13 centrations of children living in poverty;

14 “(B) the implementation of State stand-
15 ards, assessments, and accountability systems
16 developed under this title and the impact of
17 such implementation on educational programs
18 and instruction at the local level;

19 “(C) the impact of schoolwide programs
20 and targeted assistance programs under this
21 title on improving student academic achieve-
22 ment;

23 “(D) the extent to which varying models of
24 comprehensive school reform are funded under
25 this title, and the effect of the implementation

1 of such models on improving achievement of
2 disadvantaged students;

3 “(E) the costs as compared to the benefits
4 of the activities assisted under this title;

5 “(F) the impact of school choice options
6 under section 1116 on the academic achieve-
7 ment of disadvantaged students, on schools in
8 school improvement, and on schools from which
9 students have transferred under such options;

10 “(G) the extent to which actions author-
11 ized under section 1116 of this title are em-
12 ployed by State and local educational agencies
13 to improve the academic achievement of stu-
14 dents in low-performing schools, and the effec-
15 tiveness of the implementation of such actions;

16 “(H) the extent to which technical assist-
17 ance made available under this title is used to
18 improve the achievement of students in low-per-
19 forming schools, and the impact of such assist-
20 ance on such achievement;

21 “(I) the extent to which State and local
22 fiscal accounting requirements under this title
23 limit the flexibility of schoolwide programs;

1 “(J) the impact of the professional devel-
2 opment activities assisted under this title on in-
3 struction and student performance;

4 “(K) the extent to which the assistance
5 made available under this title is targeted to
6 disadvantaged students and schools that need
7 them the most;

8 “(L) the effectiveness of Federal adminis-
9 tration assistance made available under this
10 title, including monitoring and technical assist-
11 ance; and

12 “(M) such other issues as the Secretary
13 considers appropriate.

14 “(3) SOURCES OF INFORMATION.—In con-
15 ducting the assessment under this subsection, the
16 Secretary shall use information from a variety of
17 sources, including the National Assessment of Edu-
18 cational Progress (carried out under section 411 of
19 the National Education Statistics Act of 1994 (20
20 U.S.C. 9010)), state evaluations, and other research
21 studies.

22 “(4) COORDINATION.—In carrying out this sub-
23 section, the Secretary shall—

1 “(A) coordinate conducting the national
2 assessment with conducting the longitudinal
3 study described in subsection (c); and

4 “(B) ensure that the independent review
5 panel described in subsection (d) participates in
6 conducting the national assessment, including
7 planning for and reviewing the assessment.

8 “(5) REPORTS.—

9 “(A) INTERIM REPORT.—Not later than 3
10 years after the date of enactment of the Leave
11 No Child Behind Act of 2001, the Secretary
12 shall transmit to the President and the Con-
13 gress an interim report on the national assess-
14 ment conducted under this subsection.

15 “(B) FINAL REPORT.—Not later than 4
16 years after the date of enactment of the Leave
17 No Child Behind Act of 2001, the Secretary
18 shall transmit to the President and the Con-
19 gress a final report on the national assessment
20 conducted under this subsection.

21 “(b) STUDIES AND DATA COLLECTION.—

22 “(1) IN GENERAL.—In addition to other activi-
23 ties described in this section, the Secretary may, di-
24 rectly or through the making of grants to or con-
25 tracts with appropriate entities—

1 “(A) conduct studies and evaluations of
2 the need for, and effectiveness of, each program
3 authorized under this title;

4 “(B) collect the data necessary to comply
5 with the Government Performance and Results
6 Act of 1993; and

7 “(C) provide guidance and technical assist-
8 ance to State educational agencies and local
9 educational agencies in developing and main-
10 taining management information systems
11 through which such agencies can develop pro-
12 gram performance indicators in order to im-
13 prove services and performance.

14 “(2) MINIMUM INFORMATION.—Under this sub-
15 section, the Secretary shall collect, at a minimum,
16 trend information on the effect of each program au-
17 thorized under this title, which shall complement the
18 data collected and reported under subsections (a)
19 and (c).

20 “(c) NATIONAL LONGITUDINAL STUDY.—

21 “(1) IN GENERAL.—The Secretary shall con-
22 duct a longitudinal study of schools receiving assist-
23 ance under this title.

24 “(2) ISSUES TO BE EXAMINED.—In carrying
25 out this subsection, the Secretary shall ensure that

1 the study referred to in paragraph (1) provides the
2 Congress and educators with each of the following:

3 “(A) An accurate description and analysis
4 of short-term and long-term effectiveness of the
5 assistance made available under this title upon
6 academic performance.

7 “(B) Information that can be used to im-
8 prove the effectiveness of the assistance made
9 available under this title in enabling students to
10 meet challenging achievement standards.

11 “(C) An analysis of educational practices
12 or model programs that are effective in improv-
13 ing the achievement of disadvantaged children.

14 “(D) An analysis of the costs as compared
15 to the benefits of the assistance made available
16 under this title in improving the achievement of
17 disadvantaged children.

18 “(E) An analysis of the effects of the avail-
19 ability of school choice options under section
20 1116 on the academic achievement of disadvan-
21 tagged students, on schools in school improve-
22 ment, and on schools from which students have
23 transferred under such options.

24 “(F) Such other information as the Sec-
25 retary considers appropriate.

1 “(3) SCOPE.—In conducting the study referred
2 to in paragraph (1), the Secretary shall ensure that
3 the study—

4 “(A) bases its analysis on a nationally rep-
5 resentative sample of schools participating in
6 programs under this part;

7 “(B) to the extent practicable, includes in
8 its analysis students who transfer to different
9 schools during the course of the study; and

10 “(C) analyzes varying models or strategies
11 for delivering school services, including—

12 “(i) schoolwide and targeted services;

13 and

14 “(ii) comprehensive school reform
15 models.

16 “(d) INDEPENDENT REVIEW PANEL.—

17 “(1) IN GENERAL.—The Secretary shall estab-
18 lish an independent review panel (in this subsection
19 referred to as the ‘Review Panel’) to advise the Sec-
20 retary on methodological and other issues that arise
21 in carrying out subsections (a) and (c).

22 “(2) APPOINTMENT OF MEMBERS.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B), the Secretary shall appoint members

1 of the Review Panel from among qualified indi-
2 viduals who are—

3 “(i) specialists in statistics, evalua-
4 tion, research, and assessment;

5 “(ii) education practitioners, including
6 teachers, principals, and local and State
7 superintendents; and

8 “(iii) other individuals with technical
9 expertise who would contribute to the over-
10 all rigor and quality of the program eval-
11 uation.

12 “(B) LIMITATIONS.—In appointing mem-
13 bers of the Review Panel under this subpara-
14 graph (A), the Secretary shall ensure that—

15 “(i) in order to ensure diversity, a
16 majority of the number of individuals ap-
17 pointed under subparagraph (A)(i) rep-
18 resent disciplines or programs outside the
19 field of education; and

20 “(ii) the total number of the individ-
21 uals appointed under subparagraph (A)(ii)
22 or (A)(iii) does not exceed $\frac{1}{3}$ of the total
23 number of the individuals appointed under
24 this paragraph.

1 “(3) FUNCTIONS.—The Review Panel shall con-
2 sult with and advise the Secretary—

3 “(A) to ensure that the assessment con-
4 ducted under subsection (a) and the study con-
5 ducted under subsection (c)—

6 “(i) adhere to the highest possible
7 standards of quality with respect to re-
8 search design, statistical analysis, and the
9 dissemination of findings; and

10 “(ii) use valid and reliable measures
11 to document program implementation and
12 impacts; and

13 “(B) to ensure—

14 “(i) that the final report described in
15 subsection (a)(5)(B) is reviewed not later
16 than 120 days after its completion by not
17 less than two independent experts in pro-
18 gram evaluation;

19 “(ii) that such experts evaluate and
20 comment on the degree to which the report
21 complies with subsection (a); and

22 “(iii) that the comments of such ex-
23 perts are transmitted with the report
24 under subsection (a)(5)(B).”.

1 **SEC. 152. DEMONSTRATIONS OF INNOVATIVE PRACTICES.**

2 (a) IN GENERAL.—Section 1502 (20 U.S.C. 6492)
3 is amended—

4 (1) by redesignating subsection (b) as sub-
5 section (c);

6 (2) by striking in subsection (a) “(2) EVALUA-
7 TION.—The Secretary” and inserting “(b) EVALUA-
8 TION.—The Secretary” and by moving such sub-
9 section (b) 2 ems to the left;

10 (3) by striking in subsection (a) “Such projects
11 shall include promising” and all that follows through
12 “career guidance opportunities.”;

13 (4) by striking “student performance stand-
14 ards” and inserting “student achievement stand-
15 ards”;

16 (5) by inserting “academic” after “to meet
17 challenging State”; and

18 (6) by striking “(a) DEMONSTRATION PRO-
19 GRAMS” and all that follows through “IN GEN-
20 ERAL.—From the” and inserting “(a) IN GEN-
21 ERAL.—From the”.

22 **SEC. 153. ELLENDER-CLOSE UP FELLOWSHIP PROGRAM;**
23 **DROPOUT REPORTING.**

24 (a) IN GENERAL.—Part E of title I (20 U.S.C. 6491
25 et seq.) is further amended by adding at the end the fol-
26 lowing:

1 **“SEC. 1503. ELLENDER-CLOSE UP FELLOWSHIP PROGRAM.**

2 “(a) FINDINGS.—Congress finds the following:

3 “(1) It is a worthwhile goal to ensure that all
4 students in America are prepared for responsible
5 citizenship and that all students should have the op-
6 portunity to be involved in activities that promote
7 and demonstrate good citizenship.

8 “(2) It is a worthwhile goal to ensure that
9 America’s educators have access to programs for the
10 continued improvement of their professional skills.

11 “(3) Allen J. Ellender, a Senator from Lou-
12 isiana and President pro tempore of the United
13 States Senate, had a distinguished career in public
14 service characterized by extraordinary energy and
15 real concern for young people. Senator Ellender pro-
16 vided valuable support and encouragement to the
17 Close Up Foundation, a nonpartisan, nonprofit foun-
18 dation promoting knowledge and understanding of
19 the Federal Government among young people and
20 educators. Therefore, it is a fitting and appropriate
21 tribute to Senator Ellender to provide fellowships in
22 his name to students of limited economic means and
23 the teachers who work with such students, so that
24 such students and teachers may participate in the
25 programs supported by the Close Up Foundation.

1 “(4) The Close Up Foundation is a non-
2 partisan, nonprofit, education foundation promoting
3 civic responsibility and knowledge and understanding
4 of the Federal Government among young people and
5 educators. The Congress has consistently supported
6 the Close Up Foundation’s work with disadvantaged
7 young people and their educators through the Allen
8 J. Ellender Fellowship Program. Therefore, it is fit-
9 ting and appropriate to continue support under the
10 successor Ellender-Close Up Fellowship Program to
11 students of limited economic means and the teachers
12 who work with such students, so that such students
13 and teachers may participate in the programs sup-
14 ported by the Close Up Foundation.

15 “(b) PROGRAM FOR MIDDLE AND SECONDARY
16 SCHOOL STUDENTS.—

17 “(1) ESTABLISHMENT.—

18 “(A) GENERAL AUTHORITY.—In accord-
19 ance with this subsection, the Secretary may
20 make grants to the Close Up Foundation of
21 Washington, District of Columbia, a non-
22 partisan, nonprofit foundation, for the purpose
23 of assisting the Close Up Foundation in car-
24 rying out its programs of increasing civic re-
25 sponsibility and understanding of the Federal

1 Government among middle and secondary
2 school students.

3 “(B) USE OF FUNDS.—Grants under this
4 subsection shall be used only to provide finan-
5 cial assistance to economically disadvantaged
6 students who participate in the program de-
7 scribed in subparagraph (A). Financial assist-
8 ance received pursuant to this subsection by
9 such students shall be known as Ellender-Close
10 Up fellowships.

11 “(2) APPLICATIONS.—

12 “(A) APPLICATION REQUIRED.—No grant
13 under this subsection may be made except upon
14 an application at such time, in such manner,
15 and accompanied by such information as the
16 Secretary may reasonably require.

17 “(B) CONTENTS OF APPLICATION.—Each
18 application submitted under this paragraph
19 shall contain provisions to assure—

20 “(i) that fellowship grants are made
21 to economically disadvantaged middle and
22 secondary school students;

23 “(ii) that every effort will be made to
24 ensure the participation of students from
25 rural and small town areas, as well as from

1 urban areas, and that in awarding fellow-
2 ships to economically disadvantaged stu-
3 dents, special consideration will be given to
4 the participation of students with special
5 educational needs, including students with
6 disabilities, ethnic minority students, re-
7 cent immigrants, and gifted and talented
8 students; and

9 “(iii) the proper disbursement of the
10 funds received under this subsection.

11 “(c) PROGRAM FOR MIDDLE AND SECONDARY
12 SCHOOL TEACHERS.—

13 “(1) ESTABLISHMENT.—

14 “(A) GENERAL AUTHORITY.—In accord-
15 ance with this subsection, the Secretary may
16 make grants to the Close Up Foundation of
17 Washington, District of Columbia, a non-
18 partisan, nonprofit foundation, for the purpose
19 of assisting the Close Up Foundation in car-
20 rying out its programs of professional develop-
21 ment for middle and secondary school teachers
22 and to promote greater civic understanding and
23 responsibility among the students of such teach-
24 ers.

1 “(B) USE OF FUNDS.—Grants under this
2 subsection shall be used only for financial as-
3 sistance to teachers who participate in the pro-
4 gram described in subparagraph (A). Financial
5 assistance received pursuant to this subpart by
6 such individuals shall be known as Ellender-
7 Close Up fellowships.

8 “(2) APPLICATIONS.—

9 “(A) APPLICATION REQUIRED.—No grant
10 under this subsection may be made except upon
11 an application at such time, in such manner,
12 and accompanied by such information as the
13 Secretary may reasonably require.

14 “(B) CONTENTS OF APPLICATION.—Each
15 application submitted under this paragraph
16 shall contain provisions to assure—

17 “(i) that fellowship grants are made
18 only to teachers who have worked with at
19 least one student from such teacher’s
20 school who participates in the programs
21 described in subsection (b);

22 “(ii) that no teacher in each school
23 participating in the programs assisted
24 under subsection (b) may receive more
25 than one fellowship in any fiscal year; and

1 “(iii) the proper disbursement of the
2 funds received under this subsection.

3 “(d) PROGRAMS FOR RECENT IMMIGRANTS AND STU-
4 DENTS OF MIGRANT PARENTS.—

5 “(1) ESTABLISHMENT.—

6 “(A) GENERAL AUTHORITY.—In accord-
7 ance with this subsection, the Secretary may
8 make grants to the Close Up Foundation of
9 Washington, District of Columbia, a non-
10 partisan, nonprofit foundation, for the purpose
11 of assisting the Close Up Foundation in car-
12 rying out its programs of increasing under-
13 standing of the Federal Government among
14 economically disadvantaged recent immigrants
15 and students of migrant parents.

16 “(B) USE OF FUNDS.—Grants under this
17 subsection shall be used for financial assistance
18 to economically disadvantaged older Americans,
19 recent immigrants and students of migrant par-
20 ents who participate in the program described
21 in subsection (a). Financial assistance received
22 pursuant to this subpart by such individuals
23 shall be known as Ellender-Close Up fellow-
24 ships.

25 “(2) APPLICATIONS.—

1 “(A) APPLICATION REQUIRED.—No grant
2 under this subsection may be made except upon
3 application at such time, in such manner, and
4 accompanied by such information as the Sec-
5 retary may reasonably require.

6 “(B) CONTENTS OF APPLICATION.—Each
7 application submitted under this paragraph
8 shall contain provisions—

9 “(i) to assure that fellowship grants
10 are made to economically disadvantaged
11 recent immigrants and students of migrant
12 parents;

13 “(ii) to assure that every effort will be
14 made to ensure the participation of recent
15 immigrants and students of migrant par-
16 ents from rural and small town areas, as
17 well as from urban areas, and that in
18 awarding fellowships, special consideration
19 will be given to the participation of recent
20 immigrants and students of migrant par-
21 ents with special needs, including individ-
22 uals with disabilities, ethnic minorities, and
23 gifted and talented students;

1 “(iii) that fully describe the activities
2 to be carried out with the proceeds of the
3 grant; and

4 “(iv) to assure the proper disburse-
5 ment of the funds received under this sub-
6 section.

7 “(e) GENERAL PROVISIONS.—

8 “(1) ADMINISTRATIVE PROVISIONS.—

9 “(A) GENERAL RULE.—Payments under
10 this section may be made in installments, in ad-
11 vance, or by way of reimbursement, with nec-
12 essary adjustments on account of underpayment
13 or overpayment.

14 “(B) AUDIT RULE.—The Comptroller Gen-
15 eral of the United States or any of the Comp-
16 troller General’s duly authorized representatives
17 shall have access for the purpose of audit and
18 examination to any books, documents, papers,
19 and records that are pertinent to any grant
20 under this section.

21 “(f) LIMITATION.—Of the funds appropriated to
22 carry out this section under section 1002, the Secretary
23 may use not more than 30 percent to carry out subsection
24 (c) of this section.

1 **“SEC. 1504. DROPOUT REPORTING.**

2 “State educational agencies receiving funds under
3 this title shall annually report to the National Center on
4 Education Statistics (established under section 403 of the
5 National Education Statistics Act of 1994 (20 U.S.C.
6 9002)) on the dropout rate of students in the State, as
7 defined for the Center’s Common Core of Data.”.

8 (b) CONTINUATION OF AWARDS.—Notwithstanding
9 any other provision of this Act, any person or agency that
10 was awarded a grant under part G of title X (20 U.S.C.
11 8161 et seq.) prior to the date of the enactment of this
12 Act shall continue to receive funds in accordance with the
13 terms of such award until the date on which the award
14 period terminates under such terms.

15 **PART F—COMPREHENSIVE SCHOOL REFORM**

16 **SEC. 161. SCHOOL REFORM.**

17 Part F of title I is amended to read as follows:

18 **“PART F—COMPREHENSIVE SCHOOL REFORM**

19 **“SEC. 1601. COMPREHENSIVE SCHOOL REFORM.**

20 “(a) FINDINGS AND PURPOSE.—

21 “(1) FINDINGS.—Congress finds the following:

22 “(A) A number of schools across the coun-
23 try have shown impressive gains in student per-
24 formance through the use of comprehensive
25 models for schoolwide change that incorporate
26 virtually all aspects of school operations.

1 “(B) No single comprehensive school re-
2 form model may be suitable for every school,
3 however, schools should be encouraged to exam-
4 ine successful, externally developed comprehen-
5 sive school reform approaches as they under-
6 take comprehensive school reform.

7 “(C) Comprehensive school reform is an
8 important means by which children are assisted
9 in meeting challenging State student academic
10 achievement standards.

11 “(2) PURPOSE.—The purpose of this section is
12 to provide financial incentives for schools to develop
13 comprehensive school reforms, based upon scientif-
14 ically-based research and effective practices that in-
15 clude an emphasis on basic academics and parental
16 involvement so that all children can meet challenging
17 State content and academic achievement standards.

18 “(b) PROGRAM AUTHORIZED.—

19 “(1) IN GENERAL.—The Secretary is authorized
20 to provide grants to State educational agencies to
21 provide subgrants to local educational agencies to
22 carry out the purpose described in subsection (a)(2).

23 “(2) ALLOCATION.—

1 “(A) RESERVATION.—Of the amount ap-
2 propriated under this section, the Secretary
3 may reserve—

4 “(i) not more than 1 percent for
5 schools supported by the Bureau of Indian
6 Affairs and in the United States Virgin Is-
7 lands, Guam, American Samoa, and the
8 Commonwealth of the Northern Mariana
9 Islands;

10 “(ii) not more than 1 percent to con-
11 duct national evaluation activities de-
12 scribed under subsection (e); and

13 “(iii) not more than 2 percent of the
14 amount appropriated in fiscal year 2002 to
15 carry out this part, for quality initiatives
16 described under subsection (f).

17 “(B) IN GENERAL.—Of the amount of
18 funds remaining after the reservation under
19 subparagraph (A), the Secretary shall allocate
20 to each State for a fiscal year, an amount that
21 bears the same ratio to the remainder for that
22 fiscal year as the amount made available under
23 section 1124 to the State for the preceding fis-
24 cal year bears to the total amount allocated
25 under section 1124 to all States for that year.

1 “(C) REALLOCATION.—If a State does not
2 apply for funds under this section, the Sec-
3 retary shall reallocate such funds to other
4 States that do apply in proportion to the
5 amount allocated to such States under subpara-
6 graph (B).

7 “(c) STATE AWARDS.—

8 “(1) STATE APPLICATION.—

9 “(A) IN GENERAL.—Each State edu-
10 cational agency that desires to receive a grant
11 under this section shall submit an application to
12 the Secretary at such time, in such manner and
13 containing such other information as the Sec-
14 retary may reasonably require.

15 “(B) CONTENTS.—Each State application
16 shall also describe—

17 “(i) the process and selection criteria
18 by which the State educational agency,
19 using expert review, will select local edu-
20 cational agencies to receive subgrants
21 under this section;

22 “(ii) how the agency will ensure that
23 funds under this part are used only for
24 comprehensive school reform programs
25 that—

1 “(I) include each of the compo-
2 nents described in subsection (d)(2);

3 “(II) have the capacity to im-
4 prove the academic achievement of all
5 students in core academic subjects
6 within participating schools; and

7 “(III) are supported by technical
8 assistance providers that have a suc-
9 cessful track record, financial sta-
10 bility, and the capacity to deliver
11 high-quality materials and profes-
12 sional development for school per-
13 sonnel.

14 “(iii) how the agency will disseminate
15 materials regarding information on com-
16 prehensive school reforms that are based
17 on scientifically-based research and effec-
18 tive practices;

19 “(iv) how the agency will evaluate an-
20 nually the implementation of such reforms
21 and measure the extent to which the re-
22 forms resulted in increased student aca-
23 demic performance; and

24 “(v) how the agency will provide, tech-
25 nical assistance to the local educational

1 agency or consortia of local educational
2 agencies, and to participating schools, in
3 evaluating, developing, and implementing
4 comprehensive school reform.

5 “(2) USES OF FUNDS.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (E), a State educational agency
8 that receives an award under this section shall
9 use such funds to provide competitive grants to
10 local educational agencies or consortia of local
11 educational agencies in the State receiving
12 funds under part A to support comprehensive
13 school reforms in schools eligible for funds
14 under such part.

15 “(B) GRANT REQUIREMENTS.—A grant to
16 a local educational agency or consortium shall
17 be—

18 “(i) of sufficient size and scope to
19 support the initial costs of the comprehen-
20 sive school reforms selected or designed by
21 each school identified in the application of
22 the local educational agency or consortium;

23 “(ii) in an amount not less than
24 \$50,000 to each participating school; and

1 “(iii) renewable for two additional 1-
2 year periods after the initial 1-year grant
3 is made if schools are making substantial
4 progress in the implementation of their re-
5 forms.

6 “(C) PRIORITY.—The State, in awarding
7 grants under this paragraph, shall give priority
8 to local educational agencies that—

9 “(i) plan to use the funds in schools
10 identified as being in need of improvement
11 or corrective action under section 1116(c);
12 or

13 “(ii) demonstrate a commitment to
14 assist schools with budget allocation, pro-
15 fessional development, and other strategies
16 necessary to ensure the comprehensive
17 school reforms are properly implemented
18 and are sustained in the future.

19 “(D) GRANT CONSIDERATION.—In making
20 subgrant awards under this part, the State edu-
21 cational agency shall take into account the equi-
22 table distribution of awards to different geo-
23 graphic regions within the State, including
24 urban and rural areas, and to schools serving
25 elementary and secondary students.

1 “(E) ADMINISTRATIVE COSTS.—A State
2 educational agency that receives a grant award
3 under this section may reserve not more than 5
4 percent of such award for administrative, eval-
5 uation, and technical assistance expenses.

6 “(F) SUPPLEMENT.—Funds made avail-
7 able under this section shall be used to supple-
8 ment, not supplant, any other Federal, State,
9 or local funds that would otherwise be available
10 to carry out this section.

11 “(3) REPORTING.—Each State educational
12 agency that receives an award under this section
13 shall provide to the Secretary such information as
14 the Secretary may require, including the names of
15 local educational agencies and schools selected to re-
16 ceive subgrant awards under this section, the
17 amount of such award, a description of the com-
18 prehensive school reforms selected and in use and a
19 copy of the State’s annual evaluation of the imple-
20 mentation of comprehensive school reforms sup-
21 ported under this part and student achievement re-
22 sults.

23 “(d) LOCAL AWARDS.—

1 “(1) IN GENERAL.—Each local educational
2 agency or consortium that applies for a subgrant
3 under this section shall—

4 “(A) identify which schools eligible for
5 funds under part A plan to implement a com-
6 prehensive school reform program, including the
7 projected costs of such a program;

8 “(B) describe the comprehensive school re-
9 forms based on scientifically-based research and
10 effective practices that such schools will imple-
11 ment;

12 “(C) describe how the agency or consor-
13 tium will provide technical assistance and sup-
14 port for the effective implementation of the
15 school reforms based on scientifically-based re-
16 search and effective practices selected by such
17 schools; and

18 “(D) describe how the agency or consor-
19 tium will evaluate the implementation of such
20 reforms and measure the results achieved in im-
21 proving student academic performance.

22 “(2) COMPONENTS OF THE PROGRAM.—A local
23 educational agency that receives a subgrant award
24 under this section shall provide such funds to

1 schools that implement a comprehensive school re-
2 form program that—

3 “(A) employs proven strategies and proven
4 methods for student learning, teaching, and
5 school management that are based on scientif-
6 ically-based research and effective practices and
7 have been replicated successfully in similar
8 schools;

9 “(B) integrates a comprehensive design for
10 effective school functioning, including instruc-
11 tion, assessment, classroom management, pro-
12 fessional development, parental involvement,
13 and school management, that aligns the school’s
14 curriculum, technology, and professional devel-
15 opment into a comprehensive reform plan for
16 schoolwide change designed to enable all stu-
17 dents to meet challenging State content and
18 challenging student performance standards and
19 addresses needs identified through a school
20 needs assessment;

21 “(C) provides high-quality and continuous
22 teacher and staff professional development;

23 “(D) includes measurable goals for student
24 performance and benchmarks for meeting such
25 goals;

1 “(E) is supported by teachers, principals,
2 administrators, and other professional staff;

3 “(F) provides for the meaningful involve-
4 ment of parents and the local community in
5 planning and implementing school improvement
6 activities;

7 “(G) uses high quality external technical
8 support and assistance from an entity, which
9 may be an institution of higher education, with
10 experience and expertise in schoolwide reform
11 and improvement;

12 “(H) includes a plan for the annual eval-
13 uation of the implementation of school reforms
14 and the student results achieved;

15 “(I) identifies how other resources, includ-
16 ing Federal, State, local, and private resources,
17 available to the school will be used to coordinate
18 services to support and sustain the school re-
19 form effort; and

20 “(J)(i) has been found, through rigorous
21 field experiments in multiple sites, to signifi-
22 cantly improve the academic performance of
23 students participating in such activity or pro-
24 gram as compared to similar students in similar

1 schools, who have not participated in such ac-
2 tivity or program; or

3 “(ii) has been found to have strong evi-
4 dence that such model will significantly improve
5 the performance of participating children.

6 “(3) SPECIAL RULE.—A school that receives
7 funds to develop a comprehensive school reform pro-
8 gram shall not be limited to using nationally avail-
9 able approaches, but may develop its own com-
10 prehensive school reform program for schoolwide
11 change that complies with paragraph (2).

12 “(e) EVALUATION AND REPORT.—

13 “(1) IN GENERAL.—The Secretary shall develop
14 a plan for a national evaluation of the programs de-
15 veloped pursuant to this section.

16 “(2) EVALUATION.—This national evaluation
17 shall evaluate the implementation and results
18 achieved by schools after 3 years of implementing
19 comprehensive school reforms, and assess the effec-
20 tiveness of comprehensive school reforms in schools
21 with diverse characteristics.

22 “(3) REPORTS.—Prior to the completion of a
23 national evaluation, the Secretary shall submit an
24 interim report outlining first year implementation
25 activities to the Committees on Education and the

1 Workforce and Appropriations of the House of Rep-
2 resentatives and the Committees on Health, Edu-
3 cation, Labor, and Pensions and Appropriations of
4 the Senate.

5 “(f) QUALITY INITIATIVES.—The Secretary, through
6 grants or contracts, shall provide funds for the following
7 activities:

8 “(1) TECHNICAL ASSISTANCE.—A joint public
9 and private partnership that receives matching funds
10 from private organizations, in order to assist States,
11 local educational agencies, and schools in making in-
12 formed decisions when approving or selecting pro-
13 viders of comprehensive school reform, consistent
14 with the requirements described in subsection (d)(3).

15 “(2) OTHER ACTIVITIES.—Other activities
16 that—

17 “(A) encourage the development of com-
18 prehensive reform models;

19 “(B) build the capacity of comprehensive
20 school reform providers to increase the number
21 of schools the providers can serve; and

22 “(C) ensure that schools served receive
23 high quality services that meet the needs of
24 their teachers and students.”.

1 **PART G—RURAL EDUCATION FLEXIBILITY AND**
2 **ASSISTANCE**

3 **SEC. 171. RURAL EDUCATION.**

4 Title I is amended by adding at the end the following
5 new part:

6 **“PART G—RURAL EDUCATION FLEXIBILITY AND**
7 **ASSISTANCE**

8 **“SEC. 1701. SHORT TITLE.**

9 “This part may be cited as the ‘Rural Education Ini-
10 tiative Act’.

11 **“SEC. 1702. FINDINGS.**

12 “Congress finds the following:

13 “(1) While there are rural education initiatives
14 identified at the State and local level, no Federal
15 education policy focuses on the specific and unique
16 needs of rural school districts and schools.

17 “(2) Small school districts often cannot use
18 Federal grant funds distributed by formula because
19 the formula allocation does not provide enough rev-
20 enue to carry out the program the grant is intended
21 to fund.

22 “(3) Rural schools often cannot compete for
23 Federal funding distributed by competitive grants
24 because the schools lack the personnel needed to
25 prepare grant applications and the resources to hire
26 specialists in the writing of Federal grant proposals.

1 “(4) A critical problem for rural school districts
2 involves the hiring and retention of qualified admin-
3 istrators and certified teachers (especially in read-
4 ing, science, and mathematics). As a result, teachers
5 in rural schools are almost twice as likely to provide
6 instruction in three or more subject areas than
7 teachers in urban schools. Rural schools also face
8 other tough challenges, such as shrinking local tax
9 bases, high transportation costs, aging buildings,
10 limited course offerings, and limited resources.

11 **“Subpart 1—Rural Education Flexibility**

12 **“SEC. 1711. FORMULA GRANT PROGRAM AUTHORIZED.**

13 “(a) ALTERNATIVE USES.—

14 “(1) IN GENERAL.—Notwithstanding any other
15 provision of law, an eligible local educational agency
16 may use the applicable funding, that the agency is
17 eligible to receive from the State educational agency
18 for a fiscal year, to carry out local activities author-
19 ized in part A of title I, part A of title II, part A
20 of title III, part A of title IV, or part A or B of title
21 V.

22 “(2) NOTIFICATION.—An eligible local edu-
23 cational agency shall notify the State educational
24 agency of the local educational agency’s intention to
25 use the applicable funding in accordance with para-

1 graph (1) not later than a date that is established
2 by the State educational agency for the notification.

3 “(b) ELIGIBILITY.—

4 “(1) IN GENERAL.—A local educational agency
5 shall be eligible to use the applicable funding in ac-
6 cordance with subsection (a) if—

7 “(A)(i) the total number of students in av-
8 erage daily attendance at all of the schools
9 served by the local educational agency is less
10 than 600; and

11 “(ii) all of the schools served by the local
12 educational agency are designated with a school
13 locale code of 7 or 8 as determined by the Sec-
14 retary of Education; or

15 “(B) the agency meets the criteria estab-
16 lished in subparagraph (A)(i) and the Sec-
17 retary, in accordance with paragraph (2),
18 grants the local educational agency’s request to
19 waive the criteria described in subparagraph
20 (A)(ii).

21 “(2) CERTIFICATION.—The Secretary shall de-
22 termine whether or not to waive the criteria de-
23 scribed in paragraph (1)(A)(ii) based on a dem-
24 onstration by a local educational agency and concur-
25 rence by the State educational agency that the local

1 educational agency is located in an area defined as
2 rural by a governmental agency of the State.

3 “(c) APPLICABLE FUNDING.—In this section, the
4 term ‘applicable funding’ means funds provided under
5 part A of title II, section 3106, part A of title IV, subpart
6 1 of part A of title V, and section 5212(a)(2)(A).

7 “(d) DISBURSEMENT.—Each State educational agen-
8 cy that receives applicable funding for a fiscal year shall
9 disburse the applicable funding to local educational agen-
10 cies for alternative uses under this section for the fiscal
11 year at the same time that the State educational agency
12 disburses the applicable funding to local educational agen-
13 cies that do not intend to use the applicable funding for
14 such alternative uses for the fiscal year.

15 “(e) SUPPLEMENT NOT SUPPLANT.—Funds used
16 under this section shall be used to supplement and not
17 supplant any other Federal, State, or local education
18 funds that would otherwise be available for the purpose
19 of this subpart.

20 “(f) APPLICABLE RULE.—Except as otherwise pro-
21 vided in this subpart, funds transferred under this subpart
22 are subject to each of the rules and requirements applica-
23 ble to the funds allocated by the Secretary under the provi-
24 sion to which the transferred funds are transferred.

1 **“SEC. 1712. PROGRAM AUTHORIZED.**

2 “(a) IN GENERAL.—The Secretary is authorized to
3 award grants to eligible local educational agencies under
4 section 1711(b) to enable the local educational agencies
5 to support local or statewide education reform efforts in-
6 tended to improve the academic achievement of elementary
7 school and secondary school students and the quality of
8 instruction provided for the students.

9 “(b) ALLOCATION.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (3), the Secretary shall award a grant to an
12 eligible local educational agency under section
13 1711(b) for a fiscal year in an amount equal to the
14 initial amount determined under paragraph (2) for
15 the fiscal year minus the total amount received
16 under the provisions of law described under section
17 1711(c) for the preceding fiscal year.

18 “(2) DETERMINATION OF THE INITIAL
19 AMOUNT.—The initial amount referred to in para-
20 graph (1) is equal to \$100 multiplied by the total
21 number of students, over 50 students, in average
22 daily attendance in such eligible agency plus
23 \$20,000, except that the initial amount may not ex-
24 ceed \$60,000.

25 “(3) RATABLE ADJUSTMENT.—

1 “(A) IN GENERAL.—If the amount made
2 available for this subpart for any fiscal year is
3 not sufficient to pay in full the amounts that
4 local educational agencies are eligible to receive
5 under paragraph (1) for such year, the Sec-
6 retary shall ratably reduce such amounts for
7 such year.

8 “(B) ADDITIONAL AMOUNTS.—If addi-
9 tional funds become available for making pay-
10 ments under paragraph (1) for such fiscal year,
11 payments that were reduced under subpara-
12 graph (A) shall be increased on the same basis
13 as such payments were reduced.

14 “(4) CENSUS DETERMINATION.—

15 “(A) IN GENERAL.—Each local educational
16 agency desiring a grant under this section shall
17 conduct a census not later than December 1 of
18 each year to determine the number of kinder-
19 garten through grade 12 students in average
20 daily attendance at the schools served by the
21 local educational agency.

22 “(B) SUBMISSION.—Each local educational
23 agency shall submit the number described in
24 subparagraph (A) to the Secretary not later
25 than March 1 of each year.

1 “(c) DISBURSAL.—The Secretary shall disburse the
2 funds awarded to a local educational agency under this
3 section for a fiscal year not later than July 1 of that year.

4 “(d) SPECIAL RULE.—A local educational agency
5 that is eligible to receive a grant under this subpart for
6 a fiscal year shall be ineligible to receive funds for such
7 fiscal year under subpart 2.

8 “(e) SUPPLEMENT NOT SUPPLANT.—Funds made
9 available under this section shall be used to supplement
10 and not supplant any other Federal, State, or local edu-
11 cation funds.

12 **“SEC. 1713. ACCOUNTABILITY.**

13 “(a) ACADEMIC ACHIEVEMENT.—

14 “(1) IN GENERAL.—Each local educational
15 agency that uses or receives funds under section
16 1711 or 1712 for a fiscal year shall administer an
17 assessment consistent with section 1111.

18 “(2) SPECIAL RULE.—Each local educational
19 agency that uses or receives funds under section
20 1711 or 1712 shall use the same assessment de-
21 scribed in paragraph (1) for each year of participa-
22 tion in the program under such section.

23 “(b) STATE EDUCATIONAL AGENCY DETERMINATION
24 REGARDING CONTINUING PARTICIPATION.—Each State

1 educational agency that receives funding under the provi-
2 sions of law described in section 1711(c) shall—

3 “(1) after the second year that a local edu-
4 cational agency participates in a program under sec-
5 tion 1711 or 1712 and on the basis of the results
6 of the assessments described in subsection (a), deter-
7 mine whether the schools served by the local edu-
8 cational agency participating in the program per-
9 formed in accordance with section 1111; and

10 “(2) only permit those local educational agen-
11 cies that so participated and make adequate yearly
12 progress, as described in section 1111(b)(2), to con-
13 tinue to so participate.

14 **“Subpart 2—Rural Education Assistance**

15 **“SEC. 1721. PROGRAM AUTHORIZED.**

16 “(a) RESERVATIONS.—From amounts appropriated
17 under section 1002(f) for this subpart for a fiscal year,
18 the Secretary shall reserve $\frac{1}{2}$ of 1 percent to make awards
19 to elementary or secondary schools operated or supported
20 by the Bureau of Indian Affairs to carry out the purpose
21 of this subpart.

22 “(b) GRANTS TO STATES.—

23 “(1) IN GENERAL.—From amounts appro-
24 priated under section 1002(f) for this subpart that
25 are not reserved under subsection (a), the Secretary

1 shall award grants for a fiscal year to State edu-
2 cational agencies that have applications approved
3 under section 1723 to enable the State educational
4 agencies to award subgrants to eligible local edu-
5 cational agencies for local authorized activities de-
6 scribed in subsection (c)(2).

7 “(2) ALLOCATION.—From amounts appro-
8 priated for this subpart, the Secretary shall allocate
9 to each State educational agency for a fiscal year an
10 amount that bears the same ratio to the amount of
11 funds appropriated under section 1002(f) for this
12 subpart that are not reserved under subsection (a)
13 as the number of students in average daily attend-
14 ance served by eligible local educational agencies in
15 the State bears to the number of all such students
16 served by eligible local educational agencies in all
17 States for that fiscal year.

18 “(3) DIRECT AWARDS TO SPECIALLY QUALI-
19 FIED AGENCIES.—

20 “(A) NONPARTICIPATING STATE.—If a
21 State educational agency elects not to partici-
22 pate in the program under this subpart or does
23 not have an application approved under section
24 1723 a specially qualified agency in such State
25 desiring a grant under this subpart shall submit

1 an application under such section directly to the
2 Secretary to receive an award under this sub-
3 part.

4 “(B) DIRECT AWARDS TO SPECIALLY
5 QUALIFIED AGENCIES.—The Secretary may
6 award, on a competitive basis, the amount the
7 State educational agency is eligible to receive
8 under paragraph (2) directly to specially quali-
9 fied agencies in the State.

10 “(c) LOCAL AWARDS.—

11 “(1) ELIGIBILITY.—A local educational agency
12 shall be eligible to receive funds under this subpart
13 if—

14 “(A) 20 percent or more of the children
15 aged 5 to 17, inclusive, served by the local edu-
16 cational agency are from families with incomes
17 below the poverty line; and

18 “(B) all of the schools served by the agen-
19 cy are designated with a school code of 6, 7, or
20 8 as determined by the Secretary of Education.

21 “(2) USES OF FUNDS.—Grant funds awarded
22 to local educational agencies or made available to
23 schools under this subpart shall be used for—

1 “(A) teacher recruitment and retention, in-
2 cluding the use of signing bonuses and other fi-
3 nancial incentives;

4 “(B) teacher professional development, in-
5 cluding programs that train teachers to utilize
6 technology to improve teaching and to train
7 special needs teachers;

8 “(C) educational technology, including
9 software and hardware as described in part B
10 of title V;

11 “(D) parental involvement activities; or

12 “(E) programs to improve student aca-
13 demic achievement.

14 **“SEC. 1722. STATE DISTRIBUTION OF FUNDS.**

15 “(a) AWARD BASIS.—A State educational agency
16 shall award grants to eligible local educational agencies—

17 “(1) on a competitive basis; or

18 “(2) according to a formula based on the num-
19 ber of students in average daily attendance served
20 by the eligible local educational agencies or schools
21 (as appropriate) in the State, as determined by the
22 State.

23 “(b) ADMINISTRATIVE COSTS.—A State educational
24 agency receiving a grant under this subpart may not use

1 more than 5 percent of the amount of the grant for State
2 administrative costs.

3 **“SEC. 1723. APPLICATIONS.**

4 “Each State educational agency and specially quali-
5 fied agency desiring to receive a grant under this subpart
6 shall submit an application to the Secretary at such time,
7 in such manner, and accompanied by such information as
8 the Secretary may require. Such application shall include
9 specific measurable goals and objectives relating to in-
10 creased student academic achievement, decreased student
11 dropout rates, or such other factors that the State edu-
12 cational agency or specially qualified agency may choose
13 to measure.

14 **“SEC. 1724. REPORTS.**

15 “(a) STATE REPORTS.—Each State educational
16 agency that receives a grant under this subpart shall pro-
17 vide an annual report to the Secretary. The report shall
18 describe—

19 “(1) the method the State educational agency
20 used to award grants to eligible local educational
21 agencies and to provide assistance to schools under
22 this subpart;

23 “(2) how local educational agencies and schools
24 used funds provided under this subpart; and

1 “(3) the degree to which progress has been
2 made toward meeting the goals and objectives de-
3 scribed in the application submitted under section
4 1723.

5 “(b) SPECIALLY QUALIFIED AGENCY REPORT.—
6 Each specially qualified agency that receives a grant under
7 this subpart shall provide an annual report to the Sec-
8 retary. Such report shall describe—

9 “(1) how such agency uses funds provided
10 under this subpart; and

11 “(2) the degree to which progress has been
12 made toward meeting the goals and objectives de-
13 scribed in the application submitted under section
14 1723.

15 “(c) REPORT TO CONGRESS.—The Secretary shall
16 prepare and submit to the Committee on Education and
17 the Workforce for the House of Representatives and the
18 Committee on Health, Education, Labor, and Pensions for
19 the Senate an annual report. The report shall describe—

20 “(1) the methods the State educational agency
21 used to award grants to eligible local educational
22 agencies and to provide assistance to schools under
23 this subpart;

24 “(2) how eligible local educational agencies and
25 schools used funds provided under this subpart; and

1 “(3) progress made in meeting specific measur-
2 able educational goals and objectives.

3 **“SEC. 1725. PERFORMANCE REVIEW.**

4 “Three years after a State educational agency or spe-
5 cially qualified agency receives funds under this part, the
6 Secretary shall review the progress of such agency toward
7 achieving the goals and objectives included in its applica-
8 tion, to determine whether the agency has made progress
9 toward meeting such goals and objectives. To review the
10 performance of each agency, the Secretary shall—

11 “(1) review the use of funds of such agency
12 under section 1721(c)(2); and

13 “(2) deny the provision of additional funds in
14 subsequent fiscal years to an agency only if the Sec-
15 retary determines, after notice and an opportunity
16 for a hearing, that the agency’s use of funds has
17 been inadequate to justify continuation of such fund-
18 ing.

19 **“SEC. 1726. DEFINITIONS.**

20 “In this subpart—

21 “(1) The term ‘poverty line’ means the poverty
22 line (as defined by the Office of Management and
23 Budget, and revised annually in accordance with sec-
24 tion 673(2) of the Community Services Block Grant

1 Act (42 U.S.C. 9902(2))) applicable to a family of
2 the size involved.

3 “(2) The term ‘specially qualified agency’
4 means an eligible local educational agency, located in
5 a State that does not participate in a program under
6 this subpart in a fiscal year, that may apply directly
7 to the Secretary for a grant in such year under sec-
8 tion 1721(b)(3)(A).

9 **“Subpart 3—General Provisions**

10 **“SEC. 1731. DEFINITION.**

11 “In this part, the term ‘State’ means each of the 50
12 States, the District of Columbia, and the Commonwealth
13 of Puerto Rico.”.

14 **PART H—GENERAL PROVISIONS OF TITLE I**

15 **SEC. 181. GENERAL PROVISIONS.**

16 Title I is amended further by adding at the end the
17 following:

18 **“PART H—GENERAL PROVISIONS**

19 **“SEC. 1801. FEDERAL REGULATIONS.**

20 “(a) IN GENERAL.—The Secretary is authorized to
21 issue such regulations as are necessary to ensure reason-
22 able compliance with this title.

23 “(b) NEGOTIATED RULEMAKING PROCESS.—

24 “(1) IN GENERAL.—Prior to publishing in the
25 Federal Register proposed regulations to carry out

1 this title, the Secretary shall obtain the advice and
2 recommendations of representatives of Federal,
3 State, and local administrators, parents, teachers,
4 paraprofessionals, and members of local boards of
5 education involved with the implementation and op-
6 eration of programs under this title.

7 “(2) MEETINGS AND ELECTRONIC EX-
8 CHANGE.—Such advice and recommendation may be
9 obtained through such mechanisms as regional meet-
10 ings and electronic exchanges of information.

11 “(3) PROPOSED REGULATIONS.—After obtain-
12 ing such advice and recommendations, and prior to
13 publishing proposed regulations, the Secretary
14 shall—

15 “(A) establish a negotiated rulemaking
16 process on a minimum of three key issues,
17 including—

18 “(i) accountability;

19 “(ii) implementation of assessments;

20 and

21 “(iii) use of paraprofessionals;

22 “(B) select individuals to participate in
23 such process from among individuals or groups
24 which provided advice and recommendations, in-

1 including representation from all geographic re-
2 gions of the United States; and

3 “(C) prepare a draft of proposed regula-
4 tions that shall be provided to the individuals
5 selected by the Secretary under subparagraph
6 (B) not less than 15 days prior to the first
7 meeting under such process.

8 “(4) PROCESS.—Such process—

9 “(A) shall be conducted in a timely manner
10 to ensure that final regulations are issued by
11 the Secretary not later than 1 year after the
12 date of the enactment of the No Child Left Be-
13 hind Act of 2001; and

14 “(B) shall not be subject to the Federal
15 Advisory Committee Act but shall otherwise fol-
16 low the provisions of the Negotiated Rule-
17 making Act of 1990 (5 U.S.C. 561 et seq.).

18 “(5) EMERGENCY SITUATION.—In an emer-
19 gency situation in which regulations to carry out this
20 title must be issued within a very limited time to as-
21 sist State and local educational agencies with the op-
22 eration of a program under this title, the Secretary
23 may issue proposed regulations without following
24 such process but shall, immediately thereafter and

1 prior to issuing final regulations, conduct regional
2 meetings to review such proposed regulations.

3 “(c) LIMITATION.—Regulations to carry out this part
4 may not require local programs to follow a particular in-
5 structional model, such as the provision of services outside
6 the regular classroom or school program.

7 **“SEC. 1802. AGREEMENTS AND RECORDS.**

8 “(a) AGREEMENTS.—All published proposed regula-
9 tions shall conform to agreements that result from nego-
10 tiated rulemaking described in section 1801 unless the
11 Secretary reopens the negotiated rulemaking process or
12 provides a written explanation to the participants involved
13 in the process explaining why the Secretary decided to de-
14 part from and not adhere to such agreements.

15 “(b) RECORDS.—The Secretary shall ensure that an
16 accurate and reliable record of agreements reached during
17 the negotiations process is maintained.

18 **“SEC. 1803. STATE ADMINISTRATION.**

19 “(a) RULEMAKING.—

20 “(1) IN GENERAL.—Each State that receives
21 funds under this title shall—

22 “(A) ensure that any State rules, regula-
23 tions, and policies relating to this title conform
24 to the purposes of this title and provide any
25 such proposed rules, regulations, and policies to

1 the committee of practitioners under subsection
2 (b) for their review and comment;

3 “(B) minimize such rules, regulations, and
4 policies to which their local educational agencies
5 and schools are subject;

6 “(C) eliminate or modify State and local
7 fiscal accounting requirements in order to facili-
8 tate the ability of schools to consolidate funds
9 under schoolwide programs; and

10 “(D) identify any such rule, regulation, or
11 policy as a State-imposed requirement.

12 “(2) SUPPORT AND FACILITATION.—State
13 rules, regulations, and policies under this title shall
14 support and facilitate local educational agency and
15 school-level systemic reform designed to enable all
16 children to meet the challenging State student aca-
17 demic achievement standards.

18 “(b) COMMITTEE OF PRACTITIONERS.—

19 “(1) IN GENERAL.—Each State educational
20 agency shall create a State committee of practi-
21 tioners to advise the State in carrying out its re-
22 sponsibilities under this title.

23 “(2) MEMBERSHIP.—Each such committee
24 shall include—

1 “(A) as a majority of its members, rep-
2 resentatives from local educational agencies;

3 “(B) administrators, including the admin-
4 istrators of programs described in other parts
5 of this title;

6 “(C) teachers, including vocational edu-
7 cators;

8 “(D) parents;

9 “(E) members of local boards of education;

10 “(F) representatives of private school chil-
11 dren; and

12 “(G) pupil services personnel.

13 “(3) DUTIES.—The duties of such committee
14 shall include a review, prior to publication, of any
15 proposed or final State rule or regulation pursuant
16 to this title. In an emergency situation where such
17 rule or regulation must be issued within a very lim-
18 ited time to assist local educational agencies with
19 the operation of the program under this title, the
20 State educational agency may issue a regulation
21 without prior consultation, but shall immediately
22 thereafter convene the State committee of practi-
23 tioners to review the emergency regulation prior to
24 issuance in final form.

1 **“SEC. 1804. LOCAL ADMINISTRATIVE COST LIMITATION.**

2 “(a) LOCAL ADMINISTRATIVE COST LIMITATION.—

3 Each local educational agency may use not more than 4
4 percent of funds received under part A for administrative
5 expenses.

6 “(b) REGULATIONS.—The Secretary, after consulting
7 with State and local officials and other experts in school
8 finance, shall develop and issue regulations that define the
9 term administrative cost for purposes of this title. Such
10 definition shall be consistent with generally accepted ac-
11 counting principles. The Secretary shall publish final regu-
12 lations on this section not later than 1 year after the date
13 of the enactment of the No Child Left Behind Act of 2001.

14 **“SEC. 1805. APPLICABILITY.**

15 “Nothing in this title shall be construed to affect
16 home schools nor shall any home schooled student be re-
17 quired to participate in any assessment referenced in this
18 title.

19 **“SEC. 1806. PRIVATE SCHOOLS.**

20 “Nothing in this title shall be construed to affect any
21 private school that does not receive funds or services under
22 this title, nor shall any student who attends a private
23 school that does not receive funds or services under this
24 title be required to participate in any assessment ref-
25 erenced in this title.

1 **“SEC. 1807. PRIVACY OF ASSESSMENT RESULTS.**

2 “Any results from individual assessments referenced
3 in this title which become part of the education records
4 of the student shall have the protections as provided in
5 section 444 of the General Education Provisions Act.”.

6 **TITLE II—PREPARING, TRAIN-**
7 **ING, AND RECRUITING QUAL-**
8 **ITY TEACHERS**

9 **SEC. 201. TEACHER QUALITY TRAINING AND RECRUITING**
10 **FUND.**

11 Title II (20 U.S.C. 6601 et seq.) is amended to read
12 as follows:

13 **“TITLE II—PREPARING, TRAIN-**
14 **ING, AND RECRUITING QUAL-**
15 **ITY TEACHERS**

16 **“PART A—TEACHER QUALITY TRAINING AND**
17 **RECRUITING FUND**

18 **“SEC. 2001. PURPOSE.**

19 “The purpose of this part is to provide grants to
20 States and local educational agencies in order to assist
21 their efforts to increase student academic achievement
22 through such strategies as improving teacher and prin-
23 cipal quality and increasing the number of highly qualified
24 teachers in the classroom.

1 **“Subpart 1—Grants to States to Prepare, Train, and**
2 **Recruit Qualified Teachers**

3 **“SEC. 2011. FORMULA GRANTS TO STATES.**

4 “(a) IN GENERAL.—In the case of each State that
5 in accordance with section 2013 submits to the Secretary
6 an application for a fiscal year, the Secretary shall make
7 a grant for the year to the State for the uses specified
8 in section 2012. The grant shall consist of the allotment
9 determined for the State under subsection (b).

10 “(b) DETERMINATION OF AMOUNT OF ALLOT-
11 MENTS.—

12 “(1) RESERVATION OF FUNDS.—From the
13 amount made available to carry out this subpart for
14 any fiscal year, the Secretary shall reserve—

15 “(A) $\frac{1}{2}$ of 1 percent for allotments for the
16 Virgin Islands, Guam, American Samoa, and
17 the Commonwealth of the Northern Mariana Is-
18 lands, to be distributed among these outlying
19 areas on the basis of their relative need, as de-
20 termined by the Secretary in accordance with
21 the purpose of this part; and

22 “(B) $\frac{1}{2}$ of 1 percent for the Secretary of
23 the Interior for programs under this subpart
24 for professional development activities for
25 teachers, other staff, and administrators in

1 schools operated or funded by the Bureau of In-
2 dian Affairs.

3 “(2) STATE ALLOTMENTS.—

4 “(A) HOLD HARMLESS.—

5 “(i) IN GENERAL.—Subject to sub-
6 paragraph (B), from the total amount
7 made available to carry out this subpart
8 for any fiscal year and not reserved under
9 paragraph (1), the Secretary shall allot to
10 each of the 50 States, the District of Co-
11 lumbia, and the Commonwealth of Puerto
12 Rico an amount equal to the total amount
13 that such State received for fiscal year
14 2001 under—

15 “(I) section 2202(b) of this Act
16 (as in effect on the day before the
17 date of the enactment of the No Child
18 Left Behind Act of 2001); and

19 “(II) section 306 of the Depart-
20 ment of Education Appropriations
21 Act, 2001 (as enacted into law by sec-
22 tion 1(a)(1) of Public Law 106–554).

23 “(ii) NONPARTICIPATING STATES.—In
24 the case of a State that did not receive any
25 funds for fiscal year 2001 under one or

1 both of the provisions referred to in sub-
2 clauses (I) and (II) of clause (i), the
3 amount allotted to the State under such
4 clause shall be the total amount that the
5 State would have received for fiscal year
6 2001 if it had elected to participate in all
7 of the programs for which it was eligible
8 under each of the provisions referred to in
9 such subclauses.

10 “(iii) RATABLE REDUCTION.—If the
11 total amount made available to carry out
12 this subpart for any fiscal year and not re-
13 served under paragraph (1) is insufficient
14 to pay the full amounts that all States are
15 eligible to receive under clause (i) for any
16 fiscal year, the Secretary shall ratably re-
17 duce such amounts for such fiscal year.

18 “(B) ALLOTMENT OF ADDITIONAL
19 FUNDS.—

20 “(i) IN GENERAL.—Subject to clause
21 (ii), for any fiscal year for which the total
22 amount made available to carry out this
23 subpart and not reserved under paragraph
24 (1) exceeds the total amount required to
25 make allotments under subparagraph (A),

1 the Secretary shall allot such excess
2 amount among the 50 States, the District
3 of Columbia, and the Commonwealth of
4 Puerto Rico as follows:

5 “(I) 50 percent of such excess
6 amount shall be allotted among such
7 States on the basis of their relative
8 populations of individuals aged 5
9 through 17, as determined by the Sec-
10 retary on the basis of the most recent
11 satisfactory data.

12 “(II) 50 percent of such excess
13 amount shall be allotted among such
14 States in proportion to the number of
15 children, aged 5 to 17, who reside
16 within the State from families with in-
17 comes below the poverty line (as de-
18 fined by the Office of Management
19 and Budget and revised annually in
20 accordance with section 673(2) of the
21 Community Services Block Grant Act
22 (42 U.S.C. 9902(2)) applicable to a
23 family of the size involved for the
24 most recent fiscal year for which sat-
25 isfactory data are available, compared

1 to the number of such individuals who
2 reside in all such States for that fiscal
3 year.

4 “(ii) EXCEPTION.—No State receiving
5 an allotment under clause (i) may receive
6 less than $\frac{1}{2}$ of 1 percent of the total ex-
7 cess amount allotted under such clause.

8 “(3) REALLOTMENT.—If any State does not
9 apply for an allotment under this subsection for any
10 fiscal year, the Secretary shall reallocate such amount
11 to the remaining States in accordance with this sub-
12 section.

13 **“SEC. 2012. WITHIN-STATE ALLOCATIONS.**

14 “(a) USE OF FUNDS.—Each State receiving a grant
15 under this subpart shall use the funds provided under the
16 grant in accordance with this section to carry out activities
17 for the improvement of teaching and learning.

18 “(b) RESERVATION OF FUNDS.—

19 “(1) IN GENERAL.—A State that receives a
20 grant under this subpart may reserve not more than
21 5 percent of the amount of the funds provided under
22 the grant for—

23 “(A) one or more of the authorized State
24 activities described in subsection (e); and

1 “(B) planning and administration related
2 to carrying out such activities and making sub-
3 grants to local educational agencies under sub-
4 parts 2 and 3.

5 “(2) LIMITATION ON ADMINISTRATIVE COSTS.—
6 The amount reserved by a State under paragraph
7 (1)(B) may not exceed 1 percent of the amount of
8 the funds provided under the grant.

9 “(c) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
10 CIES.—

11 “(1) IN GENERAL.—The Secretary may make a
12 grant to a State under this subpart only if the State
13 agrees to distribute the funds described in this sub-
14 section as subgrants to local educational agencies
15 under subpart 3.

16 “(2) HOLD HARMLESS.—

17 “(A) IN GENERAL.—From the funds that
18 a State receives under this subpart for any fis-
19 cal year that are not reserved under subsection
20 (b), the State shall allot to each local edu-
21 cational agency an amount equal to the total
22 amount that such agency received for fiscal
23 year 2001 under—

24 “(i) section 2203(1)(B) of this Act (as
25 in effect on the day before the date of the

1 enactment of the No Child Left Behind
2 Act of 2001); and

3 “(ii) section 306 of the Department of
4 Education Appropriations Act, 2001 (as
5 enacted into law by section 1(a)(1) of Pub-
6 lic Law 106–554).

7 “(B) NONPARTICIPATING AGENCIES.—In
8 the case of a local educational agency that did
9 not receive any funds for fiscal year 2001 under
10 one or both of the provisions referred to in
11 clauses (i) and (ii) of subparagraph (A), the
12 amount allotted to the agency under such sub-
13 paragraph shall be the total amount that the
14 agency would have received for fiscal year 2001
15 if it had elected to participate in all of the pro-
16 grams for which it was eligible under each of
17 the provisions referred to in such clauses.

18 “(C) RATABLE REDUCTION.—If the funds
19 described in subparagraph (A) are insufficient
20 to pay the full amounts that all local edu-
21 cational agencies are eligible to receive under
22 such subparagraph for any fiscal year, the
23 State shall ratably reduce such amounts for
24 such fiscal year.

25 “(3) ALLOTMENT OF ADDITIONAL FUNDS.—

1 “(A) IN GENERAL.—For any fiscal year
2 for which the funds that a State receives under
3 this subpart that are not reserved under sub-
4 section (b) exceed the total amount required to
5 make allotments under paragraph (2), the State
6 shall distribute the amount described in sub-
7 paragraph (B) through a formula under
8 which—

9 “(i) 20 percent is allocated to local
10 educational agencies in accordance with
11 the relative enrollment in public and pri-
12 vate nonprofit elementary and secondary
13 schools within the boundaries of such
14 agencies; and

15 “(ii) 80 percent is allocated to local
16 educational agencies in proportion to the
17 number of children, aged 5 to 17, who re-
18 side within the geographic area served by
19 such agency from families with incomes
20 below the poverty line (as defined by the
21 Office of Management and Budget and re-
22 vised annually in accordance with section
23 673(2) of the Community Services Block
24 Grant Act (42 U.S.C. 9902(2))) applicable
25 to a family of the size involved for the

1 most recent fiscal year for which satisfac-
2 tory data are available, compared to the
3 number of such individuals who reside in
4 the geographic areas served by all the local
5 educational agencies in the State for that
6 fiscal year.

7 “(B) CALCULATION OF AMOUNT.—

8 “(i) IN GENERAL.—The amount de-
9 scribed in this subparagraph for a State
10 for any fiscal year is the base amount for
11 such State and year, plus any additional
12 amount for such State and year.

13 “(ii) BASE AMOUNT.—For purposes of
14 this subparagraph, the term ‘base amount’
15 means 50 percent of the funds that remain
16 to a State after a State makes the reserva-
17 tions described in subsection (b) and the
18 allotments described in paragraph (2).

19 “(iii) ADDITIONAL AMOUNT.—For
20 purposes of this subparagraph, the term
21 ‘additional amount’ means the amount (if
22 any) by which the base amount for a State
23 exceeds the maximum amount described in
24 subsection (d)(2)(B).

25 “(d) MATH AND SCIENCE PARTNERSHIPS.—

1 “(1) IN GENERAL.—The Secretary may make a
2 grant to a State under this subpart only if the State
3 agrees to distribute the amount described in para-
4 graph (2) through a competitive subgrant process in
5 accordance with subpart 2.

6 “(2) AMOUNT DESCRIBED.—

7 “(A) IN GENERAL.—The amount described
8 in this paragraph for a State for any fiscal year
9 is 50 percent of the funds that the State re-
10 ceives under this subpart for the year that re-
11 main after the State makes the reservations de-
12 scribed in subsection (b) and the allotments de-
13 scribed in subsection (c)(2).

14 “(B) LIMITATION.—In no case may the
15 amount described in this paragraph exceed a
16 maximum amount calculated by multiplying the
17 total amount of the funds that a State receives
18 under this subpart for a fiscal year that the
19 State does not reserve under subsection (b) by
20 a percentage, selected by the State, that shall
21 be not less than 15 nor more than 20 percent.

22 “(e) AUTHORIZED STATE ACTIVITIES.—The author-
23 ized State activities referred to in subsection (b)(1)(A) are
24 the following:

1 “(1) Reforming teacher certification, recertifi-
2 cation, or licensure requirements to ensure that—

3 “(A) teachers have the necessary teaching
4 skills and academic content knowledge in the
5 subject areas in which they are assigned to
6 teach;

7 “(B) teacher certification, recertification,
8 or licensure requirements are aligned with the
9 State’s challenging State academic content
10 standards; and

11 “(C) teachers have the knowledge and
12 skills necessary to help students meet chal-
13 lenging State student achievement standards.

14 “(2) Carrying out programs that—

15 “(A) include support during the initial
16 teaching or leadership experience, such as men-
17 toring programs that—

18 “(i) provide—

19 “(I) mentoring to beginning
20 teachers from veteran teachers with
21 expertise in the same subject matter
22 that the beginning teachers will be
23 teaching; or

24 “(II) similar mentoring to prin-
25 cipals or superintendents;

1 “(ii) provide mentors time for activi-
2 ties such as coaching, observing, and as-
3 sisting the teachers or school leaders who
4 are mentored; and

5 “(iii) use standards or assessments
6 for guiding beginning teachers that are
7 consistent with the State’s student achieve-
8 ment standards and with the requirements
9 for professional development activities
10 under section 2033; and

11 “(B) establish, expand, or improve alter-
12 native routes to State certification of teachers,
13 especially in the areas of mathematics and
14 science, for highly qualified individuals with a
15 baccalaureate degree, including mid-career pro-
16 fessionals from other occupations, paraprofes-
17 sionals, former military personnel, and recent
18 college or university graduates with records of
19 academic distinction who demonstrate the po-
20 tential to become highly effective teachers.

21 “(3) Developing and implementing effective
22 mechanisms to assist local educational agencies and
23 schools in effectively recruiting and retaining highly
24 qualified and effective teachers and principals.

1 “(4) Reforming tenure systems and imple-
2 menting teacher testing and other procedures to ex-
3 peditiously remove ineffective teachers from the
4 classroom.

5 “(5) Developing enhanced performance systems
6 to measure the effectiveness of specific professional
7 development programs and strategies.

8 “(6) Providing technical assistance to local edu-
9 cational agencies consistent with this part.

10 “(7) Funding projects to promote reciprocity of
11 teacher certification or licensure between or among
12 States, except that no reciprocity agreement devel-
13 oped under this paragraph or developed using funds
14 provided under this part may lead to the weakening
15 of any State teaching certification or licensing re-
16 quirement.

17 “(8) Developing or assisting local educational
18 agencies in the development and utilization of prov-
19 en, innovative strategies to deliver intensive profes-
20 sional development programs that are both cost-ef-
21 fective and easily accessible, such as through the use
22 of technology and distance learning.

23 “(9) Providing assistance to local educational
24 agencies for the development and implementation of
25 innovative professional development programs that

1 train teachers to use technology to improve teaching
2 and learning and are consistent with the require-
3 ments of section 2033.

4 “(10) Developing or assisting local educational
5 agencies in developing merit-based performance sys-
6 tems, rigorous assessments for teachers, and strate-
7 gies which provide differential and bonus pay for
8 teachers in high-need subject areas such as reading,
9 math, and science and in high-poverty schools and
10 districts.

11 “(11) Providing assistance to local educational
12 agencies for the development and implementation of
13 professional development programs for principals
14 that enable them to be effective school leaders and
15 prepare all students to achieve challenging State
16 content and student achievement standards, includ-
17 ing the development and support of school leadership
18 academies to help exceptionally talented aspiring or
19 current principals and superintendents become out-
20 standing managers and educational leaders.

21 “(12) Developing, or assisting local educational
22 agencies in developing, teacher advancement initia-
23 tives that promote professional growth and empha-
24 size multiple career paths (such as career teacher,

1 mentor teacher, and master teacher) and pay dif-
2 ferentiation.

3 “(f) COORDINATION.—States receiving grants under
4 section 202 of the Higher Education Act of 1965 shall
5 coordinate the use of such funds with activities carried out
6 under this section.

7 **“SEC. 2013. APPLICATIONS BY STATES.**

8 “(a) IN GENERAL.—To be eligible to receive a grant
9 under this subpart, a State shall submit an application
10 to the Secretary at such time, in such manner, and con-
11 taining such information as the Secretary may reasonably
12 require.

13 “(b) CONTENTS.—Each application under this sec-
14 tion shall include the following:

15 “(1) A description of how the State will ensure
16 that a local educational agency receiving a subgrant
17 under subpart 3 will comply with the requirements
18 of such subpart.

19 “(2) A description of how the State will use
20 funds under this part to meet the requirements of
21 section 1119(a)(2).

22 “(3) A description of how the State will coordi-
23 nate professional development activities authorized
24 under this part with professional development activi-
25 ties provided under other Federal, State, and local

1 programs, including those authorized under title I,
2 part A of title III, parts A and B of title V, and
3 (where applicable) the Individuals with Disabilities
4 Education Act and the Carl D. Perkins Vocational
5 and Technical Education Act. The application shall
6 also describe the comprehensive strategy that the
7 State will take as part of such coordination effort,
8 to ensure that teachers are trained in the utilization
9 of technology so that technology and its applications
10 are effectively used in the classroom to improve
11 teaching and learning in all curriculum and content
12 areas, as appropriate.

13 “(4) A description of how the State will encour-
14 age the development of proven, innovative strategies
15 to deliver intensive professional development pro-
16 grams that are both cost-effective and easily acces-
17 sible, such as through the use of technology and dis-
18 tance learning.

19 “(5) A description of how the State will ensure
20 that local educational agencies will comply with the
21 requirements under section 2033, especially with re-
22 spect to ensuring the participation of teachers, prin-
23 cipals, and parents.

24 “(c) APPLICATION APPROVAL.—A State application
25 submitted to the Secretary under this section shall be

1 deemed approved by the Secretary unless the Secretary
2 makes a written determination, within 90 days after re-
3 ceiving the application, that the application is in violation
4 of the provisions of this subpart. The Secretary shall not
5 finally disapprove a State application except after giving
6 the State notice and opportunity for a hearing.

7 **“Subpart 2—Math and Science Partnerships**

8 **“SEC. 2021. PURPOSE.**

9 “The purpose of this subpart is to improve the
10 achievement of students in the areas of mathematics and
11 science by encouraging States, institutions of higher edu-
12 cation, and local educational agencies to participate in
13 programs that—

14 “(1) focus on education and training of mathe-
15 matics and science teachers that improves teachers’
16 knowledge and skills and encourages intellectual
17 growth;

18 “(2) improve mathematics and science teaching
19 by encouraging institutions of higher education to
20 assume greater responsibility for improving mathe-
21 matics and science teacher education through the es-
22 tablishment of a comprehensive, integrated system of
23 recruiting, training, and advising such teachers; and

24 “(3) bring mathematics and science teachers in
25 elementary and secondary schools together with sci-

1 entists, mathematicians, and engineers to increase
2 the subject matter knowledge of teachers and im-
3 prove their teaching skills through the use of sophis-
4 ticated laboratory equipment and work space, com-
5 puting facilities, libraries, and other resources that
6 institutions of higher education are better able to
7 provide than the schools.

8 **“SEC. 2022. APPLICATION REQUIREMENTS.**

9 “(a) IN GENERAL.—An eligible partnership seeking
10 to receive a subgrant from a State under this subpart shall
11 submit an application to the State at such time, in such
12 manner, and accompanied by such information as the
13 State may require.

14 “(b) PARTNERSHIP APPLICATION CONTENTS.—Each
15 such application shall include—

16 “(1) an assessment of the teacher quality and
17 professional development of all the schools and agen-
18 cies participating in the eligible partnership with re-
19 spect to the teaching and learning of mathematics
20 and science;

21 “(2) a description of how the activities to be
22 carried out by the eligible partnership will be aligned
23 with State academic content standards in mathe-
24 matics and science and with other educational re-

1 form activities that promote student achievement in
2 mathematics and science;

3 “(3) a description of how the activities to be
4 carried out by the eligible partnership will be based
5 on a review of relevant research, and an explanation
6 of why the activities are expected to improve student
7 achievement and to strengthen the quality of mathe-
8 matics and science instructions; and

9 “(4) a description of—

10 “(A) how the eligible partnership will carry
11 out the activities described in section 2023(c);
12 and

13 “(B) the eligible partnership’s evaluation
14 and accountability plan described in section
15 2024.

16 **“SEC. 2023. MATH AND SCIENCE PARTNERSHIP SUB-**
17 **GRANTS.**

18 “(a) IN GENERAL.—From the amount described in
19 section 2012(d), the State educational agency, working in
20 conjunction with the State agency for higher education (if
21 such agencies are separate), shall award subgrants on a
22 competitive basis to eligible partnerships to enable such
23 partnerships to carry out activities described in subsection
24 (c).

1 “(b) DURATION.—The State shall award subgrants
2 under this subpart for a period of not less than 2 and
3 not more than 5 years.

4 “(c) AUTHORIZED ACTIVITIES.—A recipient of funds
5 provided under this subpart may use the funds for the
6 following activities related to elementary or secondary
7 schools:

8 “(1) Establishing and operating mathematics
9 and science summer professional development work-
10 shops or institutes for elementary and secondary
11 school teachers that—

12 “(A) shall—

13 “(i) directly relate to the curriculum
14 and content areas in which the teacher
15 provides instruction, and focus only sec-
16 ondarily on pedagogy;

17 “(ii) enhance the ability of a teacher
18 to understand and use the State’s aca-
19 demic content standards for mathematics
20 and science and to select appropriate cur-
21 ricula;

22 “(iii) train teachers to use curricula
23 that are—

24 “(I) based on scientific research;

1 “(II) aligned with State academic
2 content standards; and

3 “(III) object-centered, experi-
4 ment-oriented, and concept- and con-
5 tent-based; and

6 “(iv) provide supplemental assistance
7 and follow-up training during the school
8 year for summer institute graduates; and

9 “(B) may include—

10 “(i) programs that provide prospective
11 teachers and novice teachers opportunities
12 to work under the guidance of experienced
13 teachers and college faculty;

14 “(ii) instruction in the use of data
15 and assessments to inform and instruct
16 classroom practice; and

17 “(iii) professional development activi-
18 ties, including supplemental and follow-up
19 activities, such as curriculum alignment,
20 distance learning, and activities that train
21 teachers to utilize technology in the class-
22 room.

23 “(2) Recruiting to the teaching profession—

24 “(A) students studying mathematics, engi-
25 neering, and science; or

1 “(B) mathematicians, engineers, and sci-
2 entists currently working in the field.

3 “(3) Establishing and operating programs to
4 bring teachers into contact with working scientists,
5 mathematicians, and engineers, to expand teacher
6 content knowledge of and research in science and
7 mathematics.

8 “(d) PRIORITY.—In awarding subgrants under this
9 subpart, States shall give priority to applications seeking
10 funding for the activity described in subsection (c)(1).

11 “(e) COORDINATION.—Partnerships receiving grants
12 under section 203 of the Higher Education Act of 1965
13 (20 U.S.C. 1023) shall coordinate the use of such funds
14 with any related activities carried out by such partnership
15 with funds made available under this subpart.

16 **“SEC. 2024. EVALUATION AND ACCOUNTABILITY PLAN.**

17 “(a) IN GENERAL.—Each eligible partnership receiv-
18 ing a subgrant under this subpart shall develop an evalua-
19 tion and accountability plan for activities assisted under
20 this subpart that includes rigorous performance objectives
21 that measure the impact of activities funded under this
22 subpart.

23 “(b) CONTENTS.—The plan—

24 “(1) shall include measurable goals to increase
25 the number of mathematics and science teachers

1 who participate in content-based professional devel-
2 opment activities; and

3 “(2) may include objectives and measures for—

4 “(A) improved student achievement on
5 State mathematics and science assessments;

6 “(B) increased participation by students in
7 advanced courses in mathematics and science;

8 “(C) increased percentages of elementary
9 school teachers with academic majors or mi-
10 nors, or group majors or minors, in mathe-
11 matics, engineering, or the sciences; and

12 “(D) increased percentages of secondary
13 school classes in mathematics and science
14 taught by teachers with academic majors in
15 mathematics and science, respectively.

16 **“SEC. 2025. REPORTS; REVOCATION OF SUBGRANTS.**

17 “(a) REPORTS.—Each eligible partnership receiving
18 a subgrant under this subpart annually shall report to the
19 State regarding the eligible partnership’s progress in
20 meeting the performance objectives described in section
21 2024.

22 “(b) REVOCATION.—If the State determines that an
23 eligible partnership that receives a subgrant under this
24 subpart for 5 years is not making substantial progress in
25 meeting the performance objectives described in section

1 2024 by the end of the third year of the subgrant, the
2 subgrant payments shall not be made for the fourth and
3 fifth years.

4 **“SEC. 2026. DEFINITIONS.**

5 “In this subpart:

6 “(1) ELIGIBLE PARTNERSHIP.—The term ‘eligi-
7 ble partnership’ means a partnership that—

8 “(A) shall include—

9 “(i) a State educational agency;

10 “(ii) a mathematics or science depart-
11 ment of a private independent institution
12 of higher education or a State-supported
13 public institution of higher education; and

14 “(iii) a high need local educational
15 agency; and

16 “(B) may include—

17 “(i) another institution of higher edu-
18 cation or the teacher training department
19 of such an institution;

20 “(ii) additional local educational agen-
21 cies, public charter schools, public or pri-
22 vate elementary or secondary schools, or a
23 consortium of such schools;

24 “(iii) a business; or

1 “(iv) a nonprofit organization of dem-
2 onstrated effectiveness, including a mu-
3 seum or research institution.

4 “(2) SUMMER PROFESSIONAL DEVELOPMENT
5 WORKSHOP OR INSTITUTE.—The term ‘summer pro-
6 fessional development workshop or institute’ means
7 a workshop or institute that—

8 “(A) is conducted during a period of not
9 less than 2 weeks;

10 “(B) includes as a component a program
11 that provides direct interaction between stu-
12 dents and faculty; and

13 “(C) provides for follow-up training during
14 the academic year that is conducted in the
15 classroom for a period of not less than 3 con-
16 secutive or nonconsecutive days, except that—

17 “(i) if the workshop or institute is
18 conducted during a two-week period, the
19 follow-up training shall be conducted for a
20 period of at least 4 days; and

21 “(ii) if the follow-up training is for
22 teachers in rural school districts, it may be
23 conducted through distance learning.

1 **“Subpart 3—Subgrants to Local Educational**
2 **Agencies**

3 **“SEC. 2031. LOCAL USE OF FUNDS.**

4 “(a) IN GENERAL.—Subject to subsection (b), each
5 local educational agency that receives a subgrant under
6 this subpart may use the subgrant to carry out the fol-
7 lowing activities:

8 “(1) Initiatives to assist in recruiting and hir-
9 ing fully qualified teachers who will be assigned
10 teaching positions within their field, including—

11 “(A) providing signing bonuses or other fi-
12 nancial incentives, such as differential pay, for
13 teachers to teach in academic subject areas in
14 which there exists a shortage of such fully
15 qualified teachers within a school or the local
16 educational agency;

17 “(B) establishing programs that—

18 “(i) recruit professionals from other
19 fields and provide such professionals with
20 alternative routes to teacher certification;
21 and

22 “(ii) provide increased opportunities
23 for minorities, individuals with disabilities,
24 and other individuals underrepresented in
25 the teaching profession; and

1 “(C) implementing hiring policies that en-
2 sure comprehensive recruitment efforts as a
3 way to expand the applicant pool, such as
4 through identifying teachers certified through
5 alternative routes, coupled with a system of in-
6 tensive screening designed to hire the most
7 qualified applicant.

8 “(2) Initiatives to promote retention of highly
9 qualified teachers and principals, particularly within
10 elementary and secondary schools with a high per-
11 centage of low-achieving students, including pro-
12 grams that provide—

13 “(A) mentoring to newly hired teachers,
14 such as from master teachers, or principals or
15 superintendents;

16 “(B) incentives, including financial incen-
17 tives, to retain teachers who have a record of
18 success in helping low-achieving students im-
19 prove their academic success; or

20 “(C) incentives, including financial incen-
21 tives, to principals who have a record of improv-
22 ing the performance of all students, but par-
23 ticularly students from economically disadvan-
24 tagged families and students from racial and
25 ethnic minority groups.

1 “(3) Programs and activities that are designed
2 to improve the quality of the teacher force, such
3 as—

4 “(A) innovative professional development
5 programs (which may be through partnerships
6 including institutions of higher education), in-
7 cluding programs that train teachers and prin-
8 cipals to utilize technology to improve teaching
9 and learning, are consistent with the require-
10 ments of section 2033, and are coordinated
11 with part B of title V;

12 “(B) development and utilization of prov-
13 en, cost-effective strategies for the implementa-
14 tion of professional development activities, such
15 as through the utilization of technology and dis-
16 tance learning;

17 “(C) tenure reform;

18 “(D) merit pay;

19 “(E) testing of elementary and secondary
20 school teachers in the subject areas taught by
21 such teachers;

22 “(F) professional development programs
23 that provide instruction in how to teach chil-
24 dren with different learning styles, particularly
25 children with disabilities and children with spe-

1 cial learning needs (including those who are
2 gifted and talented); and

3 “(G) professional development programs
4 that provide instruction in methods of improv-
5 ing student behavior in the classroom and how
6 to identify early and appropriate interventions
7 to help children described in subparagraph (F)
8 learn.

9 “(4) Teacher opportunity payments, consistent
10 with section 2034.

11 “(5) Professional activities designed to improve
12 the quality of principals and superintendents, includ-
13 ing the development and support of academies to
14 help exceptionally talented aspiring or current prin-
15 cipals and superintendents become outstanding man-
16 agers and educational leaders.

17 “(6) Hiring fully qualified teachers, including
18 teachers who become fully qualified through State
19 and local alternative routes, and special education
20 teachers, in order to reduce class size, particularly in
21 the early grades.

22 “(7) Teacher advancement initiatives that pro-
23 mote professional growth and emphasize multiple ca-
24 reer paths (such as career teacher, mentor teacher,
25 and master teacher) and pay differentiation.

1 “(b) SPECIAL RULE.—

2 “(1) IN GENERAL.—For any fiscal year for
3 which the amount described in section
4 2012(d)(2)(A) for a State is less than 15 percent of
5 the total amount of the funds that the State receives
6 under this subpart for the year that the State does
7 not reserve under section 2012(b), each local edu-
8 cational agency that receives a subgrant under this
9 subpart from the State shall use the funds to comply
10 with paragraph (2).

11 “(2) REQUIREMENT.—A local educational agen-
12 cy required to comply with this paragraph shall use
13 not less than the amount expended by the agency
14 under section 2206(b) of this Act (as in effect on
15 the day before the date of the enactment of the No
16 Child Left Behind Act of 2001), for the fiscal year
17 preceding the year in which such enactment occurs,
18 to carry out professional development activities in
19 mathematics and science.

20 **“SEC. 2032. LOCAL APPLICATIONS.**

21 “(a) IN GENERAL.—A local educational agency seek-
22 ing to receive a subgrant from a State under this subpart
23 shall submit an application to the State—

24 “(1) at such time as the State shall require;
25 and

1 “(2) which is coordinated with other programs
2 under this Act, or other Acts, as appropriate.

3 “(b) LOCAL APPLICATION CONTENTS.—The local ap-
4 plication described in subsection (a), shall include, at a
5 minimum, the following:

6 “(1) An assurance that the local educational
7 agency will target funds to schools within the juris-
8 diction of the local educational agency that—

9 “(A) have the lowest proportion of fully
10 qualified teachers;

11 “(B) have the largest average class size; or

12 “(C) are identified for school improvement
13 under section 1116(b).

14 “(2) A description of how the local educational
15 agency will coordinate professional development ac-
16 tivities authorized under this subpart with profes-
17 sional development activities provided through other
18 Federal, State, and local programs, including those
19 authorized under title I, part A of title III, parts A
20 and B of title V, and (where applicable) the Individ-
21 uals with Disabilities Education Act and the Carl D.
22 Perkins Vocational and Technical Education Act.

23 “(3) A description of how the local educational
24 agency will integrate funds under this subpart with
25 funds received under part B of title V that are used

1 for professional development to train teachers to uti-
2 lize technology to improve teaching and learning.

3 “(4) A description of how the local educational
4 agency has collaborated with teachers, principals,
5 parents, and administrators in the preparation of
6 the application.

7 **“SEC. 2033. PROFESSIONAL DEVELOPMENT FOR TEACHERS.**

8 “(a) REQUIREMENTS FOR PROFESSIONAL DEVELOP-
9 MENT ACTIVITIES.—Professional development activities
10 under this subpart shall—

11 “(1) meet the requirements of section
12 1119(a)(2);

13 “(2) support professional development activities
14 that give teachers, principals, and administrators the
15 knowledge and skills to provide students with the op-
16 portunity to meet challenging State academic con-
17 tent standards and student achievement standards;

18 “(3) support the recruiting, hiring, and training
19 of fully qualified teachers, including teachers fully
20 qualified through State and local alternative routes;

21 “(4) advance teacher understanding of effective
22 instructional strategies based on scientifically based
23 research for improving student achievement, at a
24 minimum, in reading or language arts and mathe-
25 matics;

1 “(5) be directly related to the curriculum and
2 content areas in which the teacher provides instruc-
3 tion, except that this paragraph shall not apply to
4 subparagraphs (F) and (G) of section 2031(3);

5 “(6) be designed to enhance the ability of a
6 teacher to understand and use the State’s standards
7 for the subject area in which the teacher provides in-
8 struction;

9 “(7) be tied to scientifically based research
10 demonstrating the effectiveness of such professional
11 development activities or programs in increasing stu-
12 dent achievement or substantially increasing the
13 knowledge and teaching skills of teachers;

14 “(8) be of sufficient intensity and duration (not
15 to include 1-day or short-term workshops and con-
16 ferences) to have a positive and lasting impact on
17 the teacher’s performance in the classroom;

18 “(9) be developed with extensive participation
19 of teachers, principals, parents, and administrators
20 of schools to be served under this subpart;

21 “(10) be designed to give teachers of limited
22 English proficient children, and other teachers and
23 instructional staff, the knowledge and skills to pro-
24 vide instruction and appropriate language and aca-

1 demic support services to such children, including
2 the appropriate use of curriculum and assessments;

3 “(11) to the extent appropriate, provide train-
4 ing for teachers and principals in the use of tech-
5 nology so that technology and its applications are ef-
6 fectively used in the classroom to improve teaching
7 and learning in the curriculum and academic content
8 areas in which the teachers provide instruction;

9 “(12) as a whole, be regularly evaluated for
10 their impact on increased teacher effectiveness and
11 improved student achievement, with the findings of
12 such evaluations used to improve the quality of pro-
13 fessional development; and

14 “(13) provide instruction in methods of teach-
15 ing children with special needs.

16 “(b) PROFESSIONAL DEVELOPMENT ACTIVITIES.—
17 Professional development activities under this subpart
18 may include—

19 “(1) instruction in the use of data and assess-
20 ments to inform and instruct classroom practice;

21 “(2) instruction in ways that teachers, prin-
22 cipals, pupil services personnel, and school adminis-
23 trators may work more effectively with parents;

24 “(3) the forming of partnerships with institu-
25 tions of higher education to establish school-based

1 teacher training programs that provide prospective
2 teachers and novice teachers with an opportunity to
3 work under the guidance of experienced teachers and
4 college faculty;

5 “(4) the creation of programs for paraprofes-
6 sionals (assisting teachers employed by a local edu-
7 cational agency receiving assistance under this part)
8 to obtain the education necessary for such para-
9 professionals to become licensed and certified teach-
10 ers; and

11 “(5) activities that provide follow-up training to
12 teachers who have participated in professional devel-
13 opment activities which are designed to ensure that
14 the knowledge and skills learned by the teacher are
15 implemented in the classroom.

16 “(c) ACCOUNTABILITY.—

17 “(1) IN GENERAL.—If, after any fiscal year, a
18 State determines that the programs or activities
19 funded by a local educational agency fail to meet the
20 requirements of subsection (a), the State shall notify
21 the agency that—

22 “(A) it may be subject to paragraph (2);
23 and

1 “(B) technical assistance is available from
2 the State to help the agency meet those require-
3 ments.

4 “(2) REQUIREMENT TO PROVIDE TEACHER OP-
5 PORTUNITY PAYMENTS.—A local educational agency
6 that has been notified by a State for 2 consecutive
7 years under paragraph (1) shall expend under sec-
8 tion 2034 for the succeeding fiscal year a proportion
9 of the amount the agency receives under this sub-
10 part that is equal to the proportion of the amount
11 the agency received under this part for the preceding
12 fiscal year that the agency used for professional de-
13 velopment.

14 **“SEC. 2034. TEACHER OPPORTUNITY PAYMENTS.**

15 “(a) IN GENERAL.—A local educational agency re-
16 ceiving funds under this subpart may (or, in the case of
17 a local educational agency described in section 2033(c)(2),
18 shall) provide funds directly to a teacher or a group of
19 teachers seeking opportunities to participate in a profes-
20 sional development activity of their choice that meets the
21 requirements of section 2033(a) and is selected in con-
22 sultation with the principal in order to coordinate such
23 professional development with other reform efforts at the
24 school.

1 “(b) NOTICE TO TEACHERS.—Local educational
2 agencies distributing funds under this section shall estab-
3 lish and implement a timely process through which proper
4 notice of availability of funds will be given to all teachers
5 within schools identified by the agency and shall develop
6 a process whereby teachers will have regular consultation
7 with and be specifically recommended by principals to par-
8 ticipate in such program by virtue of—

9 “(1) a teacher not being fully qualified to teach
10 in the subject or subjects in which they teach; or

11 “(2) a teacher’s need for additional assistance
12 to ensure that the teacher’s students make progress
13 toward meeting challenging State academic content
14 standards and student achievement standards.

15 “(c) SELECTION OF TEACHERS.—If adequate fund-
16 ing is not available to provide payments under this section
17 to all teachers seeking such assistance or identified as
18 needing such assistance pursuant to subsection (b), a local
19 educational agency shall establish procedures for selecting
20 teachers that give priority to teachers described in para-
21 graph (1) or (2) of subsection (b).

1 **“Subpart 4—Mid-Career Transitions to Teaching**
2 **“CHAPTER 1—TROOPS-TO-TEACHERS**
3 **PROGRAM**

4 **“SEC. 2041. AUTHORIZATION OF TROOPS-TO-TEACHERS**
5 **PROGRAM.**

6 “(a) PROGRAM AUTHORIZED.—The Secretary may
7 carry out a program (to be known as the ‘Troops-to-
8 Teachers Program’)—

9 “(1) to assist eligible members and former
10 members of the Armed Forces described in section
11 2042 to obtain certification or licensure as fully
12 qualified elementary school teachers, secondary
13 school teachers, or vocational or technical teachers;
14 and

15 “(2) to facilitate the employment of such mem-
16 bers in elementary schools or secondary schools or as
17 vocational or technical teachers.

18 “(b) ADMINISTRATION OF PROGRAM.—The Secretary
19 shall enter into a memorandum of agreement with the Sec-
20 retary of Defense under which the Secretary of Defense,
21 acting through the Defense Activity for Non-Traditional
22 Education Support of the Department of Defense, will
23 perform the actual administration of the Program, other
24 than section 2045. Using funds appropriated to the Sec-
25 retary to carry out this chapter, the Secretary shall trans-
26 fer to the Secretary of Defense such amounts as may be

1 necessary to administer the Program pursuant to the
2 memorandum of agreement.

3 “(c) INFORMATION REGARDING PROGRAM.—The
4 Secretary shall provide to the Secretary of Defense, for
5 distribution as part of pre-separation counseling provided
6 under section 1142 of title 10, United States Code, to
7 members of the Armed Forces described in section 2042,
8 information regarding the Troops-to-Teachers Program
9 and applications to participate in the program.

10 “(d) PLACEMENT ASSISTANCE AND REFERRAL
11 SERVICES.—As part of the Troops-to-Teachers Program,
12 the Secretary may, with the agreement of the Secretary
13 of Defense, provide placement assistance and referral serv-
14 ices regarding employment opportunities with local edu-
15 cational agencies to members of the Armed Forces who
16 are discharged or released from active duty under other
17 than adverse conditions. Unless the member is also se-
18 lected to participate in the Program under section 2042,
19 a member receiving placement assistance and referral
20 services under the authority of this subsection is not eligi-
21 ble for financial assistance under section 2043.

22 **“SEC. 2042. RECRUITMENT AND SELECTION OF PROGRAM**
23 **PARTICIPANTS.**

24 “(a) ELIGIBLE MEMBERS.—The following members
25 and former members of the Armed Forces are eligible for

1 selection to participate in the Troops-to-Teachers Pro-
2 gram:

3 “(1) Any member who—

4 “(A) on or after October 1, 1999, becomes
5 entitled to retired or retainer pay in the manner
6 provided in title 10 or title 14, United States
7 Code; or

8 “(B) on or after the date of the enactment
9 of the No Child Left Behind Act of 2001, has
10 an approved date of voluntary retirement and,
11 as of the date the member submits an applica-
12 tion to participate in the Program, has one year
13 or less of active duty remaining before retire-
14 ment.

15 “(2) Any member who, on or after the date of
16 the enactment of the No Child Left Behind Act of
17 2001—

18 “(A) is separated or released from active
19 duty after six or more years of continuous ac-
20 tive duty immediately before the separation or
21 release; and

22 “(B) executes a reserve commitment agree-
23 ment for a period of three years under sub-
24 section (e)(2).

1 “(3) Any member who, on or after the date of
2 the enactment of the No Child Left Behind Act of
3 2001, is retired or separated for physical disability
4 under chapter 61 of title 10, United States Code.

5 “(4) Any member who—

6 “(A) during the period beginning on Octo-
7 ber 1, 1990, and ending on September 30,
8 1999, was involuntarily discharged or released
9 from active duty for purposes of a reduction of
10 force after six or more years of continuous ac-
11 tive duty immediately before the discharge or
12 release; or

13 “(B) applied for the teacher placement
14 program administered under section 1151 of
15 title 10, United States Code, before its repeal,
16 and who satisfied the eligibility criteria specified
17 in subsection (c) of such section 1151.

18 “(b) SUBMISSION OF APPLICATIONS.—

19 “(1) FORM AND SUBMISSION.—Selection of eli-
20 gible members and former members of the Armed
21 Forces to participate in the Troops-to-Teachers Pro-
22 gram shall be made on the basis of applications sub-
23 mitted to the Secretary within the time periods spec-
24 ified in paragraph (2). An application shall be in

1 such form and contain such information as the Sec-
2 retary may require.

3 “(2) TIME FOR SUBMISSION.—An application
4 shall be considered to be submitted on a timely basis
5 under paragraph (1) if—

6 “(A) in the case of a member or former
7 member of the Armed Forces described in para-
8 graph (1), (2), or (3) of subsection (a), the ap-
9 plication is submitted not later than four years
10 after the date on which the member is retired
11 or separated or released from active duty,
12 whichever applies to the member; or

13 “(B) in the case of a member or former
14 member described in subsection (a)(4), the ap-
15 plication is submitted not later than September
16 30, 2003.

17 “(c) SELECTION CRITERIA.—

18 “(1) ESTABLISHMENT.—Subject to paragraphs
19 (2) and (3), the Secretary shall prescribe the criteria
20 to be used to select eligible members and former
21 members of the Armed Forces to participate in the
22 Troops-to-Teachers Program.

23 “(2) EDUCATIONAL BACKGROUND.—If a mem-
24 ber or former member of the Armed Forces de-
25 scribed in paragraph (1), (2), or (3) of subsection

1 (a) is applying for assistance for placement as an el-
2 ementary or secondary school teacher, the Secretary
3 shall require the member to have received a bacca-
4 laureate or advanced degree from an accredited in-
5 stitution of higher education. If such a member is
6 applying for assistance for placement as a vocational
7 or technical teacher, the Secretary shall require the
8 member—

9 “(A) to have received the equivalent of one
10 year of college from an accredited institution of
11 higher education and have six or more years of
12 military experience in a vocational or technical
13 field; or

14 “(B) to otherwise meet the certification or
15 licensure requirements for a vocational or tech-
16 nical teacher in the State in which the member
17 seeks assistance for placement under the Pro-
18 gram.

19 “(3) HONORABLE SERVICE.—A member or
20 former member of the Armed Forces is eligible to
21 participate in the Troops-to-Teachers Program only
22 if the member’s last period of service in the Armed
23 Forces was characterized as honorable. If the mem-
24 ber is selected to participate in the Program before
25 the retirement of the member or the separation or

1 release of the member from active duty, the member
2 may continue to participate in the Program only if,
3 upon the retirement or separation or release from
4 active duty, the member's last period of service is
5 characterized as honorable.

6 “(d) SELECTION PRIORITIES.—In selecting eligible
7 members and former members of the Armed Forces to re-
8 ceive assistance for placement as elementary or secondary
9 school teachers or vocational or technical teachers, the
10 Secretary shall give priority to members who have edu-
11 cational or military experience in science, mathematics,
12 special education, or vocational or technical subjects and
13 agree to seek employment as science, mathematics, or spe-
14 cial education teachers in elementary or secondary schools
15 or in other schools under the jurisdiction of a local edu-
16 cational agency.

17 “(e) OTHER CONDITIONS ON SELECTION.—

18 “(1) SELECTION SUBJECT TO FUNDING.—The
19 Secretary may not select an eligible member or
20 former member of the Armed Forces to participate
21 in the Troops-to-Teachers Program under this sec-
22 tion and receive financial assistance under section
23 2043 unless the Secretary has sufficient appropria-
24 tions for the Program available at the time of the
25 selection to satisfy the obligations to be incurred by

1 the United States under section 2043 with respect
2 to the member.

3 “(2) RESERVE COMMITMENT AGREEMENT.—

4 The Secretary may not select an eligible member or
5 former member of the Armed Forces described in
6 subsection (a)(2)(A) to participate in the Troops-to-
7 Teachers Program under this section and receive fi-
8 nancial assistance under section 2043 unless—

9 “(A) the Secretary notifies the Secretary
10 concerned and the member that the Secretary
11 has reserved a full stipend or bonus under sec-
12 tion 2043 for the member; and

13 “(B) the member executes a written agree-
14 ment with the Secretary concerned to serve as
15 a member of the Selected Reserve of a reserve
16 component of the Armed Forces for a period of
17 three years (in addition to any other reserve
18 commitment the member may have).

19 **“SEC. 2043. PARTICIPATION AGREEMENT AND FINANCIAL**
20 **ASSISTANCE.**

21 “(a) PARTICIPATION AGREEMENT.—An eligible
22 member or former member of the Armed Forces selected
23 to participate in the Troops-to-Teachers Program under
24 section 2042 and receive financial assistance under this

1 section shall be required to enter into an agreement with
2 the Secretary in which the member agrees—

3 “(1) to obtain, within such time as the Sec-
4 retary may require, certification or licensure as a
5 fully qualified elementary school teacher, secondary
6 school teacher, or vocational or technical teacher;
7 and

8 “(2) to accept an offer of full-time employment
9 as a fully qualified elementary school teacher, sec-
10 ondary school teacher, or vocational or technical
11 teacher for not less than three school years with a
12 local educational agency or public charter school, to
13 begin the school year after obtaining that certifi-
14 cation or licensure.

15 “(b) VIOLATION OF PARTICIPATION AGREEMENT;
16 EXCEPTIONS.—A participant in the Troops-to-Teachers
17 Program shall not be considered to be in violation of the
18 participation agreement entered into under subsection (a)
19 during any period in which the participant—

20 “(1) is pursuing a full-time course of study re-
21 lated to the field of teaching at an institution of
22 higher education;

23 “(2) is serving on active duty as a member of
24 the Armed Forces;

1 “(3) is temporarily totally disabled for a period
2 of time not to exceed three years as established by
3 sworn affidavit of a qualified physician;

4 “(4) is unable to secure employment for a pe-
5 riod not to exceed 12 months by reason of the care
6 required by a spouse who is disabled;

7 “(5) is seeking and unable to find full-time em-
8 ployment as a fully qualified teacher in an elemen-
9 tary or secondary school or as a vocational or tech-
10 nical teacher for a single period not to exceed 27
11 months; or

12 “(6) satisfies the provisions of additional reim-
13 bursement exceptions that may be prescribed by the
14 Secretary.

15 “(c) STIPEND FOR PARTICIPANTS.—

16 “(1) STIPEND AUTHORIZED.—Subject to para-
17 graph (2), the Secretary may pay to a participant in
18 the Troops-to-Teachers Program selected under sec-
19 tion 2042 a stipend in an amount up to \$5,000.

20 “(2) LIMITATION.—The total number of sti-
21 pends that may be paid under paragraph (1) in any
22 fiscal year may not exceed 3,000.

23 “(d) BONUS FOR PARTICIPANTS.—

24 “(1) BONUS AUTHORIZED.—Subject to para-
25 graph (2), the Secretary may, in lieu of paying a sti-

1 pend under subsection (c), pay a bonus of \$10,000
2 to a participant in the Troops-to-Teachers Program
3 selected under section 2042 who agrees in the par-
4 ticipation agreement under subsection (a) to accept
5 full-time employment as a fully qualified elementary
6 school teacher, secondary school teacher, or voca-
7 tional or technical teacher for not less than three
8 years in a high need school.

9 “(2) LIMITATION.—The total number of bo-
10 nuses that may be paid under paragraph (1) in any
11 fiscal year may not exceed 1,000.

12 “(3) HIGH NEED SCHOOL DEFINED.—For pur-
13 poses of this subsection, the term ‘high need school’
14 means a public elementary school, public secondary
15 school, or public charter school that meets one or
16 more of the following criteria:

17 “(A) At least 50 percent of the students
18 enrolled in the school were children counted
19 under subsection (c) of section 1124 for pur-
20 poses of making grants under such section to
21 local educational agencies, when such counting
22 was most recently performed.

23 “(B) The school has a large percentage of
24 students who qualify for assistance under part

1 B of the Individuals with Disabilities Education
2 Act (20 U.S.C. 1411 et seq.).

3 “(C) The school meets any other criteria
4 established by the Secretary in consultation
5 with the National Assessment Governing Board.

6 “(e) TREATMENT OF STIPEND AND BONUS.—A sti-
7 pend or bonus paid under this section to a participant in
8 the Troops-to-Teachers Program shall be taken into ac-
9 count in determining the eligibility of the participant for
10 Federal student financial assistance provided under title
11 IV of the Higher Education Act of 1965 (20 U.S.C. 1070
12 et seq.).

13 “(f) REIMBURSEMENT UNDER CERTAIN CIR-
14 CUMSTANCES.—

15 “(1) REIMBURSEMENT REQUIRED.—A partici-
16 pant in the Troops-to-Teachers Program who is paid
17 a stipend or bonus under this section shall be re-
18 quired to repay the stipend or bonus under the fol-
19 lowing circumstances:

20 “(A) The participant fails to obtain teach-
21 er certification or licensure or employment as a
22 fully qualified elementary school teacher, sec-
23 ondary school teacher, or vocational or technical
24 teacher as required by the participation agree-
25 ment under subsection (a).

1 “(B) The participant voluntarily leaves, or
2 is terminated for cause, from employment as an
3 elementary school teacher, secondary school
4 teacher, or vocational or technical teacher dur-
5 ing the three years of required service in viola-
6 tion of the participation agreement.

7 “(C) The participant executed a written
8 agreement with the Secretary concerned under
9 section 2042(e)(2) to serve as a member of a
10 reserve component of the Armed Forces for a
11 period of three years and fails to complete the
12 required term of service.

13 “(2) AMOUNT OF REIMBURSEMENT.—A partici-
14 pant required to reimburse the Secretary for a sti-
15 pend or bonus paid to the participant under this sec-
16 tion shall pay an amount that bears the same ratio
17 to the amount of the stipend or bonus as the
18 unserved portion of required service bears to the
19 three years of required service. Any amount owed by
20 the participant shall bear interest at the rate equal
21 to the highest rate being paid by the United States
22 on the day on which the reimbursement is deter-
23 mined to be due for securities having maturities of
24 ninety days or less and shall accrue from the day on

1 which the participant is first notified of the amount
2 due.

3 “(3) TREATMENT OF OBLIGATION.—The obliga-
4 tion to reimburse the Secretary under this sub-
5 section is, for all purposes, a debt owing the United
6 States. A discharge in bankruptcy under title 11,
7 United States Code, shall not release a participant
8 from the obligation to reimburse the Secretary.

9 “(4) EXCEPTIONS TO REIMBURSEMENT RE-
10 QUIREMENT.—A participant shall be excused from
11 reimbursement under this subsection if the partici-
12 pant becomes permanently totally disabled as estab-
13 lished by sworn affidavit of a qualified physician.
14 The Secretary may also waive reimbursement in
15 cases of extreme hardship to the participant, as de-
16 termined by the Secretary.

17 “(g) RELATIONSHIP TO EDUCATIONAL ASSISTANCE
18 UNDER MONTGOMERY GI BILL.—The receipt by a partici-
19 pant in the Troops-to-Teachers Program of a stipend or
20 bonus under this section shall not reduce or otherwise af-
21 fect the entitlement of the participant to any benefits
22 under chapter 30 of title 38, United States Code, or chap-
23 ter 1606 of title 10, United States Code.

1 **“SEC. 2044. PARTICIPATION BY STATES.**

2 “(a) DISCHARGE OF STATE ACTIVITIES THROUGH
3 CONSORTIA OF STATES.—The Secretary may permit
4 States participating in the Troops-to-Teachers Program to
5 carry out activities authorized for such States under the
6 Program through one or more consortia of such States.

7 “(b) ASSISTANCE TO STATES.—

8 “(1) GRANTS AUTHORIZED.—Subject to para-
9 graph (2), the Secretary may make grants to States
10 participating in the Troops-to-Teachers Program, or
11 to consortia of such States, in order to permit such
12 States or consortia of States to operate offices for
13 purposes of recruiting eligible members and former
14 members of the Armed Forces for participation in
15 the Program and facilitating the employment of par-
16 ticipants in the Program as elementary school teach-
17 ers, secondary school teachers, and vocational or
18 technical teachers.

19 “(2) LIMITATION.—The total amount of grants
20 under paragraph (1) in any fiscal year may not ex-
21 ceed \$4,000,000.

22 **“SEC. 2045. SUPPORT OF INNOVATIVE PRERETIREMENT**
23 **TEACHER CERTIFICATION PROGRAMS.**

24 “(a) DEVELOPMENT, IMPLEMENTATION AND DEM-
25 ONSTRATION.—The Secretary may enter into a memo-
26 randum of agreement with a State, an institution of high-

1 er education, or a consortia of States or institutions of
2 higher education, to develop, implement, and demonstrate
3 teacher certification programs for members of the Armed
4 Forces described in section 2042(a)(1)(B) for the purpose
5 of assisting such members to consider and prepare for a
6 career as a fully qualified elementary school teacher, sec-
7 ondary school teacher, or vocational or technical teacher
8 upon their retirement from the Armed Forces.

9 “(b) PROGRAM ELEMENTS.—A teacher certification
10 program under subsection (a) must—

11 “(1) provide recognition of military experience
12 and training as related to licensure or certification
13 requirements;

14 “(2) provide courses of instruction that may be
15 conducted on or near a military installation;

16 “(3) incorporate alternative approaches to
17 achieve teacher certification, such as innovative
18 methods to gaining field-based teaching experiences,
19 and assessment of background and experience as re-
20 lated to skills, knowledge, and abilities required of
21 elementary school teachers, secondary school teach-
22 ers, or vocational or technical teachers;

23 “(4) provide for courses to also be delivered via
24 distance education methods; and

1 “(5) address any additional requirements or
2 specifications as established by the Secretary.

3 “(c) APPLICATION PROCEDURES.—A State or insti-
4 tution of higher education (or a consortia of States or in-
5 stitutions of higher education) that has a program leading
6 to State approved teacher certification programs may sub-
7 mit a proposal to the Secretary for consideration under
8 subsection (a). The Secretary shall give preference to pro-
9 posals that provide for a sharing of the costs to carry out
10 the teacher certification program.

11 “(d) CONTINUATION OF PROGRAMS.—The purpose of
12 this section is to provide funding to develop, implement,
13 and demonstrate teacher certification programs under
14 subsection (a). Upon successful completion of the dem-
15 onstration phase, the continued operation of the teacher
16 certification programs shall not be the responsibility of the
17 Secretary.

18 “(e) FUNDING LIMITATION.—The total amount obli-
19 gated by the Secretary under this section in any fiscal year
20 may not exceed \$5,000,000.

21 **“SEC. 2046. REPORTING REQUIREMENTS.**

22 “(a) REPORT REQUIRED.—Not later than March 31
23 of each year, the Secretary (in consultation with the Sec-
24 retary of Defense and the Secretary of Transportation)
25 and the Comptroller General shall each submit to Con-

1 gress a report on the effectiveness of the Troops-to-Teach-
2 ers Program in the recruitment and retention of qualified
3 personnel by local educational agencies and public charter
4 schools.

5 “(b) ELEMENTS OF REPORT.—The report under sub-
6 section (a) shall include information on the following:

7 “(1) The number of participants in the Troops-
8 to-Teachers Program.

9 “(2) The schools in which the participants are
10 employed.

11 “(3) The grade levels at which the participants
12 teach.

13 “(4) The subject matters taught by the partici-
14 pants.

15 “(5) The rates of retention of the participants
16 by the local educational agencies and public charter
17 schools employing the participants.

18 “(6) Such other matters as the Secretary or the
19 Comptroller General, as the case may be, considers
20 appropriate.

21 “(c) RECOMMENDATIONS.—The report of the Comp-
22 troller General under this section shall also include any
23 recommendations of the Comptroller General regarding
24 any means of improving the Troops-to-Teachers Program,

1 including means of enhancing the recruitment and reten-
2 tion of participants in the Program.

3 **“SEC. 2047. DEFINITIONS.**

4 “For purposes of this chapter:

5 “(1) ARMED FORCES.—The term ‘Armed
6 Forces’ means the Army, Navy, Air Force, Marine
7 Corps, and Coast Guard.

8 “(2) PROGRAM.—The term ‘Program’ means
9 the Troops-to-Teachers Program authorized by this
10 subpart.

11 “(3) RESERVE COMPONENT.—The term ‘reserve
12 component’ means—

13 “(A) the Army National Guard of the
14 United States;

15 “(B) the Army Reserve;

16 “(C) the Naval Reserve;

17 “(D) the Marine Corps Reserve;

18 “(E) the Air National Guard of the United
19 States;

20 “(F) the Air Force Reserve; and

21 “(G) the Coast Guard Reserve.

22 “(4) SECRETARY CONCERNED.—The term ‘Sec-
23 retary concerned’ means—

1 “(A) the Secretary of the Army, with re-
2 spect to matters concerning a reserve compo-
3 nent of the Army;

4 “(B) the Secretary of the Navy, with re-
5 spect to matters concerning a reserve compo-
6 nent of the Navy;

7 “(C) the Secretary of the Air Force, with
8 respect to matters concerning a reserve compo-
9 nent of the Air Force; and

10 “(D) the Secretary of Transportation, with
11 respect to matters concerning the Coast Guard
12 Reserve.

13 **“CHAPTER 2—TRANSITION TO TEACHING**

14 **“SEC. 2048. PROFESSIONALS SEEKING TO CHANGE CA-**
15 **REERS.**

16 “(a) PURPOSE.—The purpose of this section is to ad-
17 dress the need of high-need local educational agencies for
18 highly qualified teachers in particular subject areas, such
19 as mathematics, science, foreign languages, bilingual edu-
20 cation, and special education, needed by those agencies,
21 following the model of the program under chapter 1, by
22 recruiting, preparing, placing, and supporting career-
23 changing professionals who have knowledge and experi-
24 ence that will help them become such teachers.

1 “(b) PROGRAM AUTHORIZED.—The Secretary may
2 award grants, contracts, or cooperative agreements to in-
3 stitutions of higher education and public and private non-
4 profit agencies or organizations to carry out programs au-
5 thorized by this section.

6 “(c) APPLICATION.—Each applicant that desires an
7 award under subsection (b) shall submit an application to
8 the Secretary containing such information as the Sec-
9 retary requires, including—

10 “(1) a description of the target group of career-
11 changing professionals upon which the applicant will
12 focus its recruitment efforts in carrying out its pro-
13 gram under this section, including a description of
14 the characteristics of that target group that shows
15 how the knowledge and experience of its members
16 are relevant to meeting the purpose of this section;

17 “(2) a description of the training that program
18 participants will receive and how that training will
19 relate to their certification as teachers;

20 “(3) a description of how the applicant will col-
21 laborate, as needed, with other institutions, agencies,
22 or organizations to recruit, train, place, support, and
23 provide teacher induction programs to program par-
24 ticipants under this section, including evidence of

1 the commitment of those institutions, agencies, or
2 organizations to the applicant's program;

3 “(4) a description of how the applicant will
4 evaluate the progress and effectiveness of its pro-
5 gram, including—

6 “(A) the program's goals and objectives;

7 “(B) the performance indicators the appli-
8 cant will use to measure the program's
9 progress; and

10 “(C) the outcome measures that will be
11 used to determine the program's effectiveness;
12 and

13 “(5) such other information and assurances as
14 the Secretary may require.

15 “(d) USES OF FUNDS AND PERIOD OF SERVICE.—

16 “(1) AUTHORIZED ACTIVITIES.—Funds under
17 this section may be used for—

18 “(A) recruiting program participants, in-
19 cluding informing them of opportunities under
20 the program and putting them in contact with
21 other institutions, agencies, or organizations
22 that would train, place, and support them;

23 “(B) training stipends and other financial
24 incentives for program participants, not to ex-
25 ceed \$5,000 per participant;

1 “(C) assisting institutions of higher edu-
2 cation or other providers of teacher training to
3 tailor their training to meet the particular
4 needs of professionals who are changing their
5 careers to teaching;

6 “(D) placement activities, including identi-
7 fying high-need local educational agencies with
8 a need for the particular skills and characteris-
9 tics of the newly trained program participants
10 and assisting those participants to obtain em-
11 ployment in those local educational agencies;
12 and

13 “(E) post-placement induction or support
14 activities for program participants.

15 “(2) PERIOD OF SERVICE.—A program partici-
16 pant in a program under this section who completes
17 his or her training shall serve in a high-need local
18 educational agency for at least 3 years.

19 “(3) REPAYMENT.—The Secretary shall estab-
20 lish such requirements as the Secretary determines
21 appropriate to ensure that program participants who
22 receive a training stipend or other financial incentive
23 under paragraph (1)(B), but fail to complete their
24 service obligation under paragraph (2), repay all or
25 a portion of such stipend or other incentive.

1 “(e) **EQUITABLE DISTRIBUTION.**—To the extent
2 practicable, the Secretary shall make awards under this
3 section that support programs in different geographic re-
4 gions of the United States.

5 “(f) **DEFINITION.**—As used in this section, the term
6 ‘program participants’ means career-changing profes-
7 sionals who—

8 “(1) hold at least a baccalaureate degree;

9 “(2) demonstrate interest in, and commitment
10 to, becoming a teacher; and

11 “(3) have knowledge and experience that are
12 relevant to teaching a high-need subject area in a
13 high-need local educational agency.

14 **“Subpart 5—Funding**

15 **“SEC. 2051. AUTHORIZATIONS OF APPROPRIATIONS.**

16 “(a) **IN GENERAL.**—For the purpose of carrying out
17 this part, other than subpart 4, there are authorized to
18 be appropriated \$3,600,000,000 for fiscal year 2002 and
19 such sums as may be necessary for each of fiscal years
20 2003 through 2006.

21 “(b) **SUBPART 4.**—For the purpose of carrying out
22 subpart 4, there are authorized to be appropriated
23 \$50,000,000 for fiscal year 2002 and such sums as may
24 be necessary for each of fiscal years 2003 through 2006.

1 **“Subpart 6—General Provisions**

2 **“SEC. 2061. DEFINITIONS.**

3 “For purposes of this part—

4 “(1) ARTS AND SCIENCES.—The term ‘arts and
5 sciences’ means—

6 “(A) when referring to an organizational
7 unit of an institution of higher education, any
8 academic unit that offers one or more academic
9 majors in disciplines or content areas cor-
10 responding to the academic subject matter
11 areas in which teachers provide instruction; and

12 “(B) when referring to a specific academic
13 subject matter area, the disciplines or content
14 areas in which academic majors are offered by
15 the arts and sciences organizational unit.

16 “(2) BEGINNING TEACHER.—The term ‘begin-
17 ning teacher’ means an educator in a public school
18 who has not yet been teaching 3 full school years.

19 “(3) MENTORING PROGRAM.—The term ‘men-
20 toring program’ means to provide professional sup-
21 port and development, instruction, and guidance to
22 beginning teachers, but does not include a teacher or
23 individual who begins to work in a supervisory posi-
24 tion.

25 “(4) PUBLICLY REPORT.—The term ‘publicly
26 report’, when used with respect to the dissemination

1 of information, means that the information is made
2 widely available to the public, including parents and
3 students, through such means as the Internet and
4 major print and broadcast media outlets.”.

5 **SEC. 202. NATIONAL WRITING PROJECT.**

6 (a) **TRANSFER AND REDESIGNATION.**—Part K of
7 title X (20 U.S.C. 8331 et seq.) is transferred and redesi-
8 gnated as part B of title II. Sections 10991 and 10992
9 are redesignated as sections 2101 and 2102, respectively.

10 (b) **EVALUATION.**—Section 2102(g) (as so redesi-
11 gnated) is amended—

12 (1) in paragraph (1), by striking “14701.” and
13 inserting “8651.”; and

14 (2) in paragraph (2), by striking “1994” and
15 inserting “2002”.

16 (c) **REAUTHORIZATION.**—Section 2102(i) (as so re-
17 designated) is amended by striking “\$4,000,000 for fiscal
18 year 1995, and such sums as may be necessary for each
19 of the four succeeding fiscal years,” and inserting “such
20 sums as may be necessary for fiscal year 2002 and the
21 four succeeding fiscal years,”.

22 (d) **CONTINUATION OF AWARDS.**—Notwithstanding
23 any other provision of this Act, any person or agency that
24 was awarded a grant or contract under part K of title
25 X (20 U.S.C. 8331 et seq.) prior to the date of the enact-

1 ment of this Act shall continue to receive funds in accord-
2 ance with the terms of such award until the date on which
3 the award period terminates under such terms.

4 **SEC. 203. CIVIC EDUCATION; TEACHER LIABILITY PROTEC-**
5 **TION.**

6 (a) IN GENERAL.—Title II, as amended by sections
7 201 and 202, is further amended by adding at the end
8 the following:

9 **“PART C—CIVIC EDUCATION**

10 **“SEC. 2201. SHORT TITLE.**

11 “This part may be cited as the ‘Education for De-
12 mocracy Act’.

13 **“SEC. 2202. FINDINGS.**

14 “The Congress finds that—

15 “(1) college freshmen surveyed in 1999 by the
16 Higher Education Research Institute at the Univer-
17 sity of California at Los Angeles demonstrated high-
18 er levels of disengagement, both academically and
19 politically, than any previous entering class of stu-
20 dents;

21 “(2) college freshmen in 1999 demonstrated the
22 lowest levels of political interest in the 20-year his-
23 tory of surveys conducted by the Higher Education
24 Research Institute at the University of California at
25 Los Angeles;

1 “(3) United States secondary school students
2 expressed relatively low levels of interest in politics
3 and economics in a 1999 Harris survey;

4 “(4) the 32d Annual Phi Delta Kappa/Gallup
5 Poll of 2000 indicated that preparing students to be-
6 come responsible citizens was the most important
7 purpose of public schools;

8 “(5) Americans surveyed by the Organization of
9 Economic Cooperation and Development indicated
10 that only 59 percent had confidence that schools
11 have a major effect on the development of good citi-
12 zenship;

13 “(6) teachers too often do not have sufficient
14 expertise in the subjects that they teach, and 50 per-
15 cent of all secondary school history students in
16 America are being taught by teachers with neither a
17 major nor a minor in history;

18 “(7) secondary school students correctly an-
19 swered fewer than 50 percent of the questions on a
20 national test of economic knowledge in a 1999 Har-
21 ris survey;

22 “(8) the 1998 National Assessment of Edu-
23 cational Progress indicated that students have only
24 superficial knowledge of, and lacked a depth of un-
25 derstanding regarding, civics;

1 “(9) civics and economic education are impor-
2 tant not only to developing citizenship competencies
3 in the United States but also are critical to sup-
4 porting political stability and economic health in
5 other democracies, particularly emerging democratic
6 market economies;

7 “(10) more than 75 percent of Americans sur-
8 veyed by the National Constitution Center in 1997
9 admitted that they knew only some or very little
10 about the Constitution of the United States; and

11 “(11) the Constitution of the United States is
12 too often viewed within the context of history and
13 not as a living document that shapes current events.

14 **“SEC. 2203. PURPOSE.**

15 “‘It is the purpose of this part—

16 “(1) to improve the quality of civics and gov-
17 ernment education by educating students about the
18 history and principles of the Constitution of the
19 United States, including the Bill of Rights;

20 “(2) to foster civic competence and responsi-
21 bility; and

22 “(3) to improve the quality of civic education
23 and economic education through cooperative civic
24 education and economic education exchange pro-
25 grams with emerging democracies.

1 **“SEC. 2204. AUTHORITY.**

2 “The Secretary may make grants to, or enter into
3 contracts with—

4 “(1) the Center for Civic Education to carry
5 out civic education activities in accordance with sec-
6 tions 2205 and 2206; and

7 “(2) the National Council on Economic Edu-
8 cation to carry out economic education activities in
9 accordance with section 2206.

10 **“SEC. 2205. WE THE PEOPLE PROGRAM.**

11 “(a) USE OF FUNDS.—The Center for Civic Edu-
12 cation may use funds made available under grants or con-
13 tracts under section 2204(1) only to carry out activities—

14 “(1) under the Citizen and the Constitution
15 program in accordance with subsection (b); and

16 “(2) under the Project Citizen program in ac-
17 cordance with subsection (c).

18 “(b) CITIZEN AND THE CONSTITUTION PROGRAM.—

19 “(1) EDUCATIONAL ACTIVITIES.—The Center
20 for Civic Education—

21 “(A) shall use funds made available under
22 grants or contracts under section 2204(1)—

23 “(i) to continue and expand the edu-
24 cational activities of the program entitled
25 the ‘We the People . . . The Citizen and the

1 Constitution’ administered by the Center
2 for Civic Education;

3 “(ii) to carry out activities to enhance
4 student attainment of challenging aca-
5 demic content standards in civics and gov-
6 ernment;

7 “(iii) to provide a course of instruc-
8 tion on the basic principles of the Nation’s
9 constitutional democracy and the history of
10 the Constitution of the United States, in-
11 cluding the Bill of Rights;

12 “(iv) to provide, at the request of a
13 participating school, school and community
14 simulated congressional hearings following
15 the course of instruction described in
16 clause (iii); and

17 “(v) to provide an annual national
18 competition of simulated congressional
19 hearings for secondary school students who
20 wish to participate in such a program; and

21 “(B) may use assistance made available
22 under section 2204(1)—

23 “(i) to provide advanced sustained
24 and ongoing training of teachers about the

1 Constitution of the United States and the
2 political system of the United States;

3 “(ii) to provide materials and methods
4 of instruction, including teacher training,
5 that utilize the latest advancements in edu-
6 cational technology; and

7 “(iii) to provide civic education mate-
8 rials and services to address specific prob-
9 lems such as the prevention of school vio-
10 lence and the abuse of drugs and alcohol.

11 “(2) AVAILABILITY OF PROGRAM.—As a condi-
12 tion of receipt of funds under grants or contracts
13 under section 2204(1), the Secretary shall require
14 the Center for Civic Education to make the edu-
15 cation program authorized under this subsection
16 available to public and private elementary schools
17 and secondary schools, including Bureau-funded
18 schools, in each of the 435 congressional districts,
19 and in the District of Columbia, the Commonwealth
20 of Puerto Rico, the Virgin Islands, Guam, American
21 Samoa, and the Commonwealth of the Northern
22 Mariana Islands.

23 “(c) PROJECT CITIZEN.—

24 “(1) EDUCATIONAL ACTIVITIES.—The Center
25 for Civic Education—

1 “(A) shall use funds made available under
2 grants or contracts under section 2204(1)—

3 “(i) to continue and expand the edu-
4 cational activities of the program entitled
5 the ‘We the People . . . Project Citizen’ pro-
6 gram administered by the Center;

7 “(ii) to carry out activities to enhance
8 student attainment of challenging aca-
9 demic content standards in civics and gov-
10 ernment;

11 “(iii) to provide a course of instruc-
12 tion at the middle school level on the roles
13 of State and local governments in the Fed-
14 eral system established by the Constitution
15 of the United States; and

16 “(iv) to provide an annual national
17 showcase or competition; and

18 “(B) may use funds made available under
19 grants or contracts under section 2204(1)—

20 “(i) to provide optional school and
21 community simulated State legislative
22 hearings;

23 “(ii) to provide advanced sustained
24 and ongoing training of teachers on the
25 roles of State and local governments in the

1 Federal system established by the Con-
2 stitution of the United States;

3 “(iii) to provide materials and meth-
4 ods of instruction, including teacher train-
5 ing, that utilize the latest advancements in
6 educational technology; and

7 “(iv) to provide civic education mate-
8 rials and services to address specific prob-
9 lems such as the prevention of school vio-
10 lence and the abuse of drugs and alcohol.

11 “(2) AVAILABILITY OF PROGRAM.—As a condi-
12 tion of receipt of funds under grants or contracts
13 under section 2204(1), the Secretary shall require
14 the Center for Civic Education to make the edu-
15 cation program authorized under this subsection
16 available to public and private middle schools, in-
17 cluding Bureau-funded schools, in each of the 50
18 States, the District of Columbia, the Commonwealth
19 of Puerto Rico, the Virgin Islands, Guam, American
20 Samoa, and the Commonwealth of the Northern
21 Mariana Islands.

22 “(d) BUREAU-FUNDED SCHOOL DEFINED.—In this
23 section, the term ‘Bureau-funded school’ has the meaning
24 given such term in section 1146 of the Education Amend-
25 ments of 1978 (25 U.S.C. 2026).

1 **“SEC. 2206. COOPERATIVE CIVIC EDUCATION AND ECO-**
2 **NOMIC EDUCATION EXCHANGE PROGRAMS.**

3 “(a) USE OF FUNDS.—The Center for Civic Edu-
4 cation and the National Council on Economic Education
5 may use funds made available under grants or contracts
6 under section 2204(2) only to carry out cooperative edu-
7 cation exchange programs that—

8 “(1) make available to educators from eligible
9 countries exemplary curriculum and teacher training
10 programs in civics and government education, and
11 economics education, developed in the United States;

12 “(2) assist eligible countries in the adaptation,
13 implementation, and institutionalization of programs
14 described in paragraph (1);

15 “(3) create and implement programs for civics
16 and government education, and economic education,
17 for students that draw upon the experiences of the
18 participating eligible countries;

19 “(4) provide means for the exchange of ideas
20 and experiences in civics and government education,
21 and economic education, among political, edu-
22 cational, governmental, and private sector leaders of
23 participating eligible countries; and

24 “(5) provide support for—

25 “(A) independent research and evaluation
26 to determine the effects of educational pro-

1 grams on students' development of the knowl-
2 edge, skills, and traits of character essential for
3 the preservation and improvement of constitu-
4 tional democracy; and

5 “(B) effective participation in and the
6 preservation and improvement of an efficient
7 market economy.

8 “(b) ACTIVITIES.—In carrying out the cooperative
9 education exchange programs assisted under this section,
10 the Center for Civic Education and the National Council
11 on Economic Education shall—

12 “(1) provide to the participants from eligible
13 countries—

14 “(A) seminars on the basic principles of
15 United States constitutional democracy and
16 economic system, including seminars on the
17 major governmental and economic institutions
18 and systems in the United States, and visits to
19 such institutions;

20 “(B) visits to school systems, institutions
21 of higher education, and nonprofit organizations
22 conducting exemplary programs in civics and
23 government education, and economic education,
24 in the United States;

1 “(C) translations and adaptations with re-
2 spect to United States civics and government
3 education, and economic education, curricular
4 programs for students and teachers, and in the
5 case of training programs for teachers trans-
6 lations and adaptations into forms useful in
7 schools in eligible countries, and joint research
8 projects in such areas; and

9 “(D) independent research and evaluation
10 assistance—

11 “(i) to determine the effects of the co-
12 operative education exchange programs on
13 students’ development of the knowledge,
14 skills, and traits of character essential for
15 the preservation and improvement of con-
16 stitutional democracy; and

17 “(ii) to identify effective participation
18 in and the preservation and improvement
19 of an efficient market economy;

20 “(2) provide to the participants from the
21 United States—

22 “(A) seminars on the histories, economies,
23 and systems of government of eligible countries;

24 “(B) visits to school systems, institutions
25 of higher education, and organizations con-

1 ducting exemplary programs in civics and gov-
2 ernment education, and economic education, lo-
3 cated in eligible countries;

4 “(C) assistance from educators and schol-
5 ars in eligible countries in the development of
6 curricular materials on the history, government,
7 and economy of such countries that are useful
8 in United States classrooms;

9 “(D) opportunities to provide onsite dem-
10 onstrations of United States curricula and ped-
11 agogy for educational leaders in eligible coun-
12 tries; and

13 “(E) independent research and evaluation
14 assistance to determine—

15 “(i) the effects of the cooperative edu-
16 cation exchange programs assisted under
17 this section on students’ development of
18 the knowledge, skills, and traits of char-
19 acter essential for the preservation and im-
20 provement of constitutional democracy;
21 and

22 “(ii) effective participation in and im-
23 provement of an efficient market economy;
24 and

1 “(3) assist participants from eligible countries
2 and the United States to participate in international
3 conferences on civics and government education, and
4 economic education, for educational leaders, teacher
5 trainers, scholars in related disciplines, and edu-
6 cational policymakers.

7 “(c) PARTICIPANTS.—The primary participants in
8 the cooperative education exchange programs assisted
9 under this section shall be educational leaders in the areas
10 of civics and government education, and economic edu-
11 cation, including teachers, curriculum and teacher train-
12 ing specialists, scholars in relevant disciplines, and edu-
13 cational policymakers, and government and private sector
14 leaders from the United States and eligible countries.

15 “(d) CONSULTATION.—The Secretary may make a
16 grant, or enter into a contract, under section 2204(2) only
17 if the Secretary of State concurs with the Secretary that
18 such grant, or contract, is consistent with the foreign pol-
19 icy of the United States.

20 “(e) AVOIDANCE OF DUPLICATION.—With the con-
21 currence of the Secretary of State, the Secretary shall en-
22 sure that—

23 “(1) the activities carried out under the pro-
24 grams assisted under this section are not duplicative

1 of other activities conducted in eligible countries;
2 and

3 “(2) any institutions in eligible countries, with
4 which the Center for Civic Education or the Na-
5 tional Council on Economic Education may work in
6 conducting such activities, are creditable.

7 “(f) ELIGIBLE COUNTRY DEFINED.—In this section,
8 the term ‘eligible country’ means a Central European
9 country, an Eastern European country, Lithuania, Latvia,
10 Estonia, the independent states of the former Soviet
11 Union as defined in section 3 of the FREEDOM Support
12 Act (22 U.S.C. 5801), the Republic of Ireland, the prov-
13 ince of Northern Ireland in the United Kingdom, and any
14 developing country (as such term is defined in section
15 209(d) of the Education for the Deaf Act) if the Sec-
16 retary, with the concurrence of the Secretary of State, de-
17 termines that such developing country has a democratic
18 form of government.

19 **“SEC. 2207. FUNDING.**

20 “(a) AUTHORIZATION OF APPROPRIATIONS.—

21 “(1) WE THE PEOPLE PROGRAM.—There are
22 authorized to be appropriated to carry out sections
23 2204(1) and 2205 such sums as may be necessary
24 for each of fiscal years 2002 through 2006.

1 “(2) COOPERATIVE CIVIC EDUCATION AND ECO-
2 NOMIC EDUCATION EXCHANGE PROGRAMS.—There
3 are authorized to be appropriated to carry out sec-
4 tions 2204(2) and 2206 such sums as may be nec-
5 essary for each of fiscal years 2002 through 2006.

6 “(b) LIMITATION.—In each fiscal year, the Secretary
7 may use not more than 50 percent of the amount appro-
8 priated under subsection (a)(2) for assistance for eco-
9 nomic educational activities.

10 **“PART D—TEACHER LIABILITY PROTECTION**

11 **“SEC. 2301. SHORT TITLE.**

12 “‘This part may be cited as the ‘Paul Coverdell Teach-
13 er Liability Protection Act of 2001’.

14 **“SEC. 2302. FINDINGS AND PURPOSE.**

15 “(a) FINDINGS.—Congress makes the following find-
16 ings:

17 “(1) The ability of teachers, principals and
18 other school professionals to teach, inspire and
19 shape the intellect of our Nation’s elementary and
20 secondary school students is deterred and hindered
21 by frivolous lawsuits and litigation.

22 “(2) Each year more and more teachers, prin-
23 cipals and other school professionals face lawsuits
24 for actions undertaken as part of their duties to pro-

1 vide millions of school children quality educational
2 opportunities.

3 “(3) Too many teachers, principals and other
4 school professionals face increasingly severe and ran-
5 dom acts of violence in the classroom and in schools.

6 “(4) Providing teachers, principals and other
7 school professionals a safe and secure environment is
8 an important part of the effort to improve and ex-
9 pand educational opportunities.

10 “(5) Clarifying and limiting the liability of
11 teachers, principals and other school professionals
12 who undertake reasonable actions to maintain order,
13 discipline and an appropriate educational environ-
14 ment is an appropriate subject of Federal legislation
15 because—

16 “(A) the scope of the problems created by
17 the legitimate fears of teachers, principals and
18 other school professionals about frivolous, arbi-
19 trary or capricious lawsuits against teachers is
20 of national importance; and

21 “(B) millions of children and their families
22 across the Nation depend on teachers, prin-
23 cipals and other school professionals for the in-
24 tellectual development of children.

1 “(b) PURPOSE.—The purpose of this part is to pro-
2 vide teachers, principals and other school professionals the
3 tools they need to undertake reasonable actions to main-
4 tain order, discipline and an appropriate educational envi-
5 ronment.

6 **“SEC. 2303. PREEMPTION AND ELECTION OF STATE NON-**
7 **APPLICABILITY.**

8 “(a) PREEMPTION.—This part preempts the laws of
9 any State to the extent that such laws are inconsistent
10 with this part, except that this part shall not preempt any
11 State law that provides additional protection from liability
12 relating to teachers.

13 “(b) ELECTION OF STATE REGARDING NONAPPLICA-
14 BILITY.—This part shall not apply to any civil action in
15 a State court against a teacher with respect to claims aris-
16 ing within that State if such State enacts a statute in ac-
17 cordance with State requirements for enacting
18 legislation—

19 “(1) citing the authority of this subsection;

20 “(2) declaring the election of such State that
21 this part shall not apply, as of a date certain, to
22 such civil action in the State; and

23 “(3) containing no other provisions.

1 **“SEC. 2304. LIMITATION ON LIABILITY FOR TEACHERS.**

2 “(a) LIABILITY PROTECTION FOR TEACHERS.—Ex-
3 cept as provided in subsections (b) and (c), no teacher in
4 a school shall be liable for harm caused by an act or omis-
5 sion of the teacher on behalf of the school if—

6 “(1) the teacher was acting within the scope of
7 the teacher’s employment or responsibilities related
8 to providing educational services;

9 “(2) the actions of the teacher were carried out
10 in conformity with local, State, and Federal laws,
11 rules and regulations in furtherance of efforts to
12 control, discipline, expel, or suspend a student or
13 maintain order or control in the classroom or school;

14 “(3) if appropriate or required, the teacher was
15 properly licensed, certified, or authorized by the ap-
16 propriate authorities for the activities or practice in
17 the State in which the harm occurred, where the ac-
18 tivities were or practice was undertaken within the
19 scope of the teacher’s responsibilities;

20 “(4) the harm was not caused by willful or
21 criminal misconduct, gross negligence, reckless mis-
22 conduct, or a conscious, flagrant indifference to the
23 rights or safety of the individual harmed by the
24 teacher; and

25 “(5) the harm was not caused by the teacher
26 operating a motor vehicle, vessel, aircraft, or other

1 vehicle for which the State requires the operator or
2 the owner of the vehicle, craft, or vessel to—

3 “(A) possess an operator’s license; or

4 “(B) maintain insurance.

5 “(b) CONCERNING RESPONSIBILITY OF TEACHERS
6 TO SCHOOLS AND GOVERNMENTAL ENTITIES.—Nothing
7 in this section shall be construed to affect any civil action
8 brought by any school or any governmental entity against
9 any teacher of such school.

10 “(c) EXCEPTIONS TO TEACHER LIABILITY PROTEC-
11 TION.—If the laws of a State limit teacher liability subject
12 to one or more of the following conditions, such conditions
13 shall not be construed as inconsistent with this section:

14 “(1) A State law that requires a school or gov-
15 ernmental entity to adhere to risk management pro-
16 cedures, including mandatory training of teachers.

17 “(2) A State law that makes the school or gov-
18 ernmental entity liable for the acts or omissions of
19 its teachers to the same extent as an employer is lia-
20 ble for the acts or omissions of its employees.

21 “(3) A State law that makes a limitation of li-
22 ability inapplicable if the civil action was brought by
23 an officer of a State or local government pursuant
24 to State or local law.

1 “(d) LIMITATION ON PUNITIVE DAMAGES BASED ON
2 THE ACTIONS OF TEACHERS.—

3 “(1) GENERAL RULE.—Punitive damages may
4 not be awarded against a teacher in an action
5 brought for harm based on the action of a teacher
6 acting within the scope of the teacher’s responsibil-
7 ities to a school or governmental entity unless the
8 claimant establishes by clear and convincing evidence
9 that the harm was proximately caused by an action
10 of such teacher which constitutes willful or criminal
11 misconduct, or a conscious, flagrant indifference to
12 the rights or safety of the individual harmed.

13 “(2) CONSTRUCTION.—Paragraph (1) does not
14 create a cause of action for punitive damages and
15 does not preempt or supersede any Federal or State
16 law to the extent that such law would further limit
17 the award of punitive damages.

18 “(e) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—

19 “(1) IN GENERAL.—The limitations on the li-
20 ability of a teacher under this part shall not apply
21 to any misconduct that—

22 “(A) constitutes a crime of violence (as
23 that term is defined in section 16 of title 18,
24 United States Code) or act of international ter-
25 rorism (as that term is defined in section 2331

1 of title 18, United States Code) for which the
2 defendant has been convicted in any court;

3 “(B) involves a sexual offense, as defined
4 by applicable State law, for which the defendant
5 has been convicted in any court;

6 “(C) involves misconduct for which the de-
7 fendant has been found to have violated a Fed-
8 eral or State civil rights law; or

9 “(D) where the defendant was under the
10 influence (as determined pursuant to applicable
11 State law) of intoxicating alcohol or any drug at
12 the time of the misconduct.

13 “(2) RULE OF CONSTRUCTION.—Nothing in
14 this subsection shall be construed to affect sub-
15 section (a)(3) or (d).

16 **“SEC. 2305. LIABILITY FOR NONECONOMIC LOSS.**

17 “(a) GENERAL RULE.—In any civil action against a
18 teacher, based on an action of a teacher acting within the
19 scope of the teacher’s responsibilities to a school or gov-
20 ernmental entity, the liability of the teacher for non-
21 economic loss shall be determined in accordance with sub-
22 section (b).

23 “(b) AMOUNT OF LIABILITY.—

24 “(1) IN GENERAL.—Each defendant who is a
25 teacher, shall be liable only for the amount of non-

1 economic loss allocated to that defendant in direct
2 proportion to the percentage of responsibility of that
3 defendant (determined in accordance with paragraph
4 (2)) for the harm to the claimant with respect to
5 which that defendant is liable. The court shall
6 render a separate judgment against each defendant
7 in an amount determined pursuant to the preceding
8 sentence.

9 “(2) PERCENTAGE OF RESPONSIBILITY.—For
10 purposes of determining the amount of noneconomic
11 loss allocated to a defendant who is a teacher under
12 this section, the trier of fact shall determine the per-
13 centage of responsibility of that defendant for the
14 claimant’s harm.

15 **“SEC. 2306. RULE OF CONSTRUCTION.**

16 “Nothing in this part shall be construed to affect any
17 State or local law (including a rule or regulation) or policy
18 pertaining to the use of corporal punishment.

19 **“SEC. 2307. DEFINITIONS.**

20 “For purposes of this part:

21 “(1) ECONOMIC LOSS.—The term ‘economic
22 loss’ means any pecuniary loss resulting from harm
23 (including the loss of earnings or other benefits re-
24 lated to employment, medical expense loss, replace-
25 ment services loss, loss due to death, burial costs,

1 and loss of business or employment opportunities) to
2 the extent recovery for such loss is allowed under ap-
3 plicable State law.

4 “(2) HARM.—The term ‘harm’ includes phys-
5 ical, nonphysical, economic, and noneconomic losses.

6 “(3) NONECONOMIC LOSSES.—The term ‘non-
7 economic losses’ means losses for physical and emo-
8 tional pain, suffering, inconvenience, physical im-
9 pairment, mental anguish, disfigurement, loss of en-
10 joyment of life, loss of society and companionship,
11 loss of consortium (other than loss of domestic serv-
12 ice), hedonic damages, injury to reputation and all
13 other nonpecuniary losses of any kind or nature.

14 “(4) SCHOOL.—The term ‘school’ means a pub-
15 lic or private kindergarten, a public or private ele-
16 mentary school or secondary school (as defined in
17 section 14101, or a home school.

18 “(5) STATE.—The term ‘State’ means each of
19 the several States of the United States, the District
20 of Columbia, the Commonwealth of Puerto Rico, the
21 United States Virgin Islands, Guam, American
22 Samoa, the Commonwealth of the Northern Mariana
23 Islands, any other territory or possession of the
24 United States, or any political subdivision of any
25 such State, territory, or possession.

1 “(6) TEACHER.—The term ‘teacher’ means a
2 teacher, instructor, principal, administrator, or other
3 educational professional that works in a school, a
4 local school board and any member of such board,
5 and a local educational agency and any employee of
6 such agency.

7 **“SEC. 2308. APPLICABILITY.**

8 “‘This part applies to any claim for harm caused by
9 an act or omission of a teacher if that claim is filed on
10 or after the effective date of the No Child Left Behind
11 Act of 2001 without regard to whether the harm that is
12 the subject of the claim or the conduct that caused the
13 harm occurred before such effective date.’”.

14 **TITLE III—EDUCATION OF LIM-**
15 **ITED ENGLISH PROFICIENT**
16 **AND IMMIGRANT CHILDREN;**
17 **INDIAN AND ALASKA NATIVE**
18 **EDUCATION**

19 **PART A—EDUCATION OF LIMITED ENGLISH**
20 **PROFICIENT AND IMMIGRANT CHILDREN**

21 **SEC. 301. PROGRAMS AUTHORIZED.**

22 (a) TITLE HEADING.—The heading for title III is
23 amended to read as follows:

1 **“TITLE III—EDUCATION OF LIM-**
2 **ITED ENGLISH PROFICIENT**
3 **AND IMMIGRANT CHILDREN;**
4 **INDIAN AND ALASKA NATIVE**
5 **EDUCATION”.**

6 (b) SHORT TITLE.—Section 3101 (20 U.S.C. 6801)
7 is repealed.

8 (c) LIMITATION ON AVAILABILITY OF CERTAIN
9 FUNDS FOR SCHOOLS.—

10 (1) IN GENERAL.—Section 3601 (20 U.S.C.
11 7001)—

12 (A) is transferred to part B of title V (as
13 amended by section 501) and inserted after sec-
14 tion 5204 (as so amended);

15 (B) is redesignated as section 5205; and

16 (C) is amended by striking “this title”
17 each place such term appears and inserting
18 “this part”.

19 (2) PART HEADING REPEAL.—The part heading
20 for part F of title III is repealed.

21 (d) LIMITED ENGLISH PROFICIENT AND IMMIGRANT
22 CHILDREN.—Parts A through E of title III (20 U.S.C.
23 6811 et seq.) are amended to read as follows:

1 **“PART A—EDUCATION OF LIMITED ENGLISH**
2 **PROFICIENT AND IMMIGRANT CHILDREN**
3 **“Subpart 1—English Language and Academic**
4 **Instructional Programs**

5 **“SEC. 3101. SHORT TITLE.**

6 “‘This subpart may be cited as the ‘English Language
7 Proficiency and Academic Achievement Act’.

8 **“SEC. 3102. FINDINGS AND PURPOSES.**

9 “(a) FINDINGS.—The Congress finds as follows:

10 “(1) English is the common language of the
11 United States and every citizen and other person re-
12 siding in the United States should have a command
13 of the English language in order to develop to their
14 full potential.

15 “(2) Limited English proficient children, in-
16 cluding recent immigrant children, must overcome a
17 number of challenges in receiving an education in
18 order to participate fully in American society,
19 including—

20 “(A) segregated educational programs;

21 “(B) disproportionate and improper place-
22 ment in special education and other special pro-
23 grams due to the use of inappropriate evalua-
24 tion procedures;

25 “(C) the limited English proficiency of
26 their parents, which hinders the parents’ ability

1 to fully participate in the education of their
2 children; and

3 “(D) a need for additional teachers and
4 other staff who are professionally trained and
5 qualified to serve such children.

6 “(3) States and local educational agencies need
7 assistance in developing the capacity to provide pro-
8 grams of instruction that offer and provide an equal
9 educational opportunity to children who need special
10 assistance because English is not their dominant
11 language.

12 “(4) Since 1979, the number of limited English
13 proficient children attending school in the United
14 States has more than doubled to greater than
15 4,000,000, and demographic trends indicate the pop-
16 ulation of limited English proficient children will
17 continue to increase.

18 “(5) Native Americans, including native resi-
19 dents of the outlying areas, and Native American
20 languages (as such terms are defined in section 103
21 of the Native American Languages Act) have a
22 unique status under Federal law that requires spe-
23 cial policies within the broad purposes of this part
24 to serve the educational needs of language minority
25 students in the United States.

1 “(6) Research, evaluation, and data collection
2 capabilities in the field of instruction for limited
3 English proficient children need to be strengthened
4 so that educators and other staff teaching limited
5 English proficient children in the classroom can bet-
6 ter identify and promote programs, program imple-
7 mentation strategies, and instructional practices that
8 result in the effective education of limited English
9 proficient children.

10 “(7) The Federal Government has a special and
11 continuing obligation to ensure that States and local
12 educational agencies provide children of limited
13 English proficiency the same educational opportuni-
14 ties afforded other children.

15 “(b) PURPOSES.—The purposes of this part are—

16 “(1) to help ensure that children who are lim-
17 ited English proficient, including recent immigrant
18 children, attain English proficiency, develop high lev-
19 els of academic attainment in English, and meet the
20 same challenging State academic content standards
21 and challenging State student academic achievement
22 standards expected of all children;

23 “(2) to develop high-quality programs designed
24 to assist local educational agencies in teaching lim-
25 ited English proficient children;

1 “(3) to assist local educational agencies to de-
2 velop and enhance their capacity to provide high-
3 quality instructional programs designed to prepare
4 limited English proficient students, including recent
5 immigrant students, to enter all-English instruc-
6 tional settings within 3 years; and

7 “(4) to provide State educational agencies and
8 local educational agencies with the flexibility to im-
9 plement instructional programs, tied to scientifically
10 based reading research and sound research and the-
11 ory on teaching limited English proficient children,
12 that the agencies believe to be the most effective for
13 teaching English.

14 **“SEC. 3103. PARENTAL NOTIFICATION AND CONSENT FOR**
15 **ENGLISH LANGUAGE INSTRUCTION.**

16 “(a) NOTIFICATION.—If a local educational agency
17 uses funds under this subpart to provide English language
18 instruction to limited English proficient children, the
19 agency shall inform a parent or the parents of a child par-
20 ticipating in an English language instruction program for
21 limited English proficient children assisted under this sub-
22 part of—

23 “(1) the reasons for the identification of the
24 child as being in need of English language instruc-
25 tion;

1 “(2) the child’s level of English proficiency, how
2 such level was assessed, and the status of the child’s
3 academic achievement;

4 “(3) how the English language instruction pro-
5 gram will specifically help the child acquire English
6 and meet age-appropriate standards for grade pro-
7 motion and graduation;

8 “(4) what the specific exit requirements are for
9 the program;

10 “(5) the expected rate of transition from the
11 program into a classroom that is not tailored for
12 limited English proficient children; and

13 “(6) the expected rate of graduation from high
14 school for the program if funds under this subpart
15 are used for children in secondary schools.

16 “(b) CONSENT.—

17 “(1) AGENCY REQUIREMENTS.—

18 “(A) INFORMED CONSENT.—For a child
19 who has been identified as limited English pro-
20 ficient prior to the beginning of the school year,
21 each local educational agency that receives
22 funds under this subpart shall make a reason-
23 able and substantial effort to obtain informed
24 parental consent prior to the placement of a
25 child in an English language instruction pro-

1 gram for limited English proficient children
2 funded under this subpart, if the program does
3 not include classes which exclusively or almost
4 exclusively use the English language in instruc-
5 tion.

6 “(B) WRITTEN CONSENT NOT OB-
7 TAINED.—

8 “(i) IN GENERAL.—If written consent
9 is not obtained, the local educational agen-
10 cy shall maintain a written record that in-
11 cludes the date and the manner in which
12 such informed consent was sought, includ-
13 ing the specific efforts made to obtain such
14 consent.

15 “(ii) PROOF OF EFFORT.—Notice, in
16 an understandable form, of specific efforts
17 made to obtain written consent and a copy
18 of the written record described in clause (i)
19 shall be mailed or delivered in writing to a
20 parent or the parents of a child prior to
21 placing the child in a program described in
22 subparagraph (A), and shall include a final
23 request for parental consent for such serv-
24 ices. After such notice has been mailed or
25 delivered in writing, the local educational

1 agency shall provide appropriate edu-
2 cational services.

3 “(iii) SPECIAL RULE APPLICABLE
4 DURING SCHOOL YEAR.—For those chil-
5 dren who have not been identified as lim-
6 ited English proficient prior to the begin-
7 ning of the school year, the local edu-
8 cational agency shall make a reasonable
9 and substantial effort to obtain parental
10 consent under this clause. For such chil-
11 dren, the agency shall document, in writ-
12 ing, its specific efforts to obtain such con-
13 sent prior to placing the child in a pro-
14 gram described in subparagraph (A). After
15 such documentation has been made, the
16 local educational agency shall provide ap-
17 propriate educational services to such
18 child. The proof of documentation shall be
19 mailed or delivered in writing to a parent
20 or the parents of the child in a timely
21 manner and shall include information on
22 how to have their child immediately re-
23 moved from the program upon their re-
24 quest. Nothing in this clause shall be con-
25 strued as exempting a local educational

1 agency from complying with the notifica-
2 tion requirements of subsection (a) and the
3 consent requirements of this paragraph.

4 “(2) PARENTAL RIGHTS.—A parent or the par-
5 ents of a child participating in an English language
6 instruction program for limited English proficient
7 children assisted under this subpart—

8 “(A) shall select among methods of in-
9 struction, if more than one method is offered in
10 the program; and

11 “(B) shall have the right to have their
12 child immediately removed from the program
13 upon their request.

14 “(c) RECEIPT OF INFORMATION.—A parent or the
15 parents of a child identified for participation in an English
16 language instruction program for limited English pro-
17 ficient children assisted under this subpart shall receive,
18 in a manner and form understandable to the parent or
19 parents, the information required by this subsection. At
20 a minimum, the parent or parents shall receive—

21 “(1) timely information about English language
22 instruction programs for limited English proficient
23 children assisted under this part;

24 “(2) if a parent or the parents of a partici-
25 pating child so desire, notice of opportunities for

1 regular meetings for the purpose of formulating and
2 responding to recommendations from the parent or
3 parents; and

4 “(3) procedural information for removing a
5 child from a program for limited English proficient
6 children.

7 “(d) BASIS FOR ADMISSION OR EXCLUSION.—Stu-
8 dents shall not be admitted to, or excluded from, any fed-
9 erally assisted education program on the basis of a sur-
10 name or language-minority status.

11 **“SEC. 3104. TESTING OF LIMITED ENGLISH PROFICIENT**
12 **CHILDREN.**

13 “(a) IN GENERAL.—Assessments of limited English
14 proficient children participating in programs funded under
15 this subpart, to the extent practicable, shall be in the lan-
16 guage and form most likely to yield accurate and reliable
17 information on what such students know and can do in
18 content areas.

19 “(b) SPECIAL RULE.—Notwithstanding subsection
20 (a), in the case of an assessment of reading or language
21 arts of any student who has attended school in the United
22 States (excluding Puerto Rico) for 3 or more consecutive
23 school years, the assessment shall be in the form of a test
24 written in English, except that, if the entity administering
25 the assessment determines, on a case-by-case individual

1 basis, that assessments in another language or form would
2 likely yield more accurate and reliable information on what
3 such student knows and can do, the entity may assess
4 such student in such language or form for 1 additional
5 year.

6 **“SEC. 3105. FORMULA GRANTS TO STATES.**

7 “(a) IN GENERAL.—In the case of each State that
8 in accordance with section 3107 submits to the Secretary
9 an application for a fiscal year, the Secretary shall make
10 a grant for the year to the State for the purposes specified
11 in subsection (b). The grant shall consist of the allotment
12 determined for the State under subsection (c).

13 “(b) PURPOSES OF GRANTS.—

14 “(1) REQUIRED EXPENDITURES.—The Sec-
15 retary may make a grant under subsection (a) only
16 if the State involved agrees that the State will ex-
17 pend at least 95 percent of its allotment under sub-
18 section (c) for the purpose of making subgrants to
19 eligible entities to provide assistance to limited
20 English proficient children in accordance with sec-
21 tions 3108 and 3109.

22 “(2) AUTHORIZED EXPENDITURES.—Subject to
23 paragraph (3), a State that receives a grant under
24 subsection (a) may expend not more than 5 percent

1 of its allotment under subsection (c) for one or more
2 of the following purposes:

3 “(A) Carrying out—

4 “(i) professional development activi-
5 ties, and other activities, that assist per-
6 sonnel in meeting State and local certifi-
7 cation requirements for teaching limited
8 English proficient children; and

9 “(ii) other activities that provide such
10 personnel with the skills and knowledge
11 necessary to educate limited English pro-
12 ficient children.

13 “(B) Providing scholarships and fellow-
14 ships to students who agree to teach limited
15 English proficient children once they graduate.

16 “(C) Planning, administration, and inter-
17 agency coordination related to the subgrants re-
18 ferred to in paragraph (1).

19 “(D) Providing technical assistance and
20 other forms of assistance to local educational
21 agencies that—

22 “(i) educate limited English proficient
23 children; and

24 “(ii) are not receiving a subgrant
25 from a State under this subpart.

1 “(E) Providing bonuses to subgrantees
2 whose performance has been exceptional in
3 terms of the speed with which children enrolled
4 in the subgrantee’s programs and activities at-
5 tain English language proficiency and meet
6 challenging State academic content standards
7 and challenging State student academic
8 achievement standards.

9 “(3) LIMITATION ON ADMINISTRATIVE COSTS.—
10 In carrying out paragraph (2), a State that receives
11 a grant under subsection (a) may expend not more
12 than 2 percent of its allotment under subsection (c)
13 for the purposes described in paragraph (2)(C).

14 “(c) DETERMINATION OF ALLOTMENT AMOUNTS.—

15 “(1) RESERVATIONS.—From the amount appro-
16 priated under section 3110 to carry out this subpart
17 for each fiscal year, the Secretary shall reserve—

18 “(A) .5 percent of such amount for pay-
19 ments to entities that are considered to be local
20 educational agencies under section 3106(a) for
21 activities approved by the Secretary;

22 “(B) .5 percent of such amount for pay-
23 ments to outlying areas, to be allotted in ac-
24 cordance with their respective needs for assist-
25 ance under this subpart, as determined by the

1 Secretary, for activities, approved by the Sec-
2 retary, consistent with this part; and

3 “(C) $\frac{1}{2}$ of 1 percent of such amount for
4 evaluation of the programs under this part and
5 for dissemination of best practices.

6 “(2) CONTINUATION AWARDS.—Before making
7 awards to States under paragraph (3) for any fiscal
8 year, the Secretary shall make continuation awards
9 to recipients of grants under subpart 1 of part A of
10 the Bilingual Education Act, as that Act was in ef-
11 fect on the day before the effective date of the No
12 Child Left Behind Act of 2001, in order to allow
13 such recipients to continue to receive funds in ac-
14 cordance with the terms of their grant until the date
15 on which the grant period otherwise would have ter-
16 minated if the No Child Left Behind Act of 2001
17 had not been enacted.

18 “(3) STATE ALLOTMENTS.—

19 “(A) IN GENERAL.—From the amount ap-
20 propriated under section 3110 to carry out this
21 subpart for each fiscal year that remains after
22 carrying out paragraphs (1) and (2), the Sec-
23 retary shall allot to each of the 50 States, the
24 District of Columbia, and the Commonwealth of
25 Puerto Rico an amount which bears the same

1 ratio to such amount as the total number of
2 children and youth who are limited English pro-
3 ficient and who reside in such State bears to
4 the total number of such children and youth re-
5 siding in all such States that, in accordance
6 with section 3107, submit to the Secretary an
7 application for the year.

8 “(B) REALLOTMENT.—

9 “(i) IN GENERAL.—If any State de-
10 scribed in subparagraph (A) does not sub-
11 mit to the Secretary an application for a
12 fiscal year, or submits an application (or
13 any modification to an application) that
14 the Secretary, after reasonable notice and
15 opportunity for a hearing, determines does
16 not satisfy the requirements of this sub-
17 part, the Secretary—

18 “(I) shall endeavor to make the
19 State’s allotment available on a com-
20 petitive basis to specially qualified
21 agencies within the State that satisfy
22 the requirements applicable to eligible
23 entities under section 3108 and any
24 additional requirements that may be
25 imposed by the Secretary; and

1 “(II) shall reallocate any portion of
2 such allotment remaining after the
3 application of subclause (I) to the re-
4 maining States in accordance with
5 subparagraph (A).

6 “(ii) REQUIREMENTS ON SPECIALLY
7 QUALIFIED AGENCIES.—If a specially
8 qualified agency receives funds under this
9 subparagraph, the requirements of sub-
10 section (b) shall not apply to the agency.
11 In lieu of those requirements, the specially
12 qualified agency shall expend the funds for
13 the authorized activities described in sec-
14 tion 3108(b) and otherwise shall satisfy
15 the requirements of section 3108.

16 “(C) SPECIAL RULE FOR PUERTO RICO.—
17 The total amount allotted to Puerto Rico for
18 any fiscal year under subparagraph (A) shall
19 not exceed .5 percent of the total amount allot-
20 ted to all States for that fiscal year.

21 “(4) USE OF DATA FOR DETERMINATIONS.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), for the purpose of deter-
24 mining the number of children and youth who
25 are limited English proficient and reside in a

1 State and in all States for each fiscal year, the
2 Secretary shall use the most recent satisfactory
3 data available from the Bureau of the Census
4 and the American Community Survey available
5 from the Department of Commerce.

6 “(B) EXCEPTION.—If the data described
7 in subparagraph (A) are more than 4 years old
8 or unavailable, the Secretary shall use the most
9 recent satisfactory data provided by the States,
10 such as enrollment data and data that reflect
11 the number of students taking the English pro-
12 ficiency assessments in the States.

13 “(5) NO REDUCTION PERMITTED BASED ON
14 TEACHING METHOD.—The Secretary may not reduce
15 a State’s allotment based on the State’s selection of
16 any method of instruction as its preferred method of
17 teaching the English language to children who are
18 limited English proficient.

19 **“SEC. 3106. NATIVE AMERICAN AND ALASKA NATIVE CHIL-**
20 **DREN IN SCHOOL.**

21 “(a) ELIGIBLE ENTITIES.—For the purpose of car-
22 rying out programs under this part for individuals served
23 by elementary, secondary, and postsecondary schools oper-
24 ated predominately for Native American or Alaska Native

1 children, the following shall be considered to be a local
2 educational agency:

3 “(1) An Indian tribe.

4 “(2) A tribally sanctioned educational author-
5 ity.

6 “(3) A Native Hawaiian or Native American
7 Pacific Islander native language educational organi-
8 zation.

9 “(4) An elementary or secondary school that is
10 operated or funded by the Bureau of Indian Affairs,
11 or a consortium of such schools.

12 “(5) An elementary or secondary school oper-
13 ated under a contract with or grant from the Bu-
14 reau of Indian Affairs, in consortium with another
15 such school or a tribal or community organization.

16 “(6) An elementary or secondary school oper-
17 ated by the Bureau of Indian Affairs and an institu-
18 tion of higher education, in consortium with an ele-
19 mentary or secondary school operated under a con-
20 tract with or grant from the Bureau of Indian Af-
21 fairs or a tribal or community organization.

22 “(b) SUBMISSION OF APPLICATIONS FOR ASSIST-
23 ANCE.—Notwithstanding any other provision of this part,
24 an entity that is considered to be a local educational agen-
25 cy under subsection (a), and that desires to submit an ap-

1 plication for Federal financial assistance under this sub-
2 part, shall submit the application to the Secretary. In all
3 other respects, such an entity shall be eligible for a
4 subgrant under this subpart on the same basis as any
5 other local educational agency.

6 **“SEC. 3107. APPLICATIONS BY STATES.**

7 “For purposes of section 3105, an application sub-
8 mitted by a State for a grant under such section for a
9 fiscal year is in accordance with this section if the
10 application—

11 “(1) describes the process that the State will
12 use in making competitive subgrants to eligible enti-
13 ties under section 3109(c);

14 “(2) contains an agreement that, in carrying
15 out this subpart, the State will address the needs of
16 school systems of all sizes and in all geographic
17 areas, including rural and urban schools;

18 “(3) contains an agreement that competitive
19 subgrants to eligible entities under section 3109(c)
20 shall be of sufficient size and scope to allow such en-
21 tities to carry out high quality education programs
22 for limited English proficient children;

23 “(4) contains an agreement that the State will
24 coordinate its programs and activities under this

1 subpart with its other programs and activities under
2 this Act and other Acts, as appropriate;

3 “(5) contains an agreement that the State—

4 “(A) shall monitor the progress of students
5 enrolled in programs and activities receiving as-
6 sistance under this subpart in attaining English
7 proficiency and in attaining challenging State
8 academic content standards and challenging
9 State student academic achievement standards;

10 “(B) shall establish standards and bench-
11 marks for English language development that
12 are aligned with State academic content and
13 achievement standards; and

14 “(C) will ensure that eligible entities com-
15 ply with section 3104 to annually test children
16 in English who have been in the United States
17 for 3 or more consecutive years;

18 “(6) contains an assurance that the State will
19 develop high-quality annual assessments to measure
20 English language proficiency and require eligible en-
21 tities receiving a subgrant under this subpart annu-
22 ally to assess the English proficiency of all children
23 with limited English proficiency participating in a
24 program funded under this subpart;

1 “(7) contains an agreement that the State will
2 develop annual performance objectives for raising
3 the level of English proficiency of each limited
4 English proficient student, and that these objectives
5 shall include percentage increases in performance on
6 annual assessments in reading, writing, speaking,
7 and listening comprehension as compared to the pre-
8 ceding school year; and

9 “(8) contains an agreement that the State will
10 require eligible entities receiving a subgrant under
11 this subpart to use the subgrant in ways that will
12 build such recipient’s capacity to continue to offer
13 high-quality English language instruction and pro-
14 grams which assist limited English proficient chil-
15 dren in attaining challenging State academic content
16 standards and challenging State student academic
17 achievement standards once assistance under this
18 subpart is no longer available.

19 **“SEC. 3108. SUBGRANTS TO ELIGIBLE ENTITIES.**

20 “(a) PURPOSES OF SUBGRANTS.—A State may make
21 a subgrant to an eligible entity from funds received by
22 the State under this subpart only if the entity agrees to
23 expend the funds to improve the education of limited
24 English proficient children and their families, through the
25 acquisition of English and the attainment of challenging

1 State academic content standards and challenging State
2 student academic achievement standards, using ap-
3 proaches and methodologies based on scientifically based
4 reading research and sound research and theory on teach-
5 ing limited English proficient children, by—

6 “(1) developing and implementing new English
7 language and academic content instructional pro-
8 grams for children who are limited English pro-
9 ficient, including programs of early childhood edu-
10 cation and kindergarten through 12th grade edu-
11 cation;

12 “(2) carrying out highly focused, innovative, lo-
13 cally designed projects to expand or enhance existing
14 English language and academic content instruction
15 programs for limited English proficient children;

16 “(3) implementing, within an individual school,
17 schoolwide programs for restructuring, reforming,
18 and upgrading all relevant programs and operations
19 relating to English language and academic content
20 instruction for limited English proficient students;
21 or

22 “(4) implementing, within the entire jurisdic-
23 tion of a local educational agency, agencywide pro-
24 grams for restructuring, reforming, and upgrading
25 all relevant programs and operations relating to

1 English language and academic content instruction
2 for limited English proficient students.

3 “(b) AUTHORIZED SUBGRANTEE ACTIVITIES.—

4 “(1) IN GENERAL.—Subject to paragraph (2), a
5 State may make a subgrant to an eligible entity
6 from funds received by the State under this subpart
7 in order that the eligible entity may achieve one of
8 the purposes described in subsection (a) by under-
9 taking one or more of the following activities to im-
10 prove the understanding, and use, of the English
11 language, based on a child’s learning skills and at-
12 tainment of challenging State academic content
13 standards and challenging State student academic
14 achievement standards:

15 “(A) Upgrading program objectives and ef-
16 fective instructional strategies.

17 “(B) Improving the instruction program
18 for limited English proficient students by iden-
19 tifying, acquiring, and upgrading curricula, in-
20 structional materials, educational software, and
21 assessment procedures.

22 “(C) Providing—

23 “(i) tutorials and academic or voca-
24 tional education for limited English pro-
25 ficient children; and

1 “(ii) intensified instruction.

2 “(D) Developing and implementing elemen-
3 tary or secondary school English language in-
4 structional programs that are coordinated with
5 other relevant programs and services.

6 “(E) Providing professional development to
7 classroom teachers, principals, administrators,
8 and other school or community-based organiza-
9 tional personnel to improve the instruction and
10 assessment of children who are limited English
11 proficient children.

12 “(F) Improving the English language pro-
13 ficiency and academic performance of limited
14 English proficient children.

15 “(G) Improving the instruction of limited
16 English proficient children by providing for the
17 acquisition or development of education tech-
18 nology or instructional materials, access to and
19 participation in electronic networks for mate-
20 rials, training and communications, and incor-
21 poration of such resources in curricula and pro-
22 grams, such as those funded under this sub-
23 part.

24 “(H) Developing tutoring programs for
25 limited English proficient children that provide

1 early intervention and intensive instruction in
2 order to improve academic achievement, to in-
3 crease graduation rates among limited English
4 proficient children, and to prepare students for
5 transition as soon as possible into classrooms
6 where instruction is not tailored for limited
7 English proficient children.

8 “(I) Providing family literacy services and
9 parent outreach and training activities to lim-
10 ited English proficient children and their fami-
11 lies to improve their English language skills and
12 assist parents in helping their children to im-
13 prove their academic performance.

14 “(J) Other activities that are consistent
15 with the purposes of this part.

16 “(2) MOVING CHILDREN OUT OF SPECIALIZED
17 CLASSROOMS.—Any program or activity undertaken
18 by an eligible entity using a subgrant from a State
19 under this subpart shall be designed to assist stu-
20 dents enrolled in the program or activity to attain
21 English proficiency and meet challenging State aca-
22 demic content standards and challenging State stu-
23 dent academic achievement standards as soon as
24 possible, but not later than after 3 consecutive years
25 of attendance in United States schools (excluding

1 schools in Puerto Rico), and to move into a class-
2 room where instruction is not tailored for limited
3 English proficient children.

4 “(c) SELECTION OF METHOD OF INSTRUCTION.—To
5 receive a subgrant from a State under this subpart, an
6 eligible entity shall select one or more methods or forms
7 of instruction to be used in the programs and activities
8 undertaken by the entity to assist limited English pro-
9 ficient children to attain English proficiency and meet
10 challenging State academic content standards and chal-
11 lenging State student academic achievement standards.
12 Such selection shall be consistent with sections 3134 and
13 3135.

14 “(d) DURATION OF SUBGRANTS.—The duration of a
15 competitive subgrant made by a State under section
16 3109(c) shall be determined by the State in its discretion.

17 “(e) APPLICATIONS BY ELIGIBLE ENTITIES.—

18 “(1) IN GENERAL.—To receive a subgrant from
19 a State under this subpart, an eligible entity shall
20 submit an application to the State at such time, in
21 such form, and containing such information as the
22 State may require.

23 “(2) REQUIRED DOCUMENTATION.—The appli-
24 cation shall—

1 “(A) describe the programs and activities
2 proposed to be developed, implemented, and ad-
3 ministered under the subgrant;

4 “(B) describe how the eligible entity will
5 use the subgrant funds to satisfy the require-
6 ment in subsection (b)(2); and

7 “(C) describe how the eligible entity, using
8 the disaggregated results of the student assess-
9 ments required under section 1111(b)(4) and
10 other measures available, will annually review
11 the progress of elementary and secondary
12 schools within its jurisdiction, or served by it,
13 to determine if such schools are making the
14 adequate yearly progress necessary to ensure
15 that limited English proficient students attend-
16 ing the schools will meet the State’s proficient
17 level of performance on the State assessment
18 described in section 1111(b)(4), and will hold
19 such schools accountable for making such
20 progress.

21 “(3) REQUIREMENTS FOR APPROVAL.—The ap-
22 plication shall contain assurances that—

23 “(A) the eligible entity will use qualified
24 personnel who have appropriate training and
25 professional credentials in teaching English to

1 children who are limited English proficient, and
2 who are proficient in English, including written
3 and oral communication skills;

4 “(B) if the eligible entity includes one or
5 more local educational agencies, each such
6 agency is complying with section 3103(b) prior
7 to, and throughout, each school year;

8 “(C) the eligible entity annually will assess
9 the English proficiency of all children with lim-
10 ited English proficiency participating in pro-
11 grams funded under this subpart;

12 “(D) the eligible entity has based its pro-
13 posal on scientifically based reading research
14 and sound research and theory on teaching lim-
15 ited English proficient children;

16 “(E) the eligible entity has described in the
17 application how students enrolled in the pro-
18 grams and activities proposed in the application
19 will be proficient in English after 3 academic
20 years of enrollment;

21 “(F) the eligible entity will ensure that
22 programs will enable children to speak, read,
23 write, and comprehend the English language
24 and meet challenging State academic content

1 standards and challenging State student aca-
2 demic achievement standards; and

3 “(G) the eligible entity is not in violation
4 of any State law, including State constitutional
5 law, regarding the education of limited English
6 proficient children, consistent with sections
7 3134 and 3135.

8 “(4) QUALITY.—For the purposes of awarding
9 competitive subgrants under section 3109(c), a State
10 shall consider the quality of each application and en-
11 sure that it is of sufficient size and scope to meet
12 the purposes of this subpart.

13 **“SEC. 3109. DISTRIBUTION OF SUBGRANTS TO ELIGIBLE**
14 **ENTITIES.**

15 “(a) IN GENERAL.—A State shall expend at least 95
16 percent of its allotment under section 3105(c) each fiscal
17 year for the purpose of making subgrants to eligible enti-
18 ties within the State that have approved applications, in
19 accordance with subsections (b) and (c).

20 “(b) FORMULA SUBGRANTS.—

21 “(1) RESERVATION.—75 percent of the amount
22 expended by a State for subgrants under this sub-
23 part shall be reserved for subgrants to eligible enti-
24 ties described in subsection (a) in which, during the
25 fiscal year for which the subgrant is to be made, the

1 number of limited English proficient children and
2 youth who are enrolled in public and nonpublic ele-
3 mentary or secondary schools located in geographic
4 areas under the jurisdiction of, or served by, such
5 entities is equal to at least 500 students, or 3 per-
6 cent of the total number of children and youth en-
7 rolled in such schools during such fiscal year, which-
8 ever is less.

9 “(2) ALLOTMENT.—From the amount reserved
10 under paragraph (1), the State shall allot to each el-
11 igible entity described in such paragraph a percent-
12 age based on the ratio of—

13 “(A) the number of limited English pro-
14 ficient children and youth who are enrolled in
15 public and nonpublic elementary or secondary
16 schools located in geographic areas under the
17 jurisdiction of, or served by, such entity during
18 the fiscal year for which the allotment is to be
19 made; to

20 “(B) the number of such children and
21 youth in all such eligible entities.

22 “(3) REALLOTMENT.—Whenever a State deter-
23 mines that an allotment made to an eligible entity
24 under this subsection for a fiscal year will not be
25 used by the entity for the purpose for which it was

1 made, the State shall, in accordance with such rules
2 as it deems appropriate, reallocate such amount, con-
3 sistent with paragraph (2), to other eligible entities
4 in the State for carrying out that purpose.

5 “(c) COMPETITIVE SUBGRANTS.—25 percent of the
6 amount expended by a State for subgrants under this sub-
7 part shall be reserved for competitive subgrants to eligible
8 entities described in subsection (a) that the State
9 determines—

10 “(1) have experienced significant increases, as
11 compared to the previous 2 years, in the percentage
12 or number of children and youth with limited
13 English proficiency, including recent immigrant chil-
14 dren, that have enrolled in public and nonpublic ele-
15 mentary or secondary schools in the geographic
16 areas under the jurisdiction of, or served by, such
17 entities during the fiscal year for which the subgrant
18 is to be made; or

19 “(2) do not satisfy the requirements of sub-
20 section (b)(1) but have significant needs for pro-
21 grams under this subpart.

22 **“SEC. 3110. AUTHORIZATION OF APPROPRIATIONS.**

23 “For the purpose of carrying out this subpart, there
24 are authorized to be appropriated \$750,000,000 for fiscal

1 year 2002 and such sums as may be necessary for each
2 of the 4 succeeding fiscal years.

3 **“Subpart 2—Administration**

4 **“SEC. 3121. EVALUATIONS.**

5 “(a) IN GENERAL.—Each eligible entity that receives
6 a subgrant from a State under subpart 1 shall provide
7 the State, at the conclusion of every second fiscal year
8 during which the subgrant is received, with an evaluation,
9 in a form prescribed by the State, of—

10 “(1) the programs and activities conducted by
11 the entity with funds received under subpart 1 dur-
12 ing the 2 immediately preceding fiscal years;

13 “(2) the progress made by students in learning
14 the English language and meeting challenging State
15 academic content standards and challenging State
16 student academic achievement standards;

17 “(3) the number and percentage of students in
18 the programs and activities attaining English lan-
19 guage proficiency by the end of each school year, as
20 determined by a valid and reliable assessment of
21 English proficiency; and

22 “(4) the progress made by students in meeting
23 challenging State academic content standards and
24 challenging State student academic achievement

1 standards for each of the 2 years after such students
2 are no longer receiving services under this part.

3 “(b) USE OF EVALUATION.—An evaluation provided
4 by an eligible entity under subsection (a) shall be used
5 by the entity and the State—

6 “(1) for improvement of programs and activi-
7 ties;

8 “(2) to determine the effectiveness of programs
9 and activities in assisting children who are limited
10 English proficient to attain English proficiency (as
11 measured consistent with subsection (d)) and meet
12 challenging State academic content standards and
13 challenging State student academic achievement
14 standards; and

15 “(3) in determining whether or not to continue
16 funding for specific programs or projects.

17 “(c) EVALUATION COMPONENTS.—An evaluation
18 provided by an eligible entity under subsection (a) shall
19 include—

20 “(1) an evaluation of whether students enrolling
21 in a program or activity conducted by the entity
22 with funds received under subpart 1—

23 “(A) have attained English proficiency and
24 are meeting challenging State academic content

1 academic and challenging State student aca-
2 demic achievement standards; and

3 “(B) have achieved a working knowledge of
4 the English language that is sufficient to per-
5 mit them to perform, in English, in a classroom
6 that is not tailored to limited English proficient
7 children; and

8 “(2) such other information as the State may
9 require.

10 “(d) EVALUATION MEASURES.—In prescribing the
11 form of an evaluation provided by an entity under sub-
12 section (a), a State shall approve evaluation measures, as
13 applicable, for use under subsection (c) that are designed
14 to assess—

15 “(1) oral language proficiency in kindergarten;

16 “(2) oral language proficiency, including speak-
17 ing and listening skills, in first grade;

18 “(3) both oral language proficiency, including
19 speaking and listening skills, and reading and writ-
20 ing proficiency in grades 2 and higher; and

21 “(4) attainment of challenging State student
22 academic achievement standards.

23 **“SEC. 3122. REPORTING REQUIREMENTS.**

24 “(a) STATES.—Based upon the evaluations provided
25 to a State under section 3121, each State that receives

1 a grant under subpart 1 shall prepare and submit every
2 second year to the Secretary a report on programs and
3 activities undertaken by the State under such subpart and
4 the effectiveness of such programs and activities in im-
5 proving the education provided to children who are limited
6 English proficient.

7 “(b) SECRETARY.—Every second year, the Secretary
8 shall prepare and submit to the Committee on Education
9 and the Workforce of the House of Representatives and
10 the Committee on Health, Education, Labor, and Pen-
11 sions of the Senate a report on—

12 “(1) programs and activities undertaken by
13 States under subpart 1 and the effectiveness of such
14 programs and activities in improving the education
15 provided to children who are limited English pro-
16 ficient;

17 “(2) the types of instructional programs used
18 under subpart 1 to teach limited English proficient
19 children;

20 “(3) the number of programs or projects, if
21 any, that were terminated because they were not
22 able to reach program goals;

23 “(4) the number of limited English proficient
24 children served under subpart 1 who were
25 transitioned out of special instructional programs

1 funded under such subpart into classrooms where in-
2 struction is not tailored for limited English pro-
3 ficient children; and

4 “(5) other information gathered from the re-
5 ports submitted under subsection (a).

6 **“SEC. 3123. COORDINATION WITH RELATED PROGRAMS.**

7 “In order to maximize Federal efforts aimed at serv-
8 ing the educational needs of children and youth of limited
9 English proficiency, the Secretary shall coordinate and en-
10 sure close cooperation with other programs serving lan-
11 guage-minority and limited English proficient students
12 that are administered by the Department and other agen-
13 cies.

14 **“Subpart 3—General Provisions**

15 **“SEC. 3131. DEFINITIONS.**

16 “For purposes of this part:

17 “(1) CHILDREN AND YOUTH.—The term ‘chil-
18 dren and youth’ means individuals aged 3 through
19 21.

20 “(2) COMMUNITY-BASED ORGANIZATION.—The
21 term ‘community-based organization’ means a pri-
22 vate nonprofit organization of demonstrated effec-
23 tiveness or Indian tribe or tribally sanctioned edu-
24 cational authority which is representative of a com-
25 munity or significant segments of a community and

1 which provides educational or related services to in-
2 dividuals in the community. Such term includes a
3 Native Hawaiian or Native American Pacific Is-
4 lander native language educational organization.

5 “(3) ELIGIBLE ENTITY.—The term ‘eligible en-
6 tity’ means—

7 “(A) one or more local educational agen-
8 cies; or

9 “(B) one or more local educational agen-
10 cies in collaboration with an institution of high-
11 er education, community-based organization, or
12 State educational agency.

13 “(4) NATIVE HAWAIIAN OR NATIVE AMERICAN
14 PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL
15 ORGANIZATION.—The term ‘Native Hawaiian or Na-
16 tive American Pacific Islander native language edu-
17 cational organization’ means a nonprofit organiza-
18 tion with a majority of its governing board and em-
19 ployees consisting of fluent speakers of the tradi-
20 tional Native American languages used in their edu-
21 cational programs and with not less than 5 years
22 successful experience in providing educational serv-
23 ices in traditional Native American languages.

24 “(5) NATIVE LANGUAGE.—The term ‘native
25 language’, when used with reference to an individual

1 who is limited English proficient, means the lan-
2 guage normally used by such individual.

3 “(6) SPECIALLY QUALIFIED AGENCY.—The
4 term ‘specially qualified agency’, when used with re-
5 spect to a fiscal year, means an eligible entity lo-
6 cated in a State that, for that year—

7 “(A) does not submit to the Secretary an
8 application under sections 3105(a) and 3107;
9 or

10 “(B) submits an application (or any modi-
11 fication to an application) that the Secretary,
12 after reasonable notice and opportunity for a
13 hearing, determines does not satisfy the re-
14 quirements of subpart 1.

15 “(7) TRIBALLY SANCTIONED EDUCATIONAL AU-
16 THORITY.—The term ‘tribally sanctioned educational
17 authority’ means—

18 “(A) any department or division of edu-
19 cation operating within the administrative
20 structure of the duly constituted governing body
21 of an Indian tribe; and

22 “(B) any nonprofit institution or organiza-
23 tion that is—

24 “(i) chartered by the governing body
25 of an Indian tribe to operate a school de-

1 scribed in section 3106(a) or otherwise to
2 oversee the delivery of educational services
3 to members of the tribe; and

4 “(ii) approved by the Secretary for
5 the purpose of carrying out programs
6 under subpart 1 for individuals served by
7 a school described in section 3106(a).

8 **“SEC. 3132. RULES OF CONSTRUCTION.**

9 “Nothing in subpart 1 shall be construed—

10 “(1) to prohibit a local educational agency from
11 serving limited English proficient children and youth
12 simultaneously with students with similar edu-
13 cational needs, in the same educational settings
14 where appropriate;

15 “(2) to require a State or a local educational
16 agency to establish, continue, or eliminate any par-
17 ticular type of instructional program for limited
18 English proficient children; or

19 “(3) to limit the preservation or use of Native
20 American languages as defined in the Native Amer-
21 ican Languages Act of 1990.

22 **“SEC. 3133. LIMITATION ON FEDERAL REGULATIONS.**

23 “The Secretary shall issue regulations under this part
24 only to the extent that such regulations are necessary to

1 ensure compliance with the specific requirements of this
2 part.

3 **“SEC. 3134. LEGAL AUTHORITY UNDER STATE LAW.**

4 “Nothing in this part shall be construed to negate
5 or supersede State law, or the legal authority under State
6 law of any State agency, State entity, or State public offi-
7 cial, over programs that are under the jurisdiction of the
8 State agency, entity, or official.

9 **“SEC. 3135. CIVIL RIGHTS.**

10 “Nothing in this part shall be construed in a manner
11 inconsistent with any Federal law guaranteeing a civil
12 right.

13 **“SEC. 3136. PROGRAMS FOR NATIVE AMERICANS AND**
14 **PUERTO RICO.**

15 “Programs authorized under subpart 1 that serve
16 Native American children, Native Pacific Island children,
17 and children in the Commonwealth of Puerto Rico, not-
18 withstanding any other provision of subpart 1, may in-
19 clude programs of instruction, teacher training, cur-
20 riculum development, evaluation, and testing designed for
21 Native American children learning and studying Native
22 American languages and children of limited Spanish pro-
23 ficiency, except that a primary outcome of programs serv-
24 ing such children shall be increased English proficiency
25 among such children.”.

1 **SEC. 302. CONFORMING AMENDMENT TO DEPARTMENT OF**
2 **EDUCATION ORGANIZATION ACT.**

3 (a) IN GENERAL.—

4 (1) RENAMING OF OFFICE.—The Department
5 of Education Organization Act is amended by strik-
6 ing “Office of Bilingual Education and Minority
7 Languages Affairs” each place such term appears in
8 the text and inserting “Office of Educational Serv-
9 ices for Limited English Proficient Children”.

10 (2) CONFORMING AMENDMENT.—Section 209
11 of the Department of Education Organization Act is
12 amended by striking “Director of Bilingual Edu-
13 cation and Minority Languages Affairs,” and insert-
14 ing “Director of Educational Services for Limited
15 English Proficient Children,”.

16 (b) CLERICAL AMENDMENTS.—

17 (1) SECTION 209.—The section heading for sec-
18 tion 209 of the Department of Education Organiza-
19 tion Act is amended to read as follows:

20 “OFFICE OF EDUCATIONAL SERVICES FOR LIMITED
21 ENGLISH PROFICIENT CHILDREN”.

22 (2) SECTION 216.—The section heading for sec-
23 tion 216 of the Department of Education Organiza-
24 tion Act is amended to read as follows:

1 **“SEC. 216. OFFICE OF EDUCATIONAL SERVICES FOR LIM-**
 2 **ITED ENGLISH PROFICIENT CHILDREN.”.**

3 (3) TABLE OF CONTENTS.—

4 (A) SECTION 209.—The table of contents
 5 of the Department of Education Organization
 6 Act is amended by amending the item relating
 7 to section 209 to read as follows:

“Sec. 209. Office of Educational Services for Limited English Proficient Chil-
 dren.”.

8 (B) SECTION 216.—The table of contents
 9 of the Department of Education Organization
 10 Act is amended by amending the item relating
 11 to section 216 to read as follows:

“Sec. 216. Office of Educational Services for Limited English Proficient Chil-
 dren.”.

12 **PART B—INDIAN AND ALASKA NATIVE**
 13 **EDUCATION**

14 **SEC. 311. ELEMENTARY AND SECONDARY EDUCATION ACT**
 15 **OF 1965.**

16 (a) IN GENERAL.—Title III (as amended by section
 17 301 of this Act) is further amended by adding at the end
 18 the following new part:

19 **“PART B—INDIAN AND ALASKA NATIVE**
 20 **EDUCATION**

21 **“Subpart 1—Indian Education**

22 **“SEC. 3201. FINDINGS.**

23 “Congress finds that—

1 “(1) the Federal Government has a special re-
2 sponsibility to ensure that educational programs for
3 all American Indian and Alaska Native children and
4 adults—

5 “(A) are based on high-quality, inter-
6 nationally competitive academic content stand-
7 ards and student academic achievement stand-
8 ards and build on Indian culture and the Indian
9 community;

10 “(B) assist local educational agencies, In-
11 dian tribes, and other entities and individuals in
12 providing Indian students the opportunity to
13 achieve such standards; and

14 “(C) meet the unique educational and cul-
15 turally related academic needs of American In-
16 dian and Alaska Native students;

17 “(2) since the date of the enactment of the ini-
18 tial Indian Education Act in 1972, the level of in-
19 volvement of Indian parents in the planning, devel-
20 opment, and implementation of educational pro-
21 grams that affect such parents and their children
22 has increased significantly, and schools should con-
23 tinue to foster such involvement;

24 “(3) although the number of Indian teachers,
25 administrators, and university professors has in-

1 creased since 1972, teacher training programs are
2 not recruiting, training, or retraining a sufficient
3 number of Indian individuals as educators to meet
4 the needs of a growing Indian student population in
5 elementary, secondary, vocational, adult, and higher
6 education;

7 “(4) the dropout rate for Indian students is un-
8 acceptably high; 9 percent of Indian students who
9 were eighth graders in 1988 had dropped out of
10 school by 1990;

11 “(5) during the period from 1980 to 1990, the
12 percentage of Indian individuals living at or below
13 the poverty level increased from 24 percent to 31
14 percent, and the readiness of Indian children to
15 learn is hampered by the high incidence of poverty,
16 unemployment, and health problems among Indian
17 children and their families; and

18 “(6) research related specifically to the edu-
19 cation of Indian children and adults is very limited,
20 and much of the research is of poor quality or is fo-
21 cused on limited local or regional issues.

22 **“SEC. 3202. PURPOSE.**

23 “(a) PURPOSE.—It is the purpose of this subpart to
24 support the efforts of local educational agencies, Indian
25 tribes and organizations, postsecondary institutions, and

1 other entities to meet the unique educational and cul-
2 turally related academic needs of American Indians and
3 Alaska Natives, so that such students can achieve to the
4 same challenging State academic achievement standards
5 expected of all other students.

6 “(b) PROGRAMS.—this subpart carries out the pur-
7 pose described in subsection (a) by authorizing programs
8 of direct assistance for—

9 “(1) meeting the unique educational and cul-
10 turally related academic needs of American Indians
11 and Alaska Natives;

12 “(2) the education of Indian children and
13 adults;

14 “(3) the training of Indian persons as educators
15 and counselors, and in other professions serving In-
16 dian people; and

17 “(4) research, evaluation, data collection, and
18 technical assistance.

19 **“CHAPTER 1—FORMULA GRANTS TO**
20 **LOCAL EDUCATIONAL AGENCIES**

21 **“SEC. 3211. PURPOSE.**

22 “It is the purpose of this chapter to support local
23 educational agencies in their efforts to reform elementary
24 and secondary school programs that serve Indian students
25 in order to ensure that such programs—

1 “(1) are based on challenging State academic
2 content standards and State student academic
3 achievement standards that are used for all stu-
4 dents; and

5 “(2) are designed to assist Indian students in
6 meeting those standards and assist the Nation in
7 reaching the National Education Goals.

8 **“SEC. 3212. GRANTS TO LOCAL EDUCATIONAL AGENCIES.**

9 “(a) IN GENERAL.—

10 “(1) ENROLLMENT REQUIREMENTS.—A local
11 educational agency shall be eligible for a grant under
12 this chapter for any fiscal year if the number of In-
13 dian children eligible under section 3217 and who
14 were enrolled in the schools of the agency, and to
15 whom the agency provided free public education,
16 during the preceding fiscal year—

17 “(A) was at least 10; or

18 “(B) constituted not less than 25 percent
19 of the total number of individuals enrolled in
20 the schools of such agency.

21 “(2) EXCLUSION.—The requirement of para-
22 graph (1) shall not apply in Alaska, California, or
23 Oklahoma, or with respect to any local educational
24 agency located on, or in proximity to, a reservation.

25 “(b) INDIAN TRIBES.—

1 “(1) IN GENERAL.—If a local educational agen-
2 cy that is eligible for a grant under this chapter does
3 not establish a parent committee under section
4 3214(e)(4) for such grant, an Indian tribe that rep-
5 resents not less than one-half of the eligible Indian
6 children who are served by such local educational
7 agency may apply for such grant.

8 “(2) SPECIAL RULE.—The Secretary shall treat
9 each Indian tribe applying for a grant pursuant to
10 paragraph (1) as if such Indian tribe were a local
11 educational agency for purposes of this chapter, ex-
12 cept that any such tribe is not subject to section
13 3214(e)(4), section 3218(c), or section 3219.

14 **“SEC. 3213. AMOUNT OF GRANTS.**

15 “(a) AMOUNT OF GRANT AWARDS.—

16 “(1) IN GENERAL.—Except as provided in sub-
17 section (b) and paragraph (2), the Secretary shall
18 allocate to each local educational agency which has
19 an approved application under this chapter an
20 amount equal to the product of—

21 “(A) the number of Indian children who
22 are eligible under section 3217 and served by
23 such agency; and

24 “(B) the greater of—

1 “(i) the average per pupil expenditure
2 of the State in which such agency is lo-
3 cated; or

4 “(ii) 80 percent of the average per
5 pupil expenditure in the United States.

6 “(2) REDUCTION.—The Secretary shall reduce
7 the amount of each allocation determined under
8 paragraph (1) in accordance with subsection (e).

9 “(b) MINIMUM GRANT.—

10 “(1) IN GENERAL.—Notwithstanding subsection
11 (e), a local educational agency or an Indian tribe (as
12 authorized under section 3212(b)) that is eligible for
13 a grant under section 3212, and a school that is op-
14 erated or supported by the Bureau of Indian Affairs
15 that is eligible for a grant under subsection (d), that
16 submits an application that is approved by the Sec-
17 retary, shall, subject to appropriations, receive a
18 grant under this chapter in an amount that is not
19 less than \$3,000.

20 “(2) CONSORTIA.—Local educational agencies
21 may form a consortium for the purpose of obtaining
22 grants under this chapter.

23 “(3) INCREASE.—The Secretary may increase
24 the minimum grant under paragraph (1) to not
25 more than \$4,000 for all grantees if the Secretary

1 determines such increase is necessary to ensure the
2 quality of the programs provided.

3 “(c) DEFINITION.—For the purpose of this section,
4 the term ‘average per pupil expenditure of a State’ means
5 an amount equal to—

6 “(1) the sum of the aggregate current expendi-
7 tures of all the local educational agencies in the
8 State, plus any direct current expenditures by the
9 State for the operation of such agencies, without re-
10 gard to the sources of funds from which such local
11 or State expenditures were made, during the second
12 fiscal year preceding the fiscal year for which the
13 computation is made; divided by

14 “(2) the aggregate number of children who
15 were included in average daily attendance for whom
16 such agencies provided free public education during
17 such preceding fiscal year.

18 “(d) SCHOOLS OPERATED OR SUPPORTED BY THE
19 BUREAU OF INDIAN AFFAIRS.—(1) Subject to subsection
20 (e), in addition to the grants awarded under subsection
21 (a), the Secretary shall allocate to the Secretary of the
22 Interior an amount equal to the product of—

23 “(A) the total number of Indian children en-
24 rolled in schools that are operated by—

25 “(i) the Bureau of Indian Affairs; or

1 “(ii) an Indian tribe, or an organization
2 controlled or sanctioned by an Indian tribal
3 government, for the children of that tribe under
4 a contract with, or grant from, the Department
5 of the Interior under the Indian Self-Deter-
6 mination Act or the Tribally Controlled Schools
7 Act of 1988; and

8 “(B) the greater of—

9 “(i) the average per pupil expenditure of
10 the State in which the school is located; or

11 “(ii) 80 percent of the average per pupil
12 expenditure in the United States.

13 “(2) Any school described in paragraph (1)(A) that
14 wishes to receive an allocation under this chapter shall
15 submit an application in accordance with section 3214,
16 and shall otherwise be treated as a local educational agen-
17 cy for the purpose of this chapter, except that such school
18 shall not be subject to section 3214(c)(4), section 3218(c),
19 or section 3219.

20 “(e) RATABLE REDUCTIONS.—If the sums appro-
21 priated for any fiscal year under section 3252(a) are insuf-
22 ficient to pay in full the amounts determined for local edu-
23 cational agencies under subsection (a)(1) and for the Sec-
24 retary of the Interior under subsection (d), each of those
25 amounts shall be ratably reduced.

1 **“SEC. 3214. APPLICATIONS.**

2 “(a) APPLICATION REQUIRED.—Each local edu-
3 cational agency that desires to receive a grant under this
4 chapter shall submit an application to the Secretary at
5 such time, in such manner, and containing such informa-
6 tion as the Secretary may reasonably require.

7 “(b) COMPREHENSIVE PROGRAM REQUIRED.—Each
8 application submitted under subsection (a) shall include
9 a comprehensive program for meeting the needs of Indian
10 children served by the local educational agency, including
11 the language and cultural needs of the children, that—

12 “(1) provides programs and activities to meet
13 the culturally related academic needs of American
14 Indian and Alaska Native students;

15 “(2)(A) is consistent with State and local plans
16 under other provisions of this Act; and

17 “(B) includes academic content and student
18 performance goals for such children, and bench-
19 marks for attaining such goals, that are based on
20 the challenging State standards under title I;

21 “(3) explains how Federal, State, and local pro-
22 grams, especially under title I, will meet the needs
23 of such students;

24 “(4) demonstrates how funds made available
25 under this chapter will be used for activities de-
26 scribed in section 3215;

1 “(5) describes the professional development op-
2 portunities that will be provided, as needed, to en-
3 sure that—

4 “(A) teachers and other school profes-
5 sionals who are new to the Indian community
6 are prepared to work with Indian children; and

7 “(B) all teachers who will be involved in
8 programs assisted under this chapter have been
9 properly trained to carry out such programs;
10 and

11 “(6) describes how the local educational
12 agency—

13 “(A) will periodically assess the progress of
14 all Indian children enrolled in the schools of the
15 local educational agency, including Indian chil-
16 dren who do not participate in programs as-
17 sisted under this chapter, in meeting the goals
18 described in paragraph (2);

19 “(B) will provide the results of each as-
20 sessment referred to in subparagraph (A) to—

21 “(i) the committee of parents de-
22 scribed in subsection (c)(4); and

23 “(ii) the community served by the
24 local educational agency; and

1 “(C) is responding to findings of any pre-
2 vious assessments that are similar to the as-
3 sessments described in subparagraph (A).

4 “(c) ASSURANCES.—Each application submitted
5 under subsection (a) shall include assurances that—

6 “(1) the local educational agency will use funds
7 received under this chapter only to supplement the
8 level of funds that, in the absence of the Federal
9 funds made available under this chapter, such agen-
10 cy would make available for the education of Indian
11 children, and not to supplant such funds;

12 “(2) the local educational agency will submit
13 such reports to the Secretary, in such form and con-
14 taining such information, as the Secretary may re-
15 quire to—

16 “(A) carry out the functions of the Sec-
17 retary under this chapter; and

18 “(B) determine the extent to which funds
19 provided to the local educational agency under
20 this chapter are effective in improving the edu-
21 cational achievement of Indian students served
22 by such agency;

23 “(3) the program for which assistance is
24 sought—

1 “(A) is based on a comprehensive local as-
2 sessment and prioritization of the unique edu-
3 cational and culturally related academic needs
4 of the American Indian and Alaska Native stu-
5 dents to whom the local educational agency is
6 providing an education;

7 “(B) will use the best available talents and
8 resources, including individuals from the Indian
9 community; and

10 “(C) was developed by such agency in open
11 consultation with parents of Indian children
12 and teachers, and, if appropriate, Indian stu-
13 dents from secondary schools, including public
14 hearings held by such agency to provide the in-
15 dividuals described in this subparagraph a full
16 opportunity to understand the program and to
17 offer recommendations regarding the program;
18 and

19 “(4) the local educational agency developed the
20 program with the participation and written approval
21 of a committee—

22 “(A) that is composed of, and selected
23 by—

1 “(i) parents of Indian children in the
2 local educational agency’s schools and
3 teachers; and

4 “(ii) if appropriate, Indian students
5 attending secondary schools;

6 “(B) a majority of whose members are
7 parents of Indian children;

8 “(C) that sets forth such policies and pro-
9 cedures, including policies and procedures relat-
10 ing to the hiring of personnel, as will ensure
11 that the program for which assistance is sought
12 will be operated and evaluated in consultation
13 with, and with the involvement of, parents of
14 the children, and representatives of the area, to
15 be served;

16 “(D) with respect to an application de-
17 scribing a schoolwide program in accordance
18 with section 3215(c), that has—

19 “(i) reviewed in a timely fashion the
20 program; and

21 “(ii) determined that the program will
22 not diminish the availability of culturally
23 related activities for American Indian and
24 Alaskan Native students; and

1 “(E) that has adopted reasonable bylaws
2 for the conduct of the activities of the com-
3 mittee and abides by such bylaws.

4 **“SEC. 3215. AUTHORIZED SERVICES AND ACTIVITIES.**

5 “(a) GENERAL REQUIREMENTS.—Each local edu-
6 cational agency that receives a grant under this chapter
7 shall use the grant funds, in a manner consistent with the
8 purpose specified in section 3211, for services and activi-
9 ties that—

10 “(1) are designed to carry out the comprehen-
11 sive program of the local educational agency for In-
12 dian students, and described in the application of
13 the local educational agency submitted to the Sec-
14 retary under section 3214(b);

15 “(2) are designed with special regard for the
16 language and cultural needs of the Indian students;
17 and

18 “(3) supplement and enrich the regular school
19 program of such agency.

20 “(b) PARTICULAR ACTIVITIES.—The services and ac-
21 tivities referred to in subsection (a) may include—

22 “(1) culturally related activities that support
23 the program described in the application submitted
24 by the local educational agency;

1 “(2) early childhood and family programs that
2 emphasize school readiness;

3 “(3) enrichment programs that focus on prob-
4 lem solving and cognitive skills development and di-
5 rectly support the attainment of challenging State
6 academic content standards and State student aca-
7 demic achievement standards;

8 “(4) integrated educational services in combina-
9 tion with other programs that meet the needs of In-
10 dian children and their families;

11 “(5) career preparation activities to enable In-
12 dian students to participate in programs such as the
13 programs supported by the Carl D. Perkins Voca-
14 tional and Technical Education Act of 1998, includ-
15 ing programs for tech-prep, mentoring, and appren-
16 ticeship;

17 “(6) activities to educate individuals concerning
18 substance abuse and to prevent substance abuse;

19 “(7) the acquisition of equipment, but only if
20 the acquisition of the equipment is essential to meet
21 the purposes described in section 3211; and

22 “(8) family literacy services.

23 “(c) SCHOOLWIDE PROGRAMS.—Notwithstanding
24 any other provision of law, a local educational agency may
25 use funds made available to such agency under this chap-

1 ter to support a schoolwide program under section 1114
2 if—

3 “(1) the committee composed of parents estab-
4 lished pursuant to section 3214(c)(4) approves the
5 use of the funds for the schoolwide program; and

6 “(2) the schoolwide program is consistent with
7 the purposes described in section 3211.

8 “(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not
9 more than 5 percent of the funds provided to a grantee
10 under this chapter for any fiscal year may be used for
11 administrative purposes.

12 **“SEC. 3216. INTEGRATION OF SERVICES AUTHORIZED.**

13 “(a) PLAN.—An entity receiving funds under this
14 chapter may submit a plan to the Secretary for the inte-
15 gration of education and related services provided to In-
16 dian students.

17 “(b) COORDINATION OF PROGRAMS.—Upon the re-
18 ceipt of an acceptable plan, the Secretary, in cooperation
19 with each Federal agency providing grants for the provi-
20 sion of education and related services to the applicant,
21 shall authorize the applicant to coordinate, in accordance
22 with such plan, its federally funded education and related
23 services programs, or portions thereof, serving Indian stu-
24 dents in a manner that integrates the program services
25 involved into a single, coordinated, comprehensive pro-

1 gram and reduces administrative costs by consolidating
2 administrative functions.

3 “(c) PROGRAMS AFFECTED.—The funds that may be
4 consolidated in a demonstration project under any such
5 plan referred to in subsection (b) shall include funds for
6 any Federal program exclusively serving Indian children
7 or the funds reserved under any program to exclusively
8 serve Indian children under which the applicant is eligible
9 for receipt of funds under a statutory or administrative
10 formula for the purposes of providing education and re-
11 lated services which would be used to serve Indian stu-
12 dents.

13 “(d) PLAN REQUIREMENTS.—For a plan to be ac-
14 ceptable pursuant to subsection (b), it shall—

15 “(1) identify the programs or funding sources
16 to be consolidated;

17 “(2) be consistent with the purposes of this sec-
18 tion authorizing the services to be integrated in a
19 demonstration project;

20 “(3) describe a comprehensive strategy which
21 identifies the full range of potential educational op-
22 portunities and related services to be provided to as-
23 sist Indian students to achieve the goals set forth in
24 this chapter;

1 “(4) describe the way in which services are to
2 be integrated and delivered and the results expected
3 from the plan;

4 “(5) identify the projected expenditures under
5 the plan in a single budget;

6 “(6) identify the local, State, or tribal agency
7 or agencies to be involved in the delivery of the serv-
8 ices integrated under the plan;

9 “(7) identify any statutory provisions, regula-
10 tions, policies, or procedures that the applicant be-
11 lieves need to be waived in order to implement its
12 plan;

13 “(8) set forth measures of student achievement
14 and performance goals designed to be met within a
15 specified period of time; and

16 “(9) be approved by a parent committee formed
17 in accordance with section 3214(e)(4), if such a
18 committee exists.

19 “(e) PLAN REVIEW.—Upon receipt of the plan from
20 an eligible entity, the Secretary shall consult with the Sec-
21 retary of each Federal department providing funds to be
22 used to implement the plan, and with the entity submit-
23 ting the plan. The parties so consulting shall identify any
24 waivers of statutory requirements or of Federal depart-
25 mental regulations, policies, or procedures necessary to en-

1 able the applicant to implement its plan. Notwithstanding
2 any other provision of law, the Secretary of the affected
3 department or departments shall have the authority to
4 waive any regulation, policy, or procedure promulgated by
5 that department that has been so identified by the appli-
6 cant or department, unless the Secretary of the affected
7 department determines that such a waiver is inconsistent
8 with the intent of this chapter or those provisions of the
9 statute from which the program involved derives its au-
10 thority which are specifically applicable to Indian stu-
11 dents.

12 “(f) PLAN APPROVAL.—Within 90 days after the re-
13 ceipt of an applicant’s plan by the Secretary, the Secretary
14 shall inform the applicant, in writing, of the Secretary’s
15 approval or disapproval of the plan. If the plan is dis-
16 approved, the applicant shall be informed, in writing, of
17 the reasons for the disapproval and shall be given an op-
18 portunity to amend its plan or to petition the Secretary
19 to reconsider such disapproval.

20 “(g) RESPONSIBILITIES OF DEPARTMENT OF EDU-
21 CATION.—Not later than 180 days after the date of the
22 enactment of the No Child Left Behind Act of 2001, the
23 Secretary of Education, the Secretary of the Interior, and
24 the head of any other Federal department or agency iden-
25 tified by the Secretary of Education, shall enter into an

1 interdepartmental memorandum of agreement providing
2 for the implementation of the demonstration projects au-
3 thorized under this section. The lead agency head for a
4 demonstration program under this section shall be—

5 “(1) the Secretary of the Interior, in the case
6 of applicant meeting the definition of contract or
7 grant school under title XI of the Education Amend-
8 ments of 1978; or

9 “(2) the Secretary of Education, in the case of
10 any other applicant.

11 “(h) RESPONSIBILITIES OF LEAD AGENCY.—The re-
12 sponsibilities of the lead agency shall include—

13 “(1) the use of a single report format related
14 to the plan for the individual project which shall be
15 used by an eligible entity to report on the activities
16 undertaken under the project;

17 “(2) the use of a single report format related
18 to the projected expenditures for the individual
19 project which shall be used by an eligible entity to
20 report on all project expenditures;

21 “(3) the development of a single system of Fed-
22 eral oversight for the project, which shall be imple-
23 mented by the lead agency; and

24 “(4) the provision of technical assistance to an
25 eligible entity appropriate to the project, except that

1 an eligible entity shall have the authority to accept
2 or reject the plan for providing such technical assist-
3 ance and the technical assistance provider.

4 “(i) REPORT REQUIREMENTS.—A single report for-
5 mat shall be developed by the Secretary, consistent with
6 the requirements of this section. Such report format, to-
7 gether with records maintained on the consolidated pro-
8 gram at the local level, shall contain such information as
9 will allow a determination that the eligible entity has com-
10 plied with the requirements incorporated in its approved
11 plan, including the demonstration of student achievement,
12 and will provide assurances to each Secretary that the eli-
13 gible entity has complied with all directly applicable statu-
14 tory requirements and with those directly applicable regu-
15 latory requirements which have not been waived.

16 “(j) NO REDUCTION IN AMOUNTS.—In no case shall
17 the amount of Federal funds available to an eligible entity
18 involved in any demonstration project be reduced as a re-
19 sult of the enactment of this section.

20 “(k) INTERAGENCY FUND TRANSFERS AUTHOR-
21 IZED.—The Secretary is authorized to take such action
22 as may be necessary to provide for an interagency transfer
23 of funds otherwise available to an eligible entity in order
24 to further the purposes of this section.

25 “(l) ADMINISTRATION OF FUNDS.—

1 “(1) IN GENERAL.—Program funds shall be ad-
2 ministered in such a manner as to allow for a deter-
3 mination that funds from specific a program or pro-
4 grams are spent on allowable activities authorized
5 under such program, except that the eligible entity
6 shall determine the proportion of the funds granted
7 which shall be allocated to such program.

8 “(2) SEPARATE RECORDS NOT REQUIRED.—
9 Nothing in this section shall be construed as requir-
10 ing the eligible entity to maintain separate records
11 tracing any services or activities conducted under its
12 approved plan to the individual programs under
13 which funds were authorized, nor shall the eligible
14 entity be required to allocate expenditures among
15 such individual programs.

16 “(m) OVERAGE.—All administrative costs may be
17 commingled and participating entities shall be entitled to
18 the full amount of such costs (under each program or de-
19 partment’s regulations), and no overage shall be counted
20 for Federal audit purposes, provided that the overage is
21 used for the purposes provided for under this section.

22 “(n) FISCAL ACCOUNTABILITY.—Nothing in this
23 subpart shall be construed so as to interfere with the abil-
24 ity of the Secretary or the lead agency to fulfill the respon-

1 sibilities for the safeguarding of Federal funds pursuant
2 to the Single Audit Act of 1984.

3 “(o) REPORT ON STATUTORY OBSTACLES TO PRO-
4 GRAM INTEGRATION.—

5 “(1) PRELIMINARY REPORT.—Not later than 2
6 years after the date of the enactment of the No
7 Child Left Behind Act of 2001, the Secretary of
8 Education shall submit a preliminary report to the
9 Committee on Health, Education, Labor, and Pen-
10 sions of the Senate and the Committee on Education
11 and the Workforce of the House of Representatives
12 on the status of the implementation of the dem-
13 onstration program authorized under this section.

14 “(2) FINAL REPORT.—Not later than 5 years
15 after the date of the enactment of the No Child Left
16 Behind Act of 2001, the Secretary of Education
17 shall submit a report to the Committee on Health,
18 Education, Labor, and Pensions of the Senate and
19 the Committee on Education and the Workforce of
20 the House of Representatives on the results of the
21 implementation of the demonstration program au-
22 thorized under this section. Such report shall iden-
23 tify statutory barriers to the ability of participants
24 to integrate more effectively their education and re-

1 lated services to Indian students in a manner con-
2 sistent with the purposes of this section.

3 “(p) DEFINITIONS.—For the purposes of this section,
4 the term ‘Secretary’ means—

5 “(1) the Secretary of the Interior, in the case
6 of applicant meeting the definition of contract or
7 grant school under title XI of the Education Amend-
8 ments of 1978; or

9 “(2) the Secretary of Education, in the case of
10 any other applicant.

11 **“SEC. 3217. STUDENT ELIGIBILITY FORMS.**

12 “(a) IN GENERAL.—The Secretary shall require that,
13 as part of an application for a grant under this chapter,
14 each applicant shall maintain a file, with respect to each
15 Indian child for whom the local educational agency pro-
16 vides a free public education, that contains a form that
17 sets forth information establishing the status of the child
18 as an Indian child eligible for assistance under this chap-
19 ter and that otherwise meets the requirements of subsec-
20 tion (b).

21 “(b) FORMS.—

22 “(1) IN GENERAL.—The form described in sub-
23 section (a) shall include—

24 “(A) either—

1 “(i)(I) the name of the tribe or band
2 of Indians (as described in section
3 3251(3)) with respect to which the child
4 claims membership;

5 “(II) the enrollment number estab-
6 lishing the membership of the child (if
7 readily available); and

8 “(III) the name and address of the
9 organization that maintains updated and
10 accurate membership data for such tribe or
11 band of Indians; or

12 “(ii) if the child is not a member of
13 a tribe or band of Indians, the name, the
14 enrollment number (if readily available),
15 and the organization (and address thereof)
16 responsible for maintaining updated and
17 accurate membership rolls of the tribe of
18 any parent or grandparent of the child
19 from whom the child claims eligibility;

20 “(B) a statement of whether the tribe or
21 band of Indians with respect to which the child,
22 parent, or grandparent of the child claims mem-
23 bership is federally recognized;

24 “(C) the name and address of the parent
25 or legal guardian of the child;

1 “(D) a signature of the parent or legal
2 guardian of the child that verifies the accuracy
3 of the information supplied; and

4 “(E) any other information that the Sec-
5 retary considers necessary to provide an accu-
6 rate program profile.

7 “(2) MINIMUM INFORMATION.—In order for a
8 child to be eligible to be counted for the purpose of
9 computing the amount of a grant award made under
10 section 3213, an eligibility form prepared pursuant
11 to this section for a child shall include—

12 “(A) the name of the child;

13 “(B) the name of the tribe or band of Indi-
14 ans (as described in section 3251(3)) with re-
15 spect to which the child claims eligibility; and

16 “(C) the dated signature of the parent or
17 guardian of the child.

18 “(3) FAILURE.—The failure of an applicant to
19 furnish any information described in this subsection
20 other than the information described in paragraph
21 (2) with respect to any child shall have no bearing
22 on the determination of whether the child is an eligi-
23 ble Indian child for the purposes of determining the
24 amount of a grant award made under section 3213.

1 “(c) STATUTORY CONSTRUCTION.—Nothing in this
2 section shall be construed to affect a definition contained
3 in section 3251.

4 “(d) FORMS AND STANDARDS OF PROOF.—The
5 forms and the standards of proof (including the standard
6 of good faith compliance) that were in use during the
7 1985–1986 academic year to establish the eligibility of a
8 child for entitlement under the Indian Elementary and
9 Secondary School Assistance Act shall be the forms and
10 standards of proof used—

11 “(1) to establish such eligibility; and

12 “(2) to meet the requirements of subsection (a).

13 “(e) DOCUMENTATION.—For purposes of deter-
14 mining whether a child is eligible to be counted for the
15 purpose of computing the amount of a grant under section
16 3213, the membership of the child, or any parent or
17 grandparent of the child, in a tribe or band of Indians
18 may be established by proof other than an enrollment
19 number, notwithstanding the availability of an enrollment
20 number for a member of such tribe or band. Nothing in
21 subsection (b) shall be construed to require the furnishing
22 of an enrollment number.

23 “(f) MONITORING AND EVALUATION REVIEW.—

24 “(1) IN GENERAL.—(A) For each fiscal year, in
25 order to provide such information as is necessary to

1 carry out the responsibility of the Secretary to pro-
2 vide technical assistance under this chapter, the Sec-
3 retary shall conduct a monitoring and evaluation re-
4 view of a sampling of the recipients of grants under
5 this chapter. The sampling conducted under this
6 subparagraph shall take into account the size of the
7 local educational agency and the geographic location
8 of such agency.

9 “(B) A local educational agency may not be
10 held liable to the United States or be subject to any
11 penalty, by reason of the findings of an audit that
12 relates to the date of completion, or the date of sub-
13 mission, of any forms used to establish, before April
14 28, 1988, the eligibility of a child for entitlement
15 under the Indian Elementary and Secondary School
16 Assistance Act.

17 “(2) FALSE INFORMATION.—Any local edu-
18 cational agency that provides false information in an
19 application for a grant under this chapter shall—

20 “(A) be ineligible to apply for any other
21 grant under this subpart; and

22 “(B) be liable to the United States for any
23 funds that have not been expended.

24 “(3) EXCLUDED CHILDREN.—A student who
25 provides false information for the form required

1 under subsection (a) shall not be counted for the
2 purpose of computing the amount of a grant under
3 section 3213.

4 “(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—
5 Notwithstanding any other provision of this section, in
6 awarding funds under this chapter to a tribal school that
7 receives a grant or contract from the Bureau of Indian
8 Affairs, the Secretary shall use only one of the following,
9 as selected by the school:

10 “(1) A count of the number of students in those
11 schools certified by the Bureau.

12 “(2) A count of the number of students for
13 whom the school has eligibility forms that comply
14 with this section.

15 “(h) TIMING OF CHILD COUNTS.—For purposes of
16 determining the number of children to be counted in calcu-
17 lating the amount of a local educational agency’s grant
18 under this chapter (other than in the case described in
19 subsection (g)(1)), the local educational agency shall—

20 “(1) establish a date on, or a period not longer
21 than 31 consecutive days during which, the agency
22 counts those children, so long as that date or period
23 occurs before the deadline established by the Sec-
24 retary for submitting an application under section
25 3214; and

1 “(2) determine that each such child was en-
2 rolled, and receiving a free public education, in a
3 school of the agency on that date or during that pe-
4 riod, as the case may be.

5 **“SEC. 3218. PAYMENTS.**

6 “(a) IN GENERAL.—Subject to subsections (b) and
7 (c), the Secretary shall pay to each local educational agen-
8 cy that submits an application that is approved by the Sec-
9 retary under this chapter the amount determined under
10 section 3213. The Secretary shall notify the local edu-
11 cational agency of the amount of the payment not later
12 than June 1 of the year for which the Secretary makes
13 the payment.

14 “(b) PAYMENTS TAKEN INTO ACCOUNT BY THE
15 STATE.—The Secretary may not make a grant under this
16 chapter to a local educational agency for a fiscal year if,
17 for such fiscal year, the State in which the local edu-
18 cational agency is located takes into consideration pay-
19 ments made under this chapter in determining the eligi-
20 bility of the local educational agency for State aid, or the
21 amount of the State aid, with respect to the free public
22 education of children during such fiscal year or the pre-
23 ceding fiscal year.

24 “(c) REDUCTION OF PAYMENT FOR FAILURE TO
25 MAINTAIN FISCAL EFFORT.—

1 “(1) IN GENERAL.—The Secretary may not pay
2 a local educational agency the full amount of a grant
3 award determined under section 3213 for any fiscal
4 year unless the State educational agency notifies the
5 Secretary, and the Secretary determines that, with
6 respect to the provision of free public education by
7 the local educational agency for the preceding fiscal
8 year, the combined fiscal effort of the local edu-
9 cational agency and the State, computed on either a
10 per student or aggregate expenditure basis, was not
11 less than 90 percent of the amount of the combined
12 fiscal effort, computed on the same basis, for the
13 second preceding fiscal year.

14 “(2) FAILURE TO MAINTAIN EFFORT.—If, for
15 any fiscal year, the Secretary determines that a local
16 educational agency failed to maintain the fiscal ef-
17 fort of such agency at the level specified in para-
18 graph (1), the Secretary shall—

19 “(A) reduce the amount of the grant that
20 would otherwise be made to such agency under
21 this chapter in the exact proportion of such
22 agency’s failure to maintain its fiscal effort at
23 such level; and

24 “(B) not use the reduced amount of the
25 agency’s expenditures for the preceding year to

1 determine compliance with paragraph (1) for
2 any succeeding fiscal year, but shall use the
3 amount of expenditures that would have been
4 required to comply with paragraph (1).

5 “(3) WAIVER.—(A) The Secretary may waive
6 the requirement of paragraph (1), for not more than
7 1 year at a time, if the Secretary determines that
8 the failure to comply with such requirement is due
9 to exceptional or uncontrollable circumstances, such
10 as a natural disaster or a precipitous and unforeseen
11 decline in the agency’s financial resources.

12 “(B) The Secretary shall not use the reduced
13 amount of such agency’s expenditures for the fiscal
14 year preceding the fiscal year for which a waiver is
15 granted to determine compliance with paragraph (1)
16 for any succeeding fiscal year, but shall use the
17 amount of expenditures that would have been re-
18 quired to comply with paragraph (1) in the absence
19 of the waiver.

20 “(d) REALLOCATIONS.—The Secretary may reallo-
21 cate, in a manner that the Secretary determines will best
22 carry out the purpose of this chapter, any amounts that—

23 “(1) based on estimates made by local edu-
24 cational agencies or other information, the Secretary

1 determines will not be needed by such agencies to
2 carry out approved programs under this chapter; or
3 “(2) otherwise become available for reallocation
4 under this chapter.

5 **“SEC. 3219. STATE EDUCATIONAL AGENCY REVIEW.**

6 “Before submitting an application to the Secretary
7 under section 3214, a local educational agency shall sub-
8 mit the application to the State educational agency, which
9 may comment on such application. If the State educational
10 agency comments on the application, it shall comment on
11 all applications submitted by local educational agencies in
12 the State and shall provide those comments to the respec-
13 tive local educational agencies, with an opportunity to re-
14 spond.

15 **“CHAPTER 2—SPECIAL PROGRAMS AND**
16 **PROJECTS TO IMPROVE EDU-**
17 **CATIONAL OPPORTUNITIES FOR IN-**
18 **DIAN CHILDREN**

19 **“SEC. 3221. IMPROVEMENT OF EDUCATIONAL OPPORTUNI-**
20 **TIES FOR INDIAN CHILDREN.**

21 “(a) PURPOSE.—

22 “(1) IN GENERAL.—It is the purpose of this
23 section to support projects to develop, test, and dem-
24 onstrate the effectiveness of services and programs

1 to improve educational opportunities and achieve-
2 ment of Indian children.

3 “(2) COORDINATION.—The Secretary shall take
4 such actions as are necessary to achieve the coordi-
5 nation of activities assisted under this chapter
6 with—

7 “(A) other programs funded under this
8 Act; and

9 “(B) other Federal programs operated for
10 the benefit of American Indian and Alaska Na-
11 tive children.

12 “(b) ELIGIBLE ENTITIES.—For the purpose of this
13 section, the term ‘eligible entity’ means a State edu-
14 cational agency, local educational agency, Indian tribe, In-
15 dian organization, federally supported elementary and sec-
16 ondary school for Indian students, Indian institution, in-
17 cluding an Indian institution of higher education, or a con-
18 sortium of such institutions.

19 “(c) GRANTS AUTHORIZED.—

20 “(1) IN GENERAL.—The Secretary shall award
21 grants to eligible entities to enable such entities to
22 carry out activities that meet the purpose specified
23 in subsection (a)(1), including—

1 “(A) innovative programs related to the
2 educational needs of educationally disadvan-
3 taged children;

4 “(B) educational services that are not
5 available to such children in sufficient quantity
6 or quality, including remedial instruction, to
7 raise the achievement of Indian children in one
8 or more of the core academic subjects of
9 English, mathematics, science, foreign lan-
10 guages, art, history, and geography;

11 “(C) bilingual and bicultural programs and
12 projects;

13 “(D) special health and nutrition services,
14 and other related activities, that address the
15 unique health, social, and psychological prob-
16 lems of Indian children;

17 “(E) special compensatory and other pro-
18 grams and projects designed to assist and en-
19 courage Indian children to enter, remain in, or
20 reenter school, and to increase the rate of sec-
21 ondary school graduation;

22 “(F) comprehensive guidance, counseling,
23 and testing services;

24 “(G) early childhood and kindergarten pro-
25 grams, including family-based preschool pro-

1 grams that emphasize school readiness and pa-
2 rental skills, and the provision of services to In-
3 dian children with disabilities;

4 “(H) partnership projects between local
5 educational agencies and institutions of higher
6 education that allow secondary school students
7 to enroll in courses at the postsecondary level to
8 aid such students in the transition from sec-
9 ondary school to postsecondary education;

10 “(I) partnership projects between schools
11 and local businesses for career preparation pro-
12 grams designed to provide Indian youth with
13 the knowledge and skills such youth need to
14 make an effective transition from school to a
15 high-skill, high-wage career;

16 “(J) programs designed to encourage and
17 assist Indian students to work toward, and gain
18 entrance into, an institution of higher edu-
19 cation;

20 “(K) family literacy services; or

21 “(L) other services that meet the purpose
22 described in subsection (a)(1).

23 “(2) PROFESSIONAL DEVELOPMENT.—Profes-
24 sional development of teaching professionals and

1 paraprofessional may be a part of any program as-
2 sisted under this section.

3 “(d) GRANT REQUIREMENTS AND APPLICATIONS.—

4 “(1) GRANT REQUIREMENTS.—(A) The Sec-
5 retary may make multiyear grants under this section
6 for the planning, development, pilot operation, or
7 demonstration of any activity described in subsection
8 (c) for a period not to exceed 5 years.

9 “(B) In making multiyear grants under this
10 section, the Secretary shall give priority to applica-
11 tions that present a plan for combining two or more
12 of the activities described in subsection (c) over a
13 period of more than 1 year.

14 “(C) The Secretary shall make a grant payment
15 to an eligible entity after the initial year of the
16 multiyear grant only if the Secretary determines
17 that the eligible entity has made substantial progress
18 in carrying out the activities assisted under the
19 grant in accordance with the application submitted
20 under paragraph (2) and any subsequent modifica-
21 tions to such application.

22 “(D)(i) In addition to awarding the multiyear
23 grants described in subparagraph (A), the Secretary
24 may award grants to eligible entities for the dissemi-

1 nation of exemplary materials or programs assisted
2 under this section.

3 “(ii) The Secretary may award a dissemination
4 grant under this subparagraph if, prior to awarding
5 the grant, the Secretary determines that the mate-
6 rial or program to be disseminated has been ade-
7 quately reviewed and has demonstrated—

8 “(I) educational merit; and

9 “(II) the ability to be replicated.

10 “(2) APPLICATION.—(A) Any eligible entity
11 that desires to receive a grant under this section
12 shall submit an application to the Secretary at such
13 time and in such manner as the Secretary may re-
14 quire.

15 “(B) Each application submitted to the Sec-
16 retary under subparagraph (A), other than an appli-
17 cation for a dissemination grant under paragraph
18 (1)(D), shall contain—

19 “(i) a description of how parents of Indian
20 children and representatives of Indian tribes
21 have been, and will be, involved in developing
22 and implementing the activities for which as-
23 sistance is sought;

24 “(ii) assurances that the applicant will par-
25 ticipate, at the request of the Secretary, in any

1 national evaluation of activities assisted under
2 this section;

3 “(iii) information demonstrating that the
4 proposed program is either a research-based
5 program (which may be a research-based pro-
6 gram that has been modified to be culturally
7 appropriate for the students who will be
8 served);

9 “(iv) a description of how the applicant
10 will incorporate the proposed services into the
11 ongoing school program once the grant period is
12 over; and

13 “(v) such other assurances and informa-
14 tion as the Secretary may reasonably require.

15 “(e) ADMINISTRATIVE COSTS.—Not more than 5 per-
16 cent of the funds provided to a grantee under this chapter
17 for any fiscal year may be used for administrative pur-
18 poses.

19 **“SEC. 3222. PROFESSIONAL DEVELOPMENT FOR TEACHERS**
20 **AND EDUCATION PROFESSIONALS.**

21 “(a) PURPOSES.—The purposes of this section are—

22 “(1) to increase the number of qualified Indian
23 individuals in teaching or other education profes-
24 sions that serve Indian people;

1 “(2) to provide training to qualified Indian indi-
2 viduals to enable such individuals to become teach-
3 ers, administrators, teacher aides, social workers,
4 and ancillary educational personnel; and

5 “(3) to improve the skills of qualified Indian in-
6 dividuals who serve in the capacities described in
7 paragraph (2).

8 “(b) ELIGIBLE ENTITIES.—For the purpose of this
9 section, the term ‘eligible entity’ means—

10 “(1) an institution of higher education, includ-
11 ing an Indian institution of higher education;

12 “(2) a State or local educational agency, in con-
13 sortium with an institution of higher education; and

14 “(3) an Indian tribe or organization, in consor-
15 tium with an institution of higher education.

16 “(c) PROGRAM AUTHORIZED.—The Secretary is au-
17 thorized to award grants to eligible entities having applica-
18 tions approved under this section to enable such entities
19 to carry out the activities described in subsection (d).

20 “(d) AUTHORIZED ACTIVITIES.—

21 “(1) IN GENERAL.—Grant funds under this sec-
22 tion shall be used to provide support and training
23 for Indian individuals in a manner consistent with
24 the purposes of this section. Such activities may in-
25 clude but are not limited to, continuing programs,

1 symposia, workshops, conferences, and direct finan-
2 cial support.

3 “(2) SPECIAL RULES.—(A) For education per-
4 sonnel, the training received pursuant to a grant
5 under this section may be inservice or preservice
6 training.

7 “(B) For individuals who are being trained to
8 enter any field other than teaching, the training re-
9 ceived pursuant to a grant under this section shall
10 be in a program that results in a graduate degree.

11 “(e) APPLICATION.—Each eligible entity desiring a
12 grant under this section shall submit an application to the
13 Secretary at such time, in such manner and accompanied
14 by such information, as the Secretary may reasonably re-
15 quire.

16 “(f) SPECIAL RULE.—In making grants under this
17 section, the Secretary—

18 “(1) shall consider the prior performance of the
19 eligible entity; and

20 “(2) may not limit eligibility to receive a grant
21 under this section on the basis of—

22 “(A) the number of previous grants the
23 Secretary has awarded such entity; or

24 “(B) the length of any period during which
25 such entity received such grants.

1 “(g) GRANT PERIOD.—Each grant under this section
2 shall be awarded for a period of not more than 5 years.

3 “(h) SERVICE OBLIGATION.—

4 “(1) IN GENERAL.—The Secretary shall re-
5 quire, by regulation, that an individual who receives
6 training pursuant to a grant made under this
7 section—

8 “(A) perform work—

9 “(i) related to the training received
10 under this section; and

11 “(ii) that benefits Indian people; or

12 “(B) repay all or a prorated part of the as-
13 sistance received.

14 “(2) REPORTING.—The Secretary shall estab-
15 lish, by regulation, a reporting procedure under
16 which a grant recipient under this section shall, not
17 later than 12 months after the date of completion of
18 the training, and periodically thereafter, provide in-
19 formation concerning the compliance of such recipi-
20 ent with the work requirement under paragraph (1).

1 **“CHAPTER 3—NATIONAL RESEARCH**
2 **ACTIVITIES**

3 **“SEC. 3231. NATIONAL ACTIVITIES.**

4 “(a) AUTHORIZED ACTIVITIES.—The Secretary may
5 use funds made available under section 3252(b) for each
6 fiscal year to—

7 “(1) conduct research related to effective ap-
8 proaches for the education of Indian children and
9 adults;

10 “(2) evaluate federally assisted education pro-
11 grams from which Indian children and adults may
12 benefit;

13 “(3) collect and analyze data on the educational
14 status and needs of Indians; and

15 “(4) carry out other activities that are con-
16 sistent with the purpose of this subpart.

17 “(b) ELIGIBILITY.—The Secretary may carry out any
18 of the activities described in subsection (a) directly or
19 through grants to, or contracts or cooperative agreements
20 with Indian tribes, Indian organizations, State educational
21 agencies, local educational agencies, institutions of higher
22 education, including Indian institutions of higher edu-
23 cation, and other public and private agencies and
24 institutions.

1 “(c) COORDINATION.—Research activities supported
2 under this section—

3 “(1) shall be carried out in consultation with
4 the Office of Educational Research and Improve-
5 ment to assure that such activities are coordinated
6 with and enhance the research and development ac-
7 tivities supported by the Office; and

8 “(2) may include collaborative research activi-
9 ties which are jointly funded and carried out by the
10 Office of Indian Education Programs and the Office
11 of Educational Research and Improvement.

12 **“CHAPTER 4—FEDERAL ADMINISTRATION**

13 **“SEC. 3241. NATIONAL ADVISORY COUNCIL ON INDIAN EDU-
14 CATION.**

15 “(a) MEMBERSHIP.—There is established a National
16 Advisory Council on Indian Education (hereafter in this
17 section referred to as the ‘Council’), which shall—

18 “(1) consist of 15 Indian members, who shall
19 be appointed by the President from lists of nominees
20 furnished, from time-to-time, by Indian tribes and
21 organizations; and

22 “(2) represent different geographic areas of the
23 United States.

24 “(b) DUTIES.—The Council shall—

1 “(1) advise the Secretary concerning the fund-
2 ing and administration (including the development of
3 regulations and administrative policies and prac-
4 tices) of any program, including any program estab-
5 lished under this subpart—

6 “(A) with respect to which the Secretary
7 has jurisdiction; and

8 “(B)(i) that includes Indian children or
9 adults as participants; or

10 “(ii) that may benefit Indian children or
11 adults;

12 “(2) make recommendations to the Secretary
13 for filling the position of Director of Indian Edu-
14 cation whenever a vacancy occurs; and

15 “(3) submit to the Congress, not later than
16 June 30 of each year, a report on the activities of
17 the Council, including—

18 “(A) any recommendations that the Coun-
19 cil considers appropriate for the improvement of
20 Federal education programs that include Indian
21 children or adults as participants, or that may
22 benefit Indian children or adults; and

23 “(B) recommendations concerning the
24 funding of any program described in subpara-
25 graph (A).

1 **“SEC. 3242. PEER REVIEW.**

2 “The Secretary may use a peer review process to re-
3 view applications submitted to the Secretary under chap-
4 ter 2 or 3.

5 **“SEC. 3243. PREFERENCE FOR INDIAN APPLICANTS.**

6 “In making grants under chapter 2 or 3, the Sec-
7 retary shall give a preference to Indian tribes, organiza-
8 tions, and institutions of higher education under any pro-
9 gram with respect to which Indian tribes, organizations,
10 and institutions are eligible to apply for grants.

11 **“SEC. 3244. MINIMUM GRANT CRITERIA.**

12 “The Secretary may not approve an application for
13 a grant under subpart 2 unless the application is for a
14 grant that is—

15 “(1) of sufficient size, scope, and quality to
16 achieve the purpose or objectives of such grant; and

17 “(2) based on relevant research findings.

18 **“CHAPTER 5—DEFINITIONS;**

19 **AUTHORIZATIONS OF APPROPRIATIONS**

20 **“SEC. 3251. DEFINITIONS.**

21 “For the purposes of this subpart:

22 “(1) ADULT.—The term ‘adult’ means an indi-
23 vidual who—

24 “(A) has attained the age of 16 years; or

1 “(B) has attained an age that is greater
2 than the age of compulsory school attendance
3 under an applicable State law.

4 “(2) FREE PUBLIC EDUCATION.—The term
5 ‘free public education’ means education that is—

6 “(A) provided at public expense, under
7 public supervision and direction, and without
8 tuition charge; and

9 “(B) provided as elementary or secondary
10 education in the applicable State or to preschool
11 children.

12 “(3) INDIAN.—The term ‘Indian’ means an in-
13 dividual who is—

14 “(A) a member of an Indian tribe or band,
15 as membership is defined by the tribe or band,
16 including—

17 “(i) any tribe or band terminated
18 since 1940; and

19 “(ii) any tribe or band recognized by
20 the State in which the tribe or band re-
21 sides;

22 “(B) a descendant, in the first or second
23 degree, of an individual described in subpara-
24 graph (A);

1 “(C) considered by the Secretary of the In-
2 terior to be an Indian for any purpose;

3 “(D) an Eskimo, Aleut, or other Alaska
4 Native; or

5 “(E) a member of an organized Indian
6 group that received a grant under the Indian
7 Education Act of 1988 as it was in effect the
8 day preceding the date of the enactment of the
9 Improving America’s Schools Act of 1994.

10 **“SEC. 3252. AUTHORIZATIONS OF APPROPRIATIONS.**

11 “(a) CHAPTER 1.—For the purpose of carrying out
12 chapter 1 of this subpart, there are authorized to be ap-
13 propriated \$100,000,000 for fiscal year 2002, and such
14 sums as may be necessary for each of fiscal years 2003
15 through 2006.

16 “(b) CHAPTERS 2 AND 3.—For the purpose of car-
17 rying out chapters 2 and 3 of this subpart, there are au-
18 thorized to be appropriated \$25,000,000 for fiscal year
19 2002, and such sums as may be necessary for each of the
20 fiscal years 2003 through 2006.”.

21 (b) SAVINGS PROVISION.—Funds appropriated for
22 part A of title IX of the Elementary and Secondary Edu-
23 cation Act of 1965 (as in effect on the day before the date
24 of the enactment of this Act) shall be available for use

1 under subpart 1 of part B of title III of such Act, as added
2 by this section.

3 **SEC. 312. ALASKA NATIVE EDUCATION.**

4 (a) IN GENERAL.—Part B of title III (as added by
5 section 311 of this Act) is further amended by adding at
6 the end the following new subpart:

7 **“Subpart 2—Alaska Native Education**

8 **“SEC. 3301. SHORT TITLE.**

9 “This subpart may be cited as the ‘Alaska Native
10 Educational Equity, Support, and Assistance Act’.

11 **“SEC. 3302. FINDINGS.**

12 “The Congress finds and declares:

13 “(1) The attainment of educational success is
14 critical to the betterment of the conditions, long-
15 term well-being and preservation of the culture of
16 Alaska Natives.

17 “(2) It is the policy of the Federal Government
18 to encourage the maximum participation by Alaska
19 Natives in the planning and the management of
20 Alaska Native education programs.

21 “(3) Alaska Native children enter and exit
22 school with serious educational handicaps.

23 “(4) The educational achievement of Alaska
24 Native children is far below national norms. In addi-
25 tion to low Native performance on standardized

1 tests, Native student dropout rates are high, and
2 Natives are significantly underrepresented among
3 holders of baccalaureate degrees in the State of
4 Alaska. As a result, Native students are being de-
5 nied their opportunity to become full participants in
6 society by grade school and high school educations
7 that are condemning an entire generation to an
8 underclass status and a life of limited choices.

9 “(5) The programs authorized herein, combined
10 with expanded Head Start, infant learning and early
11 childhood education programs, and parent education
12 programs are essential if educational handicaps are
13 to be overcome.

14 “(6) The sheer magnitude of the geographic
15 barriers to be overcome in delivering educational
16 services in rural and village Alaska should be ad-
17 dressed through the development and implementa-
18 tion of innovative, model programs in a variety of
19 areas.

20 “(7) Congress finds that Native children should
21 be afforded the opportunity to begin their formal
22 education on a par with their non-Native peers. The
23 Federal Government should lend support to efforts
24 developed by and undertaken within the Alaska Na-

1 tive community to improve educational opportunity
2 for all students.

3 **“SEC. 3303. PURPOSE.**

4 “It is the purpose of this subpart to—

5 “(1) recognize the unique educational needs of
6 Alaska Natives;

7 “(2) authorize the development of supplemental
8 educational programs to benefit Alaska Natives;

9 “(3) supplement existing programs and authori-
10 ties in the area of education to further the purposes
11 of this subpart; and

12 “(4) provide direction and guidance to appro-
13 priate Federal, State and local agencies to focus re-
14 sources, including resources made available under
15 this subpart, on meeting the educational needs of
16 Alaska Natives.

17 **“SEC. 3304. PROGRAM AUTHORIZED.**

18 “(a) GENERAL AUTHORITY.—

19 “(1) PROGRAM AUTHORIZED.—The Secretary is
20 authorized to make grants to, or enter into contracts
21 with, Alaska Native organizations, educational enti-
22 ties with experience in developing or operating Alas-
23 ka Native programs or programs of instruction con-
24 ducted in Alaska Native languages, and consortia of

1 such organizations and entities to carry out pro-
2 grams that meet the purpose of this subpart.

3 “(2) PERMISSIBLE ACTIVITIES.—Programs
4 under this subpart may include—

5 “(A) the development and implementation
6 of plans, methods, and strategies to improve the
7 education of Alaska Natives;

8 “(B) the development of curricula and edu-
9 cational programs that address the educational
10 needs of Alaska Native students, including—

11 “(i) curriculum materials that reflect
12 the cultural diversity or the contributions
13 of Alaska Natives;

14 “(ii) instructional programs that make
15 use of Native Alaskan languages; and

16 “(iii) networks that introduce success-
17 ful programs, materials, and techniques to
18 urban and rural schools;

19 “(C) professional development activities for
20 educators, including—

21 “(i) programs to prepare teachers to
22 address the cultural diversity and unique
23 needs of Alaska Native students;

1 “(ii) in-service programs to improve
2 the ability of teachers to meet the unique
3 needs of Alaska Native students; and

4 “(iii) recruiting and preparing teach-
5 ers who are Alaska Natives, reside in com-
6 munities with high concentrations of Alas-
7 ka Native students, or are likely to succeed
8 as teachers in isolated, rural communities
9 and engage in cross-cultural instruction;

10 “(D) the development and operation of
11 home instruction programs for Alaska Native
12 preschool children, the purpose of which is to
13 ensure the active involvement of parents in
14 their children’s education from the earliest
15 ages;

16 “(E) family literacy services;

17 “(F) the development and operation of stu-
18 dent enrichment programs in science and math-
19 ematics that—

20 “(i) are designed to prepare Alaska
21 Native students from rural areas, who are
22 preparing to enter high school, to excel in
23 science and math; and

24 “(ii) provide appropriate support serv-
25 ices to the families of such students that

1 are needed to enable such students to ben-
2 efit from the program;

3 “(G) research and data collection activities
4 to determine the educational status and needs
5 of Alaska Native children and adults;

6 “(H) other research and evaluation activi-
7 ties related to programs under this subpart;
8 and

9 “(I) other activities, consistent with the
10 purposes of this subpart, to meet the edu-
11 cational needs of Alaska Native children and
12 adults.

13 “(3) HOME INSTRUCTION PROGRAMS.—Home
14 instruction programs for Alaska Native preschool
15 children under paragraph (2)(D) may include—

16 “(A) programs for parents and their in-
17 fants, from prenatal through age three;

18 “(B) preschool programs; and

19 “(C) training, education, and support for
20 parents in such areas as reading readiness, ob-
21 servation, story-telling, and critical thinking.

22 “(b) LIMITATION ON ADMINISTRATIVE COSTS.—Not
23 more than 5 percent of funds provided to a grantee under
24 this section for any fiscal year may be used for administra-
25 tive purposes.

1 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated \$15,000,000 for fiscal
3 year 2002, and such sums as may be necessary for each
4 of the fiscal years 2003 through 2006 to carry out this
5 subpart.

6 **“SEC. 3305. ADMINISTRATIVE PROVISIONS.**

7 “(a) APPLICATION REQUIRED.—No grant may be
8 made under this subpart, nor any contract be entered into
9 under this subpart, unless an application is submitted to
10 the Secretary in such form, in such manner, and con-
11 taining such information as the Secretary may determine
12 necessary to carry out the provisions of this subpart.

13 “(b) APPLICATIONS.—State and local educational
14 agencies may apply for an award under this subpart only
15 as subpart of a consortium involving an Alaska Native or-
16 ganization. This consortium may include other eligible ap-
17 plicants.

18 “(c) CONSULTATION REQUIRED.—Each applicant for
19 funding shall provide for ongoing advice from and con-
20 sultation with representatives of the Alaska Native com-
21 munity.

22 “(d) LOCAL EDUCATIONAL AGENCY COORDINA-
23 TION.—Each applicant for an award under this subpart
24 shall inform each local educational agency serving stu-

1 dents who would participate in the project about its appli-
2 cation.

3 **“SEC. 3306. DEFINITIONS.**

4 “For purposes of this subpart—

5 “(1) the term ‘Alaska Native’ has the same
6 meaning as the term ‘Native’ has in section 3(b) of
7 the Alaska Native Claims Settlement Act; and

8 “(2) the term ‘Alaska Native organization’
9 means a federally recognized tribe, consortium of
10 tribes, regional nonprofit Native association, and
11 other Alaska Native organizations that—

12 “(A) has or commits to acquire expertise
13 in the education of Alaska Natives; and

14 “(B) has Alaska Natives in substantive
15 and policy-making positions within the organi-
16 zation.”.

17 (b) SAVINGS PROVISION.—Funds appropriated for
18 part C of title IX of the Elementary and Secondary Edu-
19 cation Act of 1965 (as in effect on the day before the date
20 of the enactment of this Act) shall be available for use
21 under subpart 2 of part B of title III of such Act, as added
22 by this section.

1 **SEC. 313. AMENDMENTS TO THE EDUCATION AMENDMENTS**
2 **OF 1978.**

3 Part B of title XI of the Education Amendments of
4 1978 (25 U.S.C. 2001 et seq.) is amended to read as fol-
5 lows:

6 **“PART B—BUREAU OF INDIAN AFFAIRS**
7 **PROGRAMS**

8 **“SEC. 1120. FINDING AND POLICY.**

9 “(a) FINDING.—Congress finds and recognizes that
10 the Federal Government has the sole responsibility for the
11 operation and financial support of the Bureau of Indian
12 Affairs funded school system that it has established on
13 or near Indian reservations and Indian trust lands
14 throughout the Nation for Indian children.

15 “(b) POLICY.—It is the policy of the United States
16 to work in full cooperation with Indian tribes toward the
17 goal of assuring that the programs of the Bureau of In-
18 dian Affairs funded school system are of the highest qual-
19 ity and meet the unique educational and cultural needs
20 of Indian children.

21 **“SEC. 1121. ACCREDITATION AND STANDARDS FOR THE**
22 **BASIC EDUCATION OF INDIAN CHILDREN IN**
23 **BUREAU OF INDIAN AFFAIRS SCHOOLS.**

24 “(a) PURPOSE.—The purpose of the standards imple-
25 mented under this section shall be to afford Indian stu-
26 dents being served by a school funded by the Bureau of

1 Indian Affairs the same opportunities as all other students
2 in the United States to achieve the same challenging State
3 academic achievement standards expected of all students.

4 “(b) STUDIES AND SURVEYS RELATING TO STAND-
5 ARDS.—Not later than 1 year after the date of the enact-
6 ment of the No Child Left Behind Act of 2001, the Sec-
7 retary, in consultation with the Secretary of Education,
8 consortia of education organizations, and Indian organiza-
9 tions and tribes, and making the fullest use possible of
10 other existing studies, surveys, and plans, shall carry out
11 by contract with an Indian organization, studies and sur-
12 veys to establish and revise standards for the basic edu-
13 cation of Indian children attending Bureau funded
14 schools. Such studies and surveys shall take into account
15 factors such as academic needs, local cultural differences,
16 type and level of language skills, geographic isolation, and
17 appropriate teacher-student ratios for such children, and
18 shall be directed toward the attainment of equal edu-
19 cational opportunity for such children.

20 “(c) REVISION OF MINIMUM ACADEMIC STAND-
21 ARDS.—

22 “(1) IN GENERAL.—Not later than 2 years
23 after the date of the enactment of the No Child Left
24 Behind Act of 2001, the Secretary shall—

1 “(A) propose revisions to the minimum
2 academic standards published in the Federal
3 Register on September 9, 1995 (50 Fed. Reg.
4 174) for the basic education of Indian children
5 attending Bureau funded schools in accordance
6 with the purpose described in subsection (a)
7 and the findings of the studies and surveys con-
8 ducted under subsection (b);

9 “(B) publish such proposed revisions to
10 such standards in the Federal Register for the
11 purpose of receiving comments from the tribes,
12 tribal school boards, Bureau funded schools,
13 and other interested parties; and

14 “(C) consistent with the provisions of this
15 section and section 1131, take such actions as
16 are necessary to coordinate standards imple-
17 mented under this section with the Comprehen-
18 sive School Reform Plan developed by the Bu-
19 reau and—

20 “(i) with the standards of the im-
21 provement plans for the States in which
22 any school operated by the Bureau of In-
23 dian Affairs is located; or

24 “(ii) in the case where schools oper-
25 ated by the Bureau are within the bound-

1 aries of reservation land of one tribe but
2 within the boundaries of more than one
3 State, with the standards of the State im-
4 provement plan of one such State selected
5 by the tribe.

6 “(2) FURTHER REVISIONS.—Not later than 6
7 months after the close of the comment period, the
8 Secretary shall establish final standards, distribute
9 such standards to all tribes and publish such final
10 standards in the Federal Register. The Secretary
11 shall revise such standards periodically as necessary.
12 Prior to any revision of such final standards, the
13 Secretary shall distribute such proposed revision to
14 all the tribes, and publish such proposed revision in
15 the Federal Register, for the purpose of receiving
16 comments from the tribes and other interested par-
17 ties.

18 “(3) APPLICABILITY OF STANDARDS.—Except
19 as provided in subsection (e), the final standards
20 published under paragraph (2) shall apply to all Bu-
21 reau funded schools not accredited under subsection
22 (f), and may also serve as a model for educational
23 programs for Indian children in public schools.

24 “(4) CONSIDERATIONS WHEN ESTABLISHING
25 AND REVISING STANDARDS.—In establishing and re-

1 vising such standards, the Secretary shall take into
2 account the unique needs of Indian students and
3 support and reinforcement of the specific cultural
4 heritage of each tribe.

5 “(d) ALTERNATIVE OR MODIFIED STANDARDS.—The
6 Secretary shall provide alternative or modified standards
7 in lieu of the standards established under subsection (c),
8 where necessary, so that the programs of each school are
9 in compliance with the minimum accreditation standards
10 required for schools in the State or region where the school
11 is located.

12 “(e) WAIVER OF STANDARDS; ALTERNATIVE STAND-
13 ARDS.—A tribal governing body, or the local school board
14 so designated by the tribal governing body, shall have the
15 local authority to waive, in part or in whole, the standards
16 established under subsections (c) and (d) if such standards
17 are deemed by such body to be inappropriate. The tribal
18 governing body or designated school board shall, not later
19 than 60 days after a waiver under this subsection, submit
20 to the Secretary a proposal for alternative standards that
21 take into account the specific needs of the tribe’s children.
22 Such alternative standards shall be established by the Sec-
23 retary unless specifically rejected by the Secretary for
24 good cause and in writing to the affected tribes or local

1 school board, which rejection shall be final and not subject
2 to review.

3 “(f) ACCREDITATION AND IMPLEMENTATION OF
4 STANDARDS.—

5 “(1) DEADLINE FOR MEETING STANDARDS.—

6 Not later the second academic year after publication
7 of the standards, to the extent necessary funding is
8 provided, all Bureau funded schools shall meet the
9 standards established under subsections (c) and (d)
10 or shall be accredited—

11 “(A) by a tribal accrediting body, if the ac-
12 creditation standards of the tribal accrediting
13 body have been accepted by formal action of the
14 tribal governing body and are equal to or ex-
15 ceed the accreditation standards of the State or
16 region in which the school is located;

17 “(B) by a regional accreditation agency; or

18 “(C) by State accreditation standards for
19 the State in which it is located.

20 “(2) DETERMINATION OF STANDARDS TO BE

21 APPLIED.—The accreditation type or standards ap-
22 plied for each school shall be determined by the
23 school board of the school, in consultation with the
24 Administrator of the school, provided that in the
25 case where the School Board and the Administrator

1 fail to agree on the type of accreditation and stand-
2 ards to apply, the decision of the school board with
3 the approval of the tribal governing body shall be
4 final.

5 “(3) ASSISTANCE TO SCHOOL BOARDS.—The
6 Secretary, through contracts and grants, shall assist
7 school boards of contract or grant schools in imple-
8 mentation of the standards established under sub-
9 sections (c) and (d), if the school boards request
10 that such standards, in part or in whole, be imple-
11 mented.

12 “(4) FISCAL CONTROL AND FUND ACCOUNTING
13 STANDARDS.—The Bureau shall, either directly or
14 through contract with an Indian organization, estab-
15 lish a consistent system of reporting standards for
16 fiscal control and fund accounting for all contract
17 and grant schools. Such standards shall provide data
18 comparable to those used by Bureau operated
19 schools.

20 “(g) ANNUAL PLAN FOR MEETING OF STAND-
21 ARDS.—Except as provided in subsections (e) and (f), the
22 Secretary shall begin to implement the standards estab-
23 lished under this section immediately upon the date of
24 their establishment. On an annual basis, the Secretary
25 shall submit to the appropriate committees of Congress,

1 all Bureau funded schools, and the tribal governing bodies
2 of such schools a detailed plan to bring all Bureau schools
3 and contract or grant schools up to the level required by
4 the applicable standards established under this section.
5 Such plan shall include detailed information on the status
6 of each school's educational program in relation to the ap-
7 plicable standards established under this section, specific
8 cost estimates for meeting such standards at each school
9 and specific timelines for bringing each school up to the
10 level required by such standards.

11 “(h) CLOSURE OR CONSOLIDATION OF SCHOOLS.—

12 “(1) IN GENERAL.—Except as specifically re-
13 quired by statute, no school or peripheral dormitory
14 operated by the Bureau on or after January 1,
15 1992, may be closed or consolidated or have its pro-
16 gram substantially curtailed unless done according
17 to the requirements of this subsection.

18 “(2) EXCEPTIONS.—This subsection shall not
19 apply—

20 “(A) in those cases where the tribal gov-
21 erning body, or the local school board concerned
22 (if so designated by the tribal governing body),
23 requests closure or consolidation; or

24 “(B) when a temporary closure, consolida-
25 tion, or substantial curtailment is required by

1 plant conditions which constitute an immediate
2 hazard to health and safety.

3 “(3) REGULATIONS.—The Secretary shall, by
4 regulation, promulgate standards and procedures for
5 the closure, transfer to another authority, consolida-
6 tion, or substantial curtailment of Bureau schools, in
7 accordance with the requirements of this subsection.

8 “(4) NOTICE.—Whenever closure, transfer to
9 another authority, consolidation, or substantial cur-
10 tailment of a school is under active consideration or
11 review by any division of the Bureau or the Depart-
12 ment of the Interior, the affected tribe, tribal gov-
13 erning body, and designated local school board, will
14 be notified immediately, kept fully and currently in-
15 formed, and afforded an opportunity to comment
16 with respect to such consideration or review. When
17 a formal decision is made to close, transfer to an-
18 other authority, consolidate, or substantially curtail
19 a school, the affected tribe, tribal governing body,
20 and designated school board shall be notified at least
21 6 months prior to the end of the school year pre-
22 ceding the proposed closure date. Copies of any such
23 notices and information shall be transmitted prompt-
24 ly to the appropriate committees of Congress and
25 published in the Federal Register.

1 “(5) REPORT.—The Secretary shall make a re-
2 port to the appropriate committees of Congress, the
3 affected tribe, and the designated school board de-
4 scribing the process of the active consideration or re-
5 view referred to in paragraph (4). The report shall
6 include a study of the impact of such action on the
7 student population, identify those students with par-
8 ticular educational and social needs, and ensure that
9 alternative services are available to such students.
10 Such report shall include the description of the con-
11 sultation conducted between the potential service
12 provider, current service provider, parents, tribal
13 representatives and the tribe or tribes involved, and
14 the Director of the Office of Indian Education Pro-
15 grams within the Bureau regarding such students.

16 “(6) LIMITATION ON CERTAIN ACTIONS.—No
17 irrevocable action may be taken in furtherance of
18 any such proposed school closure, transfer to an-
19 other authority, consolidation, or substantial curtail-
20 ment (including any action which would prejudice
21 the personnel or programs of such school) prior to
22 the end of the first full academic year after such re-
23 port is made.

24 “(7) TRIBAL GOVERNING BODY APPROVAL RE-
25 QUIRED FOR CERTAIN ACTIONS.—The Secretary may

1 terminate, contract, transfer to any other authority,
2 consolidate, or substantially curtail the operation or
3 facilities of—

4 “(A) any Bureau funded school that is op-
5 erated on or after of January 1, 1999;

6 “(B) any program of such a school that is
7 operated on or after January 1, 1999; or

8 “(C) any school board of a school operated
9 under a grant under the Tribally Controlled
10 Schools Act of 1988,

11 only if the tribal governing body approves such ac-
12 tion.

13 “(i) APPLICATION FOR CONTRACTS OR GRANTS FOR
14 NON-BUREAU FUNDED SCHOOLS OR EXPANSION OF BU-
15 REAU FUNDED SCHOOLS.—

16 “(1) IN GENERAL.—(A)(i) The Secretary shall
17 only consider the factors described in subparagraph
18 (B) in reviewing—

19 “(I) applications from any tribe for the
20 awarding of a contract or grant for a school
21 that is not a Bureau funded school; and

22 “(II) applications from any tribe or school
23 board of any Bureau funded school for—

24 “(aa) a school which is not a Bureau
25 funded school; or

1 “(bb) the expansion of a Bureau
2 funded school which would increase the
3 amount of funds received by the Indian
4 tribe or school board under section 1127.

5 “(ii) With respect to applications described in
6 this subparagraph, the Secretary shall give consider-
7 ation to all the factors described in subparagraph
8 (B), but no such application shall be denied based
9 primarily upon the geographic proximity of com-
10 parable public education.

11 “(B) With respect to applications described in
12 subparagraph (A) the Secretary shall consider the
13 following factors relating to the program and serv-
14 ices that are the subject of the application:

15 “(i) The adequacy of the facilities or the
16 potential to obtain or provide adequate facili-
17 ties.

18 “(ii) Geographic and demographic factors
19 in the affected areas.

20 “(iii) The adequacy of the applicant’s pro-
21 gram plans or, in the case of a Bureau funded
22 school, of projected needs analysis done either
23 by the tribe or the Bureau.

24 “(iv) Geographic proximity of comparable
25 public education.

1 “(v) The stated needs of all affected par-
2 ties, including students, families, tribal govern-
3 ments at both the central and local levels, and
4 school organizations.

5 “(vi) Adequacy and comparability of pro-
6 grams already available.

7 “(vii) Consistency of available programs
8 with tribal educational codes or tribal legisla-
9 tion on education.

10 “(viii) The history and success of these
11 services for the proposed population to be
12 served, as determined from all factors, including
13 but not limited to standardized examination
14 performance.

15 “(2) DETERMINATION ON APPLICATION.—(A)
16 The Secretary shall make a determination of wheth-
17 er to approve any application described in paragraph
18 (1)(A) not later than 180 days after such applica-
19 tion is submitted to the Secretary.

20 “(B) If the Secretary fails to make the deter-
21 mination with respect to an application by the date
22 described in subparagraph (A), the application shall
23 be treated as having been approved by the Secretary.

24 “(3) REQUIREMENTS FOR APPLICATIONS.—(A)
25 Notwithstanding paragraph (2)(B), an application

1 described in paragraph (1)(A) may be approved by
2 the Secretary only if—

3 “(i) the application has been approved by
4 the tribal governing body of the students served
5 by (or to be served by) the school or program
6 that is the subject of the application; and

7 “(ii) written evidence of such approval is
8 submitted with the application.

9 “(B) Each application described in paragraph
10 (1)(A) shall provide information concerning each of
11 the factors described in paragraph (1)(B).

12 “(4) DENIAL OF APPLICATIONS.—Whenever the
13 Secretary makes a determination to deny approval of
14 any application described in paragraph (1)(A), the
15 Secretary shall—

16 “(A) state the objections in writing to the
17 applicant not later 180 days after the applica-
18 tion is submitted to the Secretary;

19 “(B) provide assistance to the applicant to
20 overcome stated objections; and

21 “(C) provide the applicant a hearing,
22 under the same rules and regulations pertaining
23 to the Indian Self-Determination and Education
24 Assistance Act and an opportunity to appeal
25 the objections raised by the Secretary.

1 “(5) EFFECTIVE DATE OF A SUBJECT APPLICA-
2 TION.—(A) Except as otherwise provided in this
3 paragraph, the action which is the subject of any ap-
4 plication described in paragraph (1)(A) that is ap-
5 proved by the Secretary shall become effective at the
6 beginning of the academic year following the fiscal
7 year in which the application is approved, or at an
8 earlier date determined by the Secretary.

9 “(B) If an application is treated as having been
10 approved by the Secretary under paragraph (2)(B),
11 the action that is the subject of the application shall
12 become effective on the date that is 18 months after
13 the date on which the application is submitted to the
14 Secretary, or at an earlier date determined by the
15 Secretary.

16 “(6) STATUTORY CONSTRUCTION.—Nothing in
17 this section shall be read so as to preclude the ex-
18 pansion of grades and related facilities at a Bureau
19 funded school where such expansion and the mainte-
20 nance of such expansion is occasioned or paid for
21 with non-Bureau funds.

22 “(j) GENERAL USE OF FUNDS.—Funds received by
23 Bureau funded schools from the Bureau of Indian Affairs
24 and under any program from the Department of Edu-
25 cation or any other Federal agency for the purpose of pro-

1 viding education or related services may be used for
2 schoolwide projects to improve the educational program
3 for all Indian students.

4 “(k) STUDY ON ADEQUACY OF FUNDS AND FOR-
5 MULAS.—The Comptroller General shall conduct a study,
6 in consultation with Indian tribes and local school boards,
7 to determine the adequacy of funding, and formulas used
8 by the Bureau to determine funding, for programs oper-
9 ated by Bureau funded schools, taking into account unique
10 circumstances applicable to Bureau funded schools, as well
11 as expenditures for comparable purposes in public schools
12 nationally. Upon completion of the study, the Secretary
13 of the Interior shall take such action as necessary to en-
14 sure distribution of the findings of the study to all affected
15 Indian tribes, local school boards, and associations of local
16 school boards.

17 **“SEC. 1122. NATIONAL CRITERIA FOR HOME-LIVING SITUA-**
18 **TIONS.**

19 “(a) IN GENERAL.—The Secretary, in consultation
20 with the Secretary of Education, Indian organizations and
21 tribes, and Bureau funded schools, shall revise the na-
22 tional standards for home-living (dormitory) situations to
23 include such factors as heating, lighting, cooling, adult-
24 child ratios, needs for counselors (including special needs
25 related to off-reservation home-living (dormitory) situa-

1 tions), therapeutic programs, space, and privacy. Such
2 standards shall be implemented in Bureau operated
3 schools, and shall serve as minimum standards for con-
4 tract or grant schools. Once established, any revisions of
5 such standards shall be developed according to the re-
6 quirements established under section 1138A.

7 “(b) IMPLEMENTATION.—The Secretary shall imple-
8 ment the revised standards established under this section
9 immediately upon their completion.

10 “(c) PLAN.—At the time of each annual budget sub-
11 mission for Bureau educational services is presented, the
12 Secretary shall submit to the appropriate committees of
13 Congress, the tribes, and the affected schools, and publish
14 in the Federal Register, a detailed plan to bring all Bu-
15 reau funded schools that provide home-living (dormitory)
16 situations up to the standards established under this sec-
17 tion. Such plan shall include a statement of the relative
18 needs of each Bureau funded home-living (dormitory)
19 school, projected future needs of each Bureau funded
20 home-living (dormitory) school, detailed information on
21 the status of each school in relation to the standards es-
22 tablished under this section, specific cost estimates for
23 meeting each standard for each such school, aggregate
24 cost estimates for bringing all such schools into compli-
25 ance with the criteria established under this section, and

1 specific timelines for bringing each school into compliance
2 with such standards.

3 “(d) WAIVER.—The criteria established under this
4 section may be waived in the same manner as the stand-
5 ards provided under section 1121(c) may be waived.

6 “(e) CLOSURE FOR FAILURE TO MEET STANDARDS
7 PROHIBITED.—No school in operation on or before Janu-
8 ary 1, 1987 (regardless of compliance or noncompliance
9 with the criteria established under this section), may be
10 closed, transferred to another authority, consolidated, or
11 have its program substantially curtailed for failure to meet
12 the criteria.

13 **“SEC. 1123. CODIFICATION OF REGULATIONS.**

14 “(a) PART 32 OF TITLE 25 OF CODE OF FEDERAL
15 REGULATIONS.—The provisions of part 32 of title 25 of
16 the Code of Federal Regulations, as in effect on January
17 1, 1987, are incorporated into this Act and shall be treat-
18 ed as though such provisions are set forth in this sub-
19 section. Such provisions may be altered only by means of
20 an Act of Congress. To the extent that such provisions
21 of part 32 do not conform with this Act or any statutory
22 provision of law enacted before November 1, 1978, the
23 provisions of this Act and the provisions of such other
24 statutory law shall govern.

1 “(b) **REGULATION DEFINED.**—For purposes of this
2 part, the term ‘regulation’ means any rules, regulations,
3 guidelines, interpretations, orders, or requirements of gen-
4 eral applicability prescribed by any officer or employee of
5 the executive branch.

6 **“SEC. 1124. SCHOOL BOUNDARIES.**

7 “(a) **ESTABLISHMENT BY SECRETARY.**—The Sec-
8 retary shall establish, by regulation, separate geographical
9 attendance areas for each Bureau funded school.

10 “(b) **ESTABLISHMENT BY TRIBAL BODY.**—In any
11 case where there is more than one Bureau funded school
12 located on an Indian reservation, at the direction of the
13 tribal governing body, the relevant school boards of the
14 Bureau funded schools on the reservation may, by mutual
15 consent, establish the relevant attendance areas for such
16 schools, subject to the approval of the tribal governing
17 body. Any such boundaries so established shall be accepted
18 by the Secretary.

19 “(c) **BOUNDARY REVISIONS.**—

20 “(1) **IN GENERAL.**—On or after July 1, 2001,
21 no geographical attendance area shall be revised or
22 established with respect to any Bureau funded
23 school unless the tribal governing body or the local
24 school board concerned (if so designated by the trib-
25 al governing body) has been afforded—

1 “(A) at least 6 months notice of the inten-
2 tion of the Bureau to revise or establish such
3 attendance area; and

4 “(B) the opportunity to propose alternative
5 boundaries.

6 Any tribe may petition the Secretary for revision of
7 existing attendance area boundaries. The Secretary
8 shall accept such proposed alternative or revised
9 boundaries unless the Secretary finds, after con-
10 sultation with the affected tribe or tribes, that such
11 revised boundaries do not reflect the needs of the In-
12 dian students to be served or do not provide ade-
13 quate stability to all of the affected programs. The
14 Secretary shall cause such revisions to be published
15 in the Federal Register.

16 “(2) TRIBAL RESOLUTION DETERMINATION.—
17 Nothing in this section shall be interpreted as deny-
18 ing a tribal governing body the authority, on a con-
19 tinuing basis, to adopt a tribal resolution allowing
20 parents the choice of the Bureau funded school their
21 children may attend, regardless of the attendance
22 boundaries established under this section.

23 “(d) FUNDING RESTRICTIONS.—The Secretary shall
24 not deny funding to a Bureau funded school for any eligi-
25 ble Indian student attending the school solely because that

1 student's home or domicile is outside of the geographical
2 attendance area established for that school under this sec-
3 tion. No funding shall be made available without tribal au-
4 thorization to enable a school to provide transportation for
5 any student to or from the school and a location outside
6 the approved attendance area of the school.

7 “(e) RESERVATION AS BOUNDARY.—In any case
8 where there is only one Bureau funded program located
9 on an Indian reservation, the attendance area for the pro-
10 gram shall be the boundaries (established by treaty, agree-
11 ment, legislation, court decisions, or executive decisions
12 and as accepted by the tribe) of the reservation served,
13 and those students residing near the reservation shall also
14 receive services from such program.

15 “(f) OFF-RESERVATION HOME-LIVING (DORMITORY)
16 SCHOOLS.—Notwithstanding any geographical attendance
17 areas, attendance at off-reservation home-living (dor-
18 mitory) schools shall include students requiring special
19 emphasis programs to be implemented at each off-reserva-
20 tion home-living (dormitory) school. Such attendance shall
21 be coordinated between education line officers, the family,
22 and the referring and receiving programs.

23 **“SEC. 1125. FACILITIES CONSTRUCTION.**

24 “(a) COMPLIANCE WITH HEALTH AND SAFETY
25 STANDARDS.—The Secretary shall immediately begin to

1 bring all schools, dormitories, and other Indian education-
2 related facilities operated by the Bureau or under contract
3 or grant with the Bureau into compliance with all applica-
4 ble tribal, Federal, or State health and safety standards,
5 whichever provides greater protection (except that the
6 tribal standards to be applied shall be no greater than any
7 otherwise applicable Federal or State standards), with sec-
8 tion 504 of the Rehabilitation Act of 1973, and with the
9 Americans with Disabilities Act of 1990. Nothing in this
10 section shall require termination of the operations of any
11 facility which does not comply with such provisions and
12 which is in use on the date of the enactment of the No
13 Child Left Behind Act of 2001.

14 “(b) COMPLIANCE PLAN.—At the time that the an-
15 nual budget request for Bureau educational services is
16 presented, the Secretary shall submit to the appropriate
17 committees of Congress a detailed plan to bring all facili-
18 ties covered under subsection (a) of this section into com-
19 pliance with the standards referred to in subsection (a).
20 Such plan shall include detailed information on the status
21 of each facility’s compliance with such standards, specific
22 cost estimates for meeting such standards at each school,
23 and specific timelines for bringing each school into compli-
24 ance with such standards.

25 “(c) CONSTRUCTION PRIORITIES.—

1 “(1) SYSTEM TO ESTABLISH PRIORITIES.—On
2 an annual basis the Secretary shall submit to the
3 appropriate committees of Congress and cause to be
4 published in the Federal Register, the system used
5 to establish priorities for replacement and construc-
6 tion projects for Bureau funded schools and home-
7 living schools, including boarding schools and dor-
8 mitories. At the time any budget request for edu-
9 cation is presented, the Secretary shall publish in
10 the Federal Register and submit with the budget re-
11 quest the current list of all Bureau funded school
12 construction priorities.

13 “(2) LONG-TERM CONSTRUCTION AND RE-
14 PLACEMENT LIST.—In addition to the plan sub-
15 mitted under subsection (b), the Secretary shall—

16 “(A) not later than 18 months after the
17 date of the enactment of the No Child Left Be-
18 hind Act of 2001, establish a long-term con-
19 struction and replacement list for all Bureau
20 funded schools;

21 “(B) using the list prepared under sub-
22 paragraph (A), propose a list for the orderly re-
23 placement of all Bureau funded education-re-
24 lated facilities over a period of 40 years to en-

1 able planning and scheduling of budget re-
2 quests;

3 “(C) cause the list prepared under sub-
4 section (B) to be published in the Federal Reg-
5 ister and allow a period of not less than 120
6 days for public comment;

7 “(D) make such revisions to the list pre-
8 pared under subparagraph (B) as are appro-
9 priate based on the comments received; and

10 “(E) cause the final list to be published in
11 the Federal Register.

12 “(3) EFFECT ON OTHER LIST.—Nothing in this
13 section shall be construed as interfering with or
14 changing in any way the construction priority list as
15 it exists on the date of the enactment of the No
16 Child Left Behind Act of 2001.

17 “(d) HAZARDOUS CONDITION AT BUREAU
18 SCHOOL.—

19 “(1) CLOSURE OR CONSOLIDATION.—A Bureau
20 funded school may be closed or consolidated, and the
21 programs of a Bureau funded school may be sub-
22 stantially curtailed by reason of plant conditions
23 that constitute an immediate hazard to health and
24 safety only if a health and safety officer of the Bu-

1 reau determines that such conditions exist at the
2 Bureau funded school.

3 “(2) INSPECTION.—(A) After making a deter-
4 mination described in paragraph (1), the Bureau
5 health and safety officer shall conduct an inspection
6 of the condition of such plant accompanied by an ap-
7 propriate tribal, county, municipal, or State health
8 and safety officer in order to determine whether con-
9 ditions at such plant constitute an immediate hazard
10 to health and safety. Such inspection shall be com-
11 pleted by not later than the date that is 30 days
12 after the date on which the action described in para-
13 graph (1) is taken. No further negative action may
14 be taken unless the findings are concurred in by the
15 second, non-Bureau of Indian Affairs inspector.

16 “(B) If the health and safety officer conducting
17 the inspection of a plant required under subpara-
18 graph (A) determines that conditions at the plant do
19 not constitute an immediate hazard to health and
20 safety, any consolidation or curtailment that was
21 made under paragraph (1) shall immediately cease
22 and any school closed by reason of conditions at the
23 plant shall be reopened immediately.

24 “(C) If a Bureau funded school is temporarily
25 closed or consolidated or the programs of a Bureau

1 funded school are substantially curtailed under this
2 subsection and the Secretary determines that the
3 closure, consolidation, or curtailment will exceed 1
4 year, the Secretary shall submit to the Congress, by
5 not later than 6 months after the date on which the
6 closure, consolidation, or curtailment was initiated, a
7 report which sets forth the reasons for such tem-
8 porary actions, the actions the Secretary is taking to
9 eliminate the conditions that constitute the hazard,
10 and an estimated date by which such actions will be
11 concluded.

12 “(e) FUNDING REQUIREMENT.—

13 “(1) DISTRIBUTION OF FUNDS.—Beginning
14 with the fiscal year following the year of the date of
15 the enactment of the No Child Left Behind Act of
16 2001, all funds appropriated for the operations and
17 maintenance of Bureau funded schools shall be dis-
18 tributed by formula to the schools. No funds from
19 this account may be retained or segregated by the
20 Bureau to pay for administrative or other costs of
21 any facilities branch or office, at any level of the Bu-
22 reau.

23 “(2) REQUIREMENTS FOR CERTAIN USES.—No
24 funds shall be withheld from the distribution to the
25 budget of any school operated under contract or

1 grant by the Bureau for maintenance or any other
2 facilities or road related purpose, unless such school
3 has consented, as a modification to the contract or
4 in writing for grants schools, to the withholding of
5 such funds, including the amount thereof, the pur-
6 pose for which the funds will be used, and the
7 timeline for the services to be provided. The school
8 may, at the end of any fiscal year, cancel an agree-
9 ment under this paragraph upon giving the Bureau
10 30 days notice of its intent to do so.

11 “(f) NO REDUCTION IN FEDERAL FUNDING.—Noth-
12 ing in this section shall be construed to diminish any Fed-
13 eral funding due to the receipt by the school of funding
14 for facilities improvement or construction from a State or
15 any other source.

16 **“SEC. 1126. BUREAU OF INDIAN AFFAIRS EDUCATION FUNC-**
17 **TIONS.**

18 “(a) FORMULATION AND ESTABLISHMENT OF POL-
19 ICY AND PROCEDURE; SUPERVISION OF PROGRAMS AND
20 EXPENDITURES.—The Secretary shall vest in the Assist-
21 ant Secretary for Indian Affairs all functions with respect
22 to formulation and establishment of policy and procedure
23 and supervision of programs and expenditures of Federal
24 funds for the purpose of Indian education administered
25 by the Bureau. The Assistant Secretary shall carry out

1 such functions through the Director of the Office of Indian
2 Education Programs.

3 “(b) DIRECTION AND SUPERVISION OF PERSONNEL
4 OPERATIONS.—Not later than 6 months after the date of
5 the enactment of the No Child Left Behind Act of 2001,
6 the Director of the Office of Indian Education Programs
7 shall direct and supervise the operations of all personnel
8 directly and substantially involved in the provision of edu-
9 cation services by the Bureau, including school or institu-
10 tion custodial or maintenance personnel, facilities manage-
11 ment, contracting, procurement, and finance personnel.
12 The Assistant Secretary for Indian Affairs shall coordi-
13 nate the transfer of functions relating to procurement,
14 contracts, operation, and maintenance of schools and
15 other support functions to the Director.

16 “(c) EVALUATION OF PROGRAMS; SERVICES AND
17 SUPPORT FUNCTIONS; TECHNICAL AND COORDINATING
18 ASSISTANCE.—Education personnel who are under the di-
19 rection and supervision of the Director of the Office of
20 Indian Education Programs in accordance with the first
21 sentence of subsection (b) shall—

22 “(1) monitor and evaluate Bureau education
23 programs;

1 “(2) provide all services and support functions
2 for education programs with respect to personnel
3 matters involving staffing actions and functions; and

4 “(3) provide technical and coordinating assist-
5 ance in areas such as procurement, contracting,
6 budgeting, personnel, curriculum, and operation and
7 maintenance of school facilities.

8 “(d) CONSTRUCTION, IMPROVEMENT, OPERATION,
9 AND MAINTENANCE OF FACILITIES.—

10 “(1) PLAN FOR CONSTRUCTION.—The Assistant
11 Secretary shall submit in the annual budget a
12 plan—

13 “(A) for school facilities to be constructed
14 under section 1125(c);

15 “(B) for establishing priorities among
16 projects and for the improvement and repair of
17 educational facilities, which together shall form
18 the basis for the distribution of appropriated
19 funds; and

20 “(C) for capital improvements to be made
21 over the five succeeding years.

22 “(2) PROGRAM FOR OPERATION AND MAINTENANCE.—

23 “(A) ESTABLISHMENT.—The Assistant
24 Secretary shall establish a program, including
25

1 the distribution of appropriated funds, for the
2 operation and maintenance of education facili-
3 ties. Such program shall include—

4 “(i) a method of computing the
5 amount necessary for each educational fa-
6 cility;

7 “(ii) similar treatment of all Bureau
8 funded schools;

9 “(iii) a notice of an allocation of ap-
10 propriated funds from the Director of the
11 Office of Indian Education Programs di-
12 rectly to the education line officers and ap-
13 propriate school officials;

14 “(iv) a method for determining the
15 need for, and priority of, facilities repair
16 and maintenance projects, both major and
17 minor. In making such determination, the
18 Assistant Secretary shall cause to be con-
19 ducted a series of meetings at the agency
20 and area level with representatives of the
21 Bureau funded schools in those areas and
22 agencies to receive comment on the lists
23 and prioritization of such projects; and

24 “(v) a system for the conduct of rou-
25 tine preventive maintenance.

1 “(B) LOCAL SUPERVISORS.—The appro-
2 priate education line officers shall make ar-
3 rangements for the maintenance of education
4 facilities with the local supervisors of the Bu-
5 reau maintenance personnel. The local super-
6 visors of Bureau maintenance personnel shall
7 take appropriate action to implement the deci-
8 sions made by the appropriate education line of-
9 ficers, except that no funds under this chapter
10 may be authorized for expenditure unless such
11 appropriate education line officer is assured
12 that the necessary maintenance has been, or
13 will be, provided in a reasonable manner.

14 “(3) IMPLEMENTATION.—The requirements of
15 this subsection shall be implemented as soon as
16 practicable after the date of the enactment of the No
17 Child Left Behind Act of 2001.

18 “(e) ACCEPTANCE OF GIFTS AND BEQUESTS.—Not-
19 withstanding any other provision of law, the Director shall
20 promulgate guidelines for the establishment of mecha-
21 nisms for the acceptance of gifts and bequests for the use
22 and benefit of particular schools or designated Bureau op-
23 erated education programs, including, where appropriate,
24 the establishment and administration of trust funds.
25 When a Bureau operated program is the beneficiary of

1 such a gift or bequest, the Director shall make provisions
2 for monitoring its use and shall report to the appropriate
3 committees of Congress the amount and terms of such gift
4 or bequest, the manner in which such gift or bequest shall
5 be used, and any results achieved by such action.

6 “(f) FUNCTIONS CLARIFIED.—For the purpose of
7 this section, the term ‘functions’ includes powers and du-
8 ties.

9 **“SEC. 1127. ALLOTMENT FORMULA.**

10 “(a) FACTORS CONSIDERED; REVISION TO REFLECT
11 STANDARDS.—

12 “(1) FORMULA.—The Secretary shall establish,
13 by regulation adopted in accordance with section
14 1138A, a formula for determining the minimum an-
15 nual amount of funds necessary to sustain each Bu-
16 reau funded school. In establishing such formula,
17 the Secretary shall consider—

18 “(A) the number of eligible Indian stu-
19 dents served and total student population of the
20 school;

21 “(B) special cost factors, such as—

22 “(i) the isolation of the school;

23 “(ii) the need for special staffing,
24 transportation, or educational programs;

25 “(iii) food and housing costs;

1 “(iv) maintenance and repair costs as-
2 sociated with the physical condition of the
3 educational facilities;

4 “(v) special transportation and other
5 costs of isolated and small schools;

6 “(vi) the costs of home-living (dor-
7 mitory) arrangements, where determined
8 necessary by a tribal governing body or
9 designated school board;

10 “(vii) costs associated with greater
11 lengths of service by education personnel;

12 “(viii) the costs of therapeutic pro-
13 grams for students requiring such pro-
14 grams; and

15 “(ix) special costs for gifted and tal-
16 ented students;

17 “(C) the cost of providing academic serv-
18 ices which are at least equivalent to those pro-
19 vided by public schools in the State in which
20 the school is located; and

21 “(D) such other relevant factors as the
22 Secretary determines are appropriate.

23 “(2) REVISION OF FORMULA.—Upon the estab-
24 lishment of the standards required in sections 1121
25 and 1122, the Secretary shall revise the formula es-

1 established under this subsection to reflect the cost of
2 funding such standards. Not later than January 1,
3 2003, the Secretary shall review the formula estab-
4 lished under this section and shall take such steps
5 as are necessary to increase the availability of coun-
6 seling and therapeutic programs for students in off-
7 reservation home-living (dormitory) schools and
8 other Bureau operated residential facilities. Concur-
9 rent with such action, the Secretary shall review the
10 standards established under section 1122 to be cer-
11 tain that adequate provision is made for parental no-
12 tification regarding, and consent for, such counseling
13 and therapeutic programs.

14 “(b) PRO RATA ALLOTMENT.—Notwithstanding any
15 other provision of law, Federal funds appropriated for the
16 general local operation of Bureau funded schools shall be
17 allotted pro rata in accordance with the formula estab-
18 lished under subsection (a).

19 “(c) ANNUAL ADJUSTMENT; RESERVATION OF
20 AMOUNT FOR SCHOOL BOARD ACTIVITIES.—

21 “(1) ANNUAL ADJUSTMENT.—For fiscal year
22 2003, and for each subsequent fiscal year, the Sec-
23 retary shall adjust the formula established under
24 subsection (a) to ensure that the formula does the
25 following:

1 “(A) Uses a weighted unit of 1.2 for each
2 eligible Indian student enrolled in the seventh
3 and eighth grades of the school in considering
4 the number of eligible Indian students served
5 by the school.

6 “(B) Considers a school with an enroll-
7 ment of less than 50 eligible Indian students as
8 having an average daily attendance of 50 eligi-
9 ble Indian students for purposes of imple-
10 menting the adjustment factor for small
11 schools.

12 “(C) Takes into account the provision of
13 residential services on less than a 9-month basis
14 at a school when the school board and super-
15 visor of the school determine that a less than
16 9-month basis will be implemented for the
17 school year involved.

18 “(D) Uses a weighted unit of 2.0 for each
19 eligible Indian student that—

20 “(i) is gifted and talented; and

21 “(ii) is enrolled in the school on a full-
22 time basis,

23 in considering the number of eligible Indian
24 students served by the school.

1 “(E) Uses a weighted unit of 0.25 for each
2 eligible Indian student who is enrolled in a
3 yearlong credit course in an Indian or Native
4 language as part of the regular curriculum of a
5 school, in considering the number of eligible In-
6 dian students served by such school. The ad-
7 justment required under this subparagraph
8 shall be used for such school after—

9 “(i) the certification of the Indian or
10 Native language curriculum by the school
11 board of such school to the Secretary, to-
12 gether with an estimate of the number of
13 full-time students expected to be enrolled
14 in the curriculum in the second school year
15 for which the certification is made; and

16 (ii) the funds appropriated for allot-
17 ment under this section are designated by
18 the appropriations Act appropriating such
19 funds as the amount necessary to imple-
20 ment such adjustment at such school with-
21 out reducing allotments made under this
22 section to any school by virtue of such ad-
23 justment.

24 “(2) RESERVATION OF AMOUNT.—

1 “(A) IN GENERAL.—From the funds allotted
2 ted in accordance with the formula established
3 under subsection (a) for each Bureau school,
4 the local school board of such school may re-
5 serve an amount which does not exceed the
6 greater of—

7 “(i) \$8,000; or

8 “(ii) the lesser of—

9 “(I) \$15,000; or

10 “(II) 1 percent of such allotted
11 funds,

12 for school board activities for such school, in-
13 cluding (notwithstanding any other provision of
14 law) meeting expenses and the cost of member-
15 ship in, and support of, organizations engaged
16 in activities on behalf of Indian education.

17 “(B) TRAINING.—Each school board shall
18 see that each new member of the school board
19 receives, within 12 months of the individual’s
20 assuming a position on the school board, 40
21 hours of training relevant to that individual’s
22 service on the board. Such training may include
23 legal issues pertaining to schools funded by the
24 Bureau, legal issues pertaining to school

1 boards, ethics, and other topics deemed appro-
2 priate by the school board.

3 “(d) RESERVATION OF AMOUNT FOR EMER-
4 GENCIES.—The Secretary shall reserve from the funds
5 available for distribution for each fiscal year under this
6 section an amount which, in the aggregate, shall equal 1
7 percent of the funds available for such purpose for that
8 fiscal year. Such funds shall be used, at the discretion of
9 the Director of the Office of Indian Education Programs,
10 to meet emergencies and unforeseen contingencies affect-
11 ing the education programs funded under this section.
12 Funds reserved under this subsection may only be ex-
13 pended for education services or programs, including
14 emergency repairs of educational facilities, at a schoolsite
15 (as defined by section 5204(e)(2) of the Tribally Con-
16 trolled Schools Act of 1988). Funds reserved under this
17 subsection shall remain available without fiscal year limi-
18 tation until expended. However, the aggregate amount
19 available from all fiscal years may not exceed 1 percent
20 of the current year funds. Whenever, the Secretary makes
21 funds available under this subsection, the Secretary shall
22 report such action to the appropriate committees of Con-
23 gress within the annual budget submission.

24 “(e) SUPPLEMENTAL APPROPRIATIONS.—Supple-
25 mental appropriations enacted to meet increased pay costs

1 attributable to school level personnel shall be distributed
2 under this section.

3 “(f) ELIGIBLE INDIAN STUDENT DEFINED.—For the
4 purpose of this section, the term ‘eligible Indian student’
5 means a student who—

6 “(1) is a member of or is at least one-fourth de-
7 gree Indian blood descendant of a member of an In-
8 dian tribe which is eligible for the special programs
9 and services provided by the United States through
10 the Bureau because of their status as Indians; and

11 “(2) resides on or near an Indian reservation or
12 meets the criteria for attendance at a Bureau off-
13 reservation home-living (dormitory) school.

14 “(g) TUITION.—

15 “(1) IN GENERAL.—An eligible Indian student
16 may not be charged tuition for attendance at a Bu-
17 reau school or contract or grant school. A student
18 attending a Bureau school under paragraph (2)(C)
19 may not be charged tuition for attendance at such
20 a school.

21 “(2) ATTENDANCE OF NON-INDIAN STUDENTS
22 AT BUREAU SCHOOLS.—The Secretary may permit
23 the attendance at a Bureau school of a student who
24 is not an eligible Indian student if—

1 “(A) the Secretary determines that the
2 student’s attendance will not adversely affect
3 the school’s program for eligible Indian stu-
4 dents because of cost, overcrowding, or violation
5 of standards or accreditation;

6 “(B) the school board consents;

7 “(C) the student is a dependent of a Bu-
8 reau, Indian Health Service, or tribal govern-
9 ment employee who lives on or near the
10 schoolsite; or

11 “(D) a tuition is paid for the student that
12 is not more than that charged by the nearest
13 public school district for out-of-district stu-
14 dents, and shall be in addition to the school’s
15 allocation under this section.

16 “(3) ATTENDANCE OF NON-INDIAN STUDENTS
17 AT CONTRACT AND GRANT SCHOOLS.—The school
18 board of a contract or grant school may permit stu-
19 dents who are not eligible Indian students under this
20 subsection to attend its contract school or grant
21 school and any tuition collected for those students
22 shall be in addition to funding received under this
23 section.

24 “(h) FUNDS AVAILABLE WITHOUT FISCAL YEAR
25 LIMITATION.—Notwithstanding any other provision of

1 law, at the election of the school board of a Bureau school
2 made at any time during the fiscal year, a portion equal
3 to not more than 15 percent of the funds allocated with
4 respect to a school under this section for any fiscal year
5 shall remain available to the school for expenditure with-
6 out fiscal year limitation. The Assistant Secretary shall
7 take steps as may be necessary to implement this provi-
8 sion.

9 “(i) STUDENTS AT RICHFIELD DORMITORY, RICH-
10 FIELD, UTAH.—Tuition for out-of-State Indian students
11 in home-living (dormitory) arrangements at the Richfield
12 dormitory in Richfield, Utah, who attend Sevier County
13 high schools in Richfield, Utah, shall be paid from the In-
14 dian school equalization program funds authorized in this
15 section and section 1130 at a rate not to exceed the
16 amounts per weighted student unit for that year for the
17 instruction of such students. No additional administrative
18 cost funds shall be added to the grant.

19 **“SEC. 1128. ADMINISTRATIVE COST GRANTS.**

20 “(a) GRANTS; EFFECT UPON APPROPRIATED
21 AMOUNTS.—

22 “(1) GRANTS.—Subject to the availability of
23 appropriated funds, the Secretary shall provide
24 grants to each tribe or tribal organization operating
25 a contract school or grant school in the amount de-

1 terminated under this section with respect to the tribe
2 or tribal organization for the purpose of paying the
3 administrative and indirect costs incurred in oper-
4 ating contract or grant schools, provided that no
5 school operated as a stand-alone institution shall re-
6 ceive less than \$200,000 per year for these pur-
7 poses, in order to—

8 “(A) enable tribes and tribal organizations
9 operating such schools, without reducing direct
10 program services to the beneficiaries of the pro-
11 gram, to provide all related administrative over-
12 head services and operations necessary to meet
13 the requirements of law and prudent manage-
14 ment practice; and

15 “(B) carry out other necessary support
16 functions which would otherwise be provided by
17 the Secretary or other Federal officers or em-
18 ployees, from resources other than direct pro-
19 gram funds, in support of comparable Bureau
20 operated programs.

21 “(2) EFFECT UPON APPROPRIATED
22 AMOUNTS.—Amounts appropriated to fund the
23 grants provided under this section shall be in addi-
24 tion to, and shall not reduce, the amounts appro-

1 priated for the program being administered by the
2 contract or grant school.

3 “(b) DETERMINATION OF GRANT AMOUNT.—

4 “(1) IN GENERAL.—The amount of the grant
5 provided to each tribe or tribal organization under
6 this section for each fiscal year shall be determined
7 by applying the administrative cost percentage rate
8 of the tribe or tribal organization to the aggregate
9 of the Bureau elementary and secondary functions
10 operated by the tribe or tribal organization for which
11 funds are received from or through the Bureau. The
12 administrative cost percentage rate determined
13 under subsection (c) does not apply to other pro-
14 grams operated by the tribe or tribal organization.

15 “(2) DIRECT COST BASE FUNDS.—The Sec-
16 retary shall—

17 “(A) reduce the amount of the grant deter-
18 mined under paragraph (1) to the extent that
19 payments for administrative costs are actually
20 received by an Indian tribe or tribal organiza-
21 tion under any Federal education program in-
22 cluded in the direct cost base of the tribe or
23 tribal organization; and

24 “(B) take such actions as may be nec-
25 essary to be reimbursed by any other depart-

1 ment or agency of the Federal Government for
2 the portion of grants made under this section
3 for the costs of administering any program for
4 Indians that is funded by appropriations made
5 to such other department or agency.

6 “(c) ADMINISTRATIVE COST PERCENTAGE RATE.—

7 “(1) IN GENERAL.—For purposes of this sec-
8 tion, the administrative cost percentage rate for a
9 contract or grant school for a fiscal year is equal to
10 the percentage determined by dividing—

11 “(A) the sum of—

12 “(i) the amount equal to—

13 “(I) the direct cost base of the
14 tribe or tribal organization for the fis-
15 cal year, multiplied by

16 “(II) the minimum base rate;

17 plus

18 “(ii) the amount equal to—

19 “(I) the standard direct cost
20 base; multiplied by

21 “(II) the maximum base rate; by

22 “(B) the sum of—

23 “(i) the direct cost base of the tribe or
24 tribal organization for the fiscal year; plus

25 “(ii) the standard direct cost base.

1 “(2) ROUNDING.—The administrative cost per-
2 centage rate shall be determined to the $\frac{1}{100}$ of a
3 decimal point.

4 “(d) COMBINING FUNDS.—

5 “(1) IN GENERAL.—Funds received by a tribe
6 or contract or grant school as grants under this sec-
7 tion for tribal elementary or secondary educational
8 programs may be combined by the tribe or contract
9 or grant school into a single administrative cost ac-
10 count without the necessity of maintaining separate
11 funding source accounting.

12 “(2) INDIRECT COST FUNDS.—Indirect cost
13 funds for programs at the school which share com-
14 mon administrative services with tribal elementary
15 or secondary educational programs may be included
16 in the administrative cost account described in para-
17 graph (1).

18 “(e) AVAILABILITY OF FUNDS.—Funds received as
19 grants under this section with respect to tribal elementary
20 or secondary education programs shall remain available to
21 the contract or grant school without fiscal year limitation
22 and without diminishing the amount of any grants other-
23 wise payable to the school under this section for any fiscal
24 year beginning after the fiscal year for which the grant
25 is provided.

1 “(f) TREATMENT OF FUNDS.—Funds received as
2 grants under this section for Bureau funded programs op-
3 erated by a tribe or tribal organization under a contract
4 or agreement shall not be taken into consideration for pur-
5 poses of indirect cost underrecovery and overrecovery de-
6 terminations by any Federal agency for any other funds,
7 from whatever source derived.

8 “(g) TREATMENT OF ENTITY OPERATING OTHER
9 PROGRAMS.—In applying this section and section 105 of
10 the Indian Self-Determination and Education Assistance
11 Act with respect to an Indian tribe or tribal organization
12 that—

13 “(1) receives funds under this section for ad-
14 ministrative costs incurred in operating a contract or
15 grant school or a school operated under the Tribally
16 Controlled Schools Act of 1988; and

17 “(2) operates one or more other programs
18 under a contract or grant provided under the Indian
19 Self-Determination and Education Assistance Act,
20 the Secretary shall ensure that the Indian tribe or tribal
21 organization is provided with the full amount of the ad-
22 ministrative costs that are associated with operating the
23 contract or grant school, and of the indirect costs, that
24 are associated with all of such other programs, provided
25 that funds appropriated for implementation of this section

1 shall be used only to supply the amount of the grant re-
2 quired to be provided by this section.

3 “(h) DEFINITIONS.—For purposes of this section:

4 “(1) ADMINISTRATIVE COST.—(A) The term
5 ‘administrative cost’ means the costs of necessary
6 administrative functions which—

7 “(i) the tribe or tribal organization incurs
8 as a result of operating a tribal elementary or
9 secondary educational program;

10 “(ii) are not customarily paid by com-
11 parable Bureau operated programs out of direct
12 program funds; and

13 “(iii) are either—

14 “(I) normally provided for comparable
15 Bureau programs by Federal officials
16 using resources other than Bureau direct
17 program funds; or

18 “(II) are otherwise required of tribal
19 self-determination program operators by
20 law or prudent management practice.

21 “(B) The term ‘administrative cost’ may
22 include—

23 “(i) contract or grant (or other agreement)
24 administration;

1 “(ii) executive, policy, and corporate lead-
2 ership and decisionmaking;

3 “(iii) program planning, development, and
4 management;

5 “(iv) fiscal, personnel, property, and pro-
6 curement management;

7 “(v) related office services and record
8 keeping; and

9 “(vi) costs of necessary insurance, audit-
10 ing, legal, safety and security services.

11 “(2) BUREAU ELEMENTARY AND SECONDARY
12 FUNCTIONS.—The term ‘Bureau elementary and sec-
13 ondary functions’ means—

14 “(A) all functions funded at Bureau
15 schools by the Office;

16 “(B) all programs—

17 “(i) funds for which are appropriated
18 to other agencies of the Federal Govern-
19 ment; and

20 “(ii) which are administered for the
21 benefit of Indians through Bureau schools;
22 and

23 “(C) all operation, maintenance, and repair
24 funds for facilities and government quarters
25 used in the operation or support of elementary

1 and secondary education functions for the ben-
2 efit of Indians, from whatever source derived.

3 “(3) DIRECT COST BASE.—(A) Except as other-
4 wise provided in subparagraph (B), the direct cost
5 base of a tribe or tribal organization for the fiscal
6 year is the aggregate direct cost program funding
7 for all tribal elementary or secondary educational
8 programs operated by the tribe or tribal organization
9 during—

10 “(i) the second fiscal year preceding such
11 fiscal year; or

12 “(ii) if such programs have not been oper-
13 ated by the tribe or tribal organization during
14 the two preceding fiscal years, the first fiscal
15 year preceding such fiscal year.

16 “(B) In the case of Bureau elementary or sec-
17 ondary education functions which have not pre-
18 viously been operated by a tribe or tribal organiza-
19 tion under contract, grant, or agreement with the
20 Bureau, the direct cost base for the initial year shall
21 be the projected aggregate direct cost program fund-
22 ing for all Bureau elementary and secondary func-
23 tions to be operated by the tribe or tribal organiza-
24 tion during that fiscal year.

1 “(4) MAXIMUM BASE RATE.—The term ‘max-
2 imum base rate’ means 50 percent.

3 “(5) MINIMUM BASE RATE.—The term ‘min-
4 imum base rate’ means 11 percent.

5 “(6) STANDARD DIRECT COST BASE.—The term
6 ‘standard direct cost base’ means \$600,000.

7 “(7) TRIBAL ELEMENTARY OR SECONDARY
8 EDUCATIONAL PROGRAMS.—The term ‘tribal elemen-
9 tary or secondary educational programs’ means all
10 Bureau elementary and secondary functions, to-
11 gether with any other Bureau programs or portions
12 of programs (excluding funds for social services that
13 are appropriated to agencies other than the Bureau
14 and are expended through the Bureau, funds for
15 major subcontracts, construction, and other major
16 capital expenditures, and unexpended funds carried
17 over from prior years) which share common adminis-
18 trative cost functions, that are operated directly by
19 a tribe or tribal organization under a contract,
20 grant, or agreement with the Bureau.

21 “(i) STUDIES FOR DETERMINATION OF FACTORS AF-
22 FFECTING COSTS; BASE RATES LIMITS; STANDARD DI-
23 RECT COST BASE; REPORT TO CONGRESS.—

24 “(1) STUDIES.—Not later than 120 days after
25 the date of the enactment of the No Child Left Be-

1 hind Act of 2001, the Director of the Office of In-
2 dian Education Programs shall—

3 “(A) conduct such studies as may be need-
4 ed to establish an empirical basis for deter-
5 mining relevant factors substantially affecting
6 required administrative costs of tribal elemen-
7 tary and secondary education programs, using
8 the formula set forth in subsection (c); and

9 “(B) conduct a study to determine—

10 “(i) a maximum base rate which ensures
11 that the amount of the grants provided under
12 this section will provide adequate (but not ex-
13 cessive) funding of the administrative costs of
14 the smallest tribal elementary or secondary edu-
15 cational programs;

16 “(ii) a minimum base rate which ensures
17 that the amount of the grants provided under
18 this section will provide adequate (but not ex-
19 cessive) funding of the administrative costs of
20 the largest tribal elementary or secondary edu-
21 cational programs; and

22 “(iii) a standard direct cost base which is
23 the aggregate direct cost funding level for which
24 the percentage determined under subsection (c)
25 will—

1 “(I) be equal to the median between
2 the maximum base rate and the minimum
3 base rate; and

4 “(II) ensure that the amount of the
5 grants provided under this section will pro-
6 vide adequate (but not excessive) funding
7 of the administrative costs of tribal ele-
8 mentary or secondary educational pro-
9 grams closest to the size of the program.

10 “(2) GUIDELINES.—The studies required under
11 paragraph (1) shall—

12 “(A) be conducted in full consultation (in
13 accordance with section 1131) with—

14 “(i) the tribes and tribal organizations
15 that are affected by the application of the
16 formula set forth in subsection (c); and

17 “(ii) all national and regional Indian
18 organizations of which such tribes and
19 tribal organizations are typically members;

20 “(B) be conducted onsite with a represent-
21 ative statistical sample of the tribal elementary
22 or secondary educational programs under a con-
23 tract entered into with a nationally reputable
24 public accounting and business consulting firm;

1 “(C) take into account the availability of
2 skilled labor; commodities, business and auto-
3 matic data processing services, related Indian
4 preference and Indian control of education re-
5 quirements, and any other market factors found
6 substantially to affect the administrative costs
7 and efficiency of each such tribal elementary or
8 secondary educational program studied in order
9 to assure that all required administrative activi-
10 ties can reasonably be delivered in a cost effec-
11 tive manner for each such program, given an
12 administrative cost allowance generated by the
13 values, percentages, or other factors found in
14 the studies to be relevant in such formula;

15 “(D) identify, and quantify in terms of
16 percentages of direct program costs, any gen-
17 eral factors arising from geographic isolation,
18 or numbers of programs administered, inde-
19 pendent of program size factors used to com-
20 pute a base administrative cost percentage in
21 such formula; and

22 “(E) identify any other incremental cost
23 factors substantially affecting the costs of re-
24 quired administrative cost functions at any of
25 the tribal elementary or secondary educational

1 programs studied and determine whether the
2 factors are of general applicability to other such
3 programs, and (if so) how the factors may ef-
4 fectively be incorporated into such formula.

5 “(3) CONSULTATION WITH INSPECTOR GEN-
6 ERAL.—In carrying out the studies required under
7 this subsection, the Director shall obtain the input
8 of, and afford an opportunity to participate to, the
9 Inspector General of the Department of the Interior.

10 “(4) CONSIDERATION OF DELIVERY OF ADMIN-
11 ISTRATIVE SERVICES.—Determinations described in
12 paragraph (2)(C) shall be based on what is prac-
13 ticable at each location studied, given prudent man-
14 agement practice, irrespective of whether required
15 administrative services were actually or fully deliv-
16 ered at these sites, or whether other services were
17 delivered instead, during the period of the study.

18 “(5) REPORT.—Upon completion of the studies
19 conducted under paragraph (1), the Director shall
20 submit to Congress a report on the findings of the
21 studies, together with determinations based upon
22 such studies that would affect the definitions set
23 forth under subsection (e) that are used in the for-
24 mula set forth in subsection (e).

1 “(6) PROJECTION OF COSTS.—The Secretary
2 shall include in the Bureau’s justification for each
3 appropriations request beginning in the first fiscal
4 year after the completion of the studies conducted
5 under paragraph (1), a projection of the overall
6 costs associated with the formula set forth in sub-
7 section (c) for all tribal elementary or secondary
8 education programs which the Secretary expects to
9 be funded in the fiscal year for which the appropria-
10 tions are sought.

11 “(7) DETERMINATION OF PROGRAM SIZE.—For
12 purposes of this subsection, the size of tribal elemen-
13 tary or secondary educational programs is deter-
14 mined by the aggregate direct cost program funding
15 level for all Bureau funded programs which share
16 common administrative cost functions.

17 “(j) AUTHORIZATION OF APPROPRIATIONS.—

18 “(1) IN GENERAL.—There are authorized to be
19 appropriated such sums as necessary to carry out
20 this section.

21 “(2) REDUCTIONS.—If the total amount of
22 funds necessary to provide grants to tribes and trib-
23 al organizations in the amounts determined under
24 subsection (b) for a fiscal year exceeds the amount
25 of funds appropriated to carry out this section for

1 such fiscal year, the Secretary shall reduce the
2 amount of each grant determined under subsection
3 (b) for such fiscal year by an amount that bears the
4 same relationship to such excess as the amount of
5 such grants determined under subsection (b) bears
6 to the total of all grants determined under sub-
7 section (b) section for all tribes and tribal organiza-
8 tions for such fiscal year.

9 “(k) APPLICABILITY TO SCHOOLS OPERATING
10 UNDER TRIBALLY CONTROLLED SCHOOLS ACT OF
11 1988.—The provisions of this section shall also apply to
12 those schools operating under the Tribally Controlled
13 Schools Act of 1988.

14 **“SEC. 1129. DIVISION OF BUDGET ANALYSIS.**

15 “(a) ESTABLISHMENT.—Not later than 12 months
16 after the date of the enactment of the No Child Left Be-
17 hind Act of 2001, the Secretary shall establish within the
18 Office of Indian Education Programs a Division of Budget
19 Analysis (hereinafter referred to as the ‘Division’). Such
20 Division shall be under the direct supervision and control
21 of the Director of the Office.

22 “(b) FUNCTIONS.—In consultation with the tribal
23 governing bodies and tribal school boards, the Director of
24 the Office, through the Division, shall conduct studies,
25 surveys, or other activities to gather demographic informa-

1 tion on Bureau funded schools and project the amount
2 necessary to provide Indian students in such schools the
3 educational program set forth in this part.

4 “(c) ANNUAL REPORTS.—Not later than the date
5 that the Assistant Secretary for Indian Affairs makes the
6 annual budget submission, for each fiscal year after the
7 date of the enactment of the No Child Left Behind Act
8 of 2001, the Director of the Office shall submit to the
9 appropriate committees of Congress (including the Appro-
10 priations committees), all Bureau funded schools, and the
11 tribal governing bodies of such schools, a report which
12 shall contain—

13 “(1) projections, based upon the information
14 gathered pursuant to subparagraph (b) and any
15 other relevant information, of amounts necessary to
16 provide Indian students in Bureau funded schools
17 the educational program set forth in this part;

18 “(2) a description of the methods and formulas
19 used to calculate the amounts projected pursuant to
20 paragraph (1); and

21 “(3) such other information as the Director of
22 the Office considers appropriate.

23 “(d) USE OF REPORTS.—The Director of the Office
24 and the Assistant Secretary for Indian Affairs shall use

1 the annual report required by subsection (c) when pre-
2 paring their annual budget submissions.

3 **“SEC. 1130. UNIFORM DIRECT FUNDING AND SUPPORT.**

4 “(a) ESTABLISHMENT OF SYSTEM AND FORWARD
5 FUNDING.—

6 “(1) IN GENERAL.—The Secretary shall estab-
7 lish, by regulation adopted in accordance with sec-
8 tion 1138, a system for the direct funding and sup-
9 port of all Bureau funded schools. Such system shall
10 allot funds in accordance with section 1127. All
11 amounts appropriated for distribution under this
12 section may be made available under paragraph (2).

13 “(2) TIMING FOR USE OF FUNDS.—(A) For the
14 purposes of affording adequate notice of funding
15 available pursuant to the allotments made under sec-
16 tion 1127, amounts appropriated in an appropria-
17 tions Act for any fiscal year shall become available
18 for obligation by the affected schools on July 1 of
19 the fiscal year in which such amounts are appro-
20 priated without further action by the Secretary, and
21 shall remain available for obligation through the suc-
22 ceeding fiscal year.

23 “(B) The Secretary shall, on the basis of the
24 amount appropriated in accordance with this
25 paragraph—

1 “(i) publish, not later than July 1 of the
2 fiscal year for which the funds are appro-
3 priated, allotments to each affected school made
4 under section 1127 of 85 percent of such ap-
5 propriation; and

6 “(ii) publish, not later than September 30
7 of such fiscal year, the allotments to be made
8 under section 1127 of the remaining 15 percent
9 of such appropriation, adjusted to reflect the
10 actual student attendance.

11 “(3) LIMITATION.—(A) Notwithstanding any
12 other provision of law or regulation, the supervisor
13 of a Bureau funded school may expend an aggregate
14 of not more than \$50,000 of the amount allotted the
15 school under section 1127 to acquire materials, sup-
16 plies, equipment, services, operation, and mainte-
17 nance for the school without competitive bidding if—

18 “(i) the cost for any single item purchased
19 does not exceed \$15,000;

20 “(ii) the school board approves the pro-
21 curement;

22 “(iii) the supervisor certifies that the cost
23 is fair and reasonable;

24 “(iv) the documents relating to the pro-
25 curement executed by the supervisor or other

1 school staff cite this paragraph as authority for
2 the procurement; and

3 “(v) the transaction is documented in a
4 journal maintained at the school clearly identi-
5 fying when the transaction occurred, what was
6 acquired and from whom, the price paid, the
7 quantities acquired, and any other information
8 the supervisor or school board considers rel-
9 evant.

10 “(B) Not later than 6 months after the date of
11 the enactment of the No Child Left Behind Act of
12 2001, the Secretary shall cause to be sent to each
13 supervisor of a Bureau operated program and school
14 board chairperson, the education line officer or offi-
15 cers of each agency and area, and the Bureau Divi-
16 sion in charge of procurement, at both the local and
17 national levels, notice of this paragraph.

18 “(C) The Director shall be responsible for de-
19 termining the application of this paragraph, includ-
20 ing the authorization of specific individuals to carry
21 out this paragraph, and shall be responsible for the
22 provision of guidelines on the use of this paragraph
23 and adequate training on such guidelines.

24 “(4) EFFECT OF SEQUESTRATION ORDER.—If a
25 sequestration order issued under the Balanced

1 Budget and Emergency Deficit Control Act of 1985
2 reduces the amount of funds available for allotment
3 under section 1127 for any fiscal year by more than
4 7 percent of the amount of funds available for allot-
5 ment under such section during the preceding fiscal
6 year—

7 “(A) to fund allotments under section
8 1127, the Secretary, notwithstanding any other
9 law, may use—

10 “(i) funds appropriated for the oper-
11 ation of any Bureau school that is closed
12 or consolidated; and

13 “(ii) funds appropriated for any pro-
14 gram that has been curtailed at any Bu-
15 reau school; and

16 “(B) the Secretary may waive the applica-
17 tion of the provisions of section 1121(h) with
18 respect to the closure or consolidation of a
19 school, or the curtailment of a program at a
20 school, during such fiscal year if the funds de-
21 scribed in clauses (i) and (ii) of subparagraph
22 (A) with respect to such school are used to fund
23 allotments made under section 1127 for such
24 fiscal year.

1 “(b) LOCAL FINANCIAL PLANS FOR EXPENDITURE
2 OF FUNDS.—

3 “(1) PLAN REQUIRED.—In the case of all Bu-
4 reau operated schools, allotted funds shall be ex-
5 pended on the basis of local financial plans which
6 ensure meeting the accreditation requirements or
7 standards for the school established pursuant to sec-
8 tion 1121 and which shall be prepared by the local
9 school supervisor in active consultation with the local
10 school board for each school. The local school board
11 for each school shall have the authority to ratify, re-
12 ject, or amend such financial plan, and expenditures
13 thereunder, and, on its own determination or in re-
14 sponse to the supervisor of the school, to revise such
15 financial plan to meet needs not foreseen at the time
16 of preparation of the financial plan.

17 “(2) The supervisor—

18 “(A) shall put into effect the decisions of
19 the school board;

20 “(B) shall provide the appropriate local
21 union representative of the education employees
22 with copies of proposed draft financial plans
23 and all amendments or modifications thereto, at
24 the same time such copies are submitted to the
25 local school board; and

1 “(C) may appeal any such action of the
2 local school board to the appropriate education
3 line officer of the Bureau agency by filing a
4 written statement describing the action and the
5 reasons the supervisor believes such action
6 should be overturned. A copy of such statement
7 shall be submitted to the local school board and
8 such board shall be afforded an opportunity to
9 respond, in writing, to such appeal. After re-
10 viewing such written appeal and response, the
11 appropriate education line officer may, for good
12 cause, overturn the action of the local school
13 board. The appropriate education line officer
14 shall transmit the determination of such appeal
15 in the form of a written opinion to such board
16 and to such supervisor identifying the reasons
17 for overturning such action.

18 “(c) USE OF SELF-DETERMINATION GRANTS
19 FUNDS.—Funds for self-determination grants under sec-
20 tion 103(a)(2) of the Indian Self-Determination and Edu-
21 cation Assistance Act shall not be used for providing tech-
22 nical assistance and training in the field of education by
23 the Bureau unless such services are provided in accord-
24 ance with a plan, agreed to by the tribe or tribes affected
25 and the Bureau, under which control of education pro-

1 grams is intended to be transferred to such tribe or tribes
2 within a specific period of time negotiated under such
3 agreement. The Secretary may approve applications for
4 funding tribal divisions of education and development of
5 tribal codes of education from funds appropriated pursu-
6 ant to section 104(a) of such Act.

7 “(d) TECHNICAL ASSISTANCE AND TRAINING.—In
8 the exercise of its authority under this section, a local
9 school board may request technical assistance and training
10 from the Secretary, and the Secretary shall, to the great-
11 est extent possible, provide such services, and make appro-
12 priate provisions in the budget of the Office for such serv-
13 ices.

14 “(e) SUMMER PROGRAM OF ACADEMIC AND SUPPORT
15 SERVICES.—

16 “(1) IN GENERAL.—A financial plan under sub-
17 section (b) for a school may include, at the discre-
18 tion of the local administrator and the school board
19 of such school, a provision for a summer program of
20 academic and support services for students of the
21 school. Any such program may include activities re-
22 lated to the prevention of alcohol and substance
23 abuse. The Assistant Secretary for Indian Affairs
24 shall provide for the utilization of any such school

1 facility during any summer in which such utilization
2 is requested.

3 “(2) USE OF OTHER FUNDS.—Notwithstanding
4 any other provision of law, funds authorized under
5 the Act of April 16, 1934, and this Act may be used
6 to augment the services provided in each summer
7 program at the option, and under the control, of the
8 tribe or Indian controlled school receiving such
9 funds.

10 “(3) TECHNICAL ASSISTANCE AND PROGRAM
11 COORDINATION.—The Assistant Secretary for Indian
12 Affairs, acting through the Director of the Office,
13 shall provide technical assistance and coordination
14 for any program described in paragraph (1) and
15 shall, to the extent possible, encourage the coordina-
16 tion of such programs with any other summer pro-
17 grams that might benefit Indian youth, regardless of
18 the funding source or administrative entity of any
19 such program.

20 “(f) COOPERATIVE AGREEMENTS.—

21 “(1) IN GENERAL.—From funds allotted to a
22 Bureau school under section 1127, the Secretary
23 shall, if specifically requested by the tribal governing
24 body (as defined in section 1141), implement any co-
25 operative agreement entered into between the tribe,

1 the Bureau school board, and the local public school
2 district which meets the requirements of paragraph
3 (2) and involves the school. The tribe, the Bureau
4 school board, and the local public school district
5 shall determine the terms of the agreement. Such
6 agreement may encompass coordination of all or any
7 part of the following:

8 “(A) Academic program and curriculum,
9 unless the Bureau school is currently accredited
10 by a State or regional accrediting entity and
11 would not continue to be so accredited.

12 “(B) Support services, including procure-
13 ment and facilities maintenance.

14 “(C) Transportation.

15 “(2) EQUAL BENEFIT AND BURDEN.—Each
16 agreement entered into pursuant to the authority
17 provided in paragraph (1) shall confer a benefit
18 upon the Bureau school commensurate with the bur-
19 den assumed, though this requirement shall not be
20 construed so as to require equal expenditures or an
21 exchange of similar services.

22 “(g) PRODUCT OR RESULT OF STUDENT
23 PROJECTS.—Notwithstanding any other provision of law,
24 where there is agreement on action between the super-
25 intendent and the school board of a Bureau funded school,

1 the product or result of a project conducted in whole or
2 in major part by a student may be given to that student
3 upon the completion of such project.

4 “(h) NOT CONSIDERED FEDERAL FUNDS FOR
5 MATCHING REQUIREMENTS.—Notwithstanding any other
6 provision of law, funds received by a Bureau funded school
7 under this part shall not be considered Federal funds for
8 the purposes of meeting a matching funds requirement for
9 any Federal program.

10 **“SEC. 1131. POLICY FOR INDIAN CONTROL OF INDIAN EDU-**
11 **CATION.**

12 “(a) FACILITATION OF INDIAN CONTROL.—It shall
13 be the policy of the Secretary and the Bureau, in carrying
14 out the functions of the Bureau, to facilitate tribal control
15 of Indian affairs in all matters relating to education.

16 “(b) CONSULTATION WITH TRIBES.—

17 “(1) IN GENERAL.—All actions under this Act
18 shall be done with active consultation with tribes.

19 “(2) REQUIREMENTS.—The consultation re-
20 quired under paragraph (1) means a process involv-
21 ing the open discussion and joint deliberation of all
22 options with respect to potential issues or changes
23 between the Bureau and all interested parties. Dur-
24 ing such discussions and joint deliberations, inter-
25 ested parties (including tribes and school officials)

1 shall be given an opportunity to present issues in-
2 cluding proposals regarding changes in current prac-
3 tices or programs which will be considered for future
4 action by the Bureau. All interested parties shall be
5 given an opportunity to participate and discuss the
6 options presented or to present alternatives, with the
7 views and concerns of the interested parties given ef-
8 fect unless the Secretary determines, from informa-
9 tion available from or presented by the interested
10 parties during one or more of the discussions and
11 deliberations, that there is a substantial reason for
12 another course of action. The Secretary shall submit
13 to any Member of Congress, within 18 days of the
14 receipt of a written request by such Member, a writ-
15 ten explanation of any decision made by the Sec-
16 retary which is not consistent with the views of the
17 interested parties.

18 **“SEC. 1132. INDIAN EDUCATION PERSONNEL.**

19 “(a) IN GENERAL.—Chapter 51, subchapter III of
20 chapter 53, and chapter 63 of title 5, United States Code,
21 relating to classification, pay and leave, respectively, and
22 the sections of such title relating to the appointment, pro-
23 motion, hours of work, and removal of civil service employ-
24 ees, shall not apply to educators or to education positions
25 (as defined in subsection (p)).

1 “(b) REGULATIONS.—Not later than 60 days after
2 the date of the enactment of the No Child Left Behind
3 Act of 2001, the Secretary shall prescribe regulations to
4 carry out this section. Such regulations shall include—

5 “(1) the establishment of education positions;

6 “(2) the establishment of qualifications for edu-
7 cators and education personnel;

8 “(3) the fixing of basic compensation for edu-
9 cators and education positions;

10 “(4) the appointment of educators;

11 “(5) the discharge of educators;

12 “(6) the entitlement of educators to compensa-
13 tion;

14 “(7) the payment of compensation to educators;

15 “(8) the conditions of employment of educators;

16 “(9) the leave system for educators;

17 “(10) the annual leave and sick leave for edu-
18 cators; and

19 “(11) such matters as may be appropriate.

20 “(c) QUALIFICATIONS OF EDUCATORS.—

21 “(1) REQUIREMENTS.—In prescribing regula-
22 tions to govern the qualifications of educators, the
23 Secretary shall require—

24 “(A)(i) that lists of qualified and inter-
25 viewed applicants for education positions be

1 maintained in each agency and area office of
2 the Bureau from among individuals who have
3 applied at the agency or area level for an edu-
4 cation position or who have applied at the na-
5 tional level and have indicated in such applica-
6 tion an interest in working in certain areas or
7 agencies; and

8 “(ii) that a list of qualified and interviewed
9 applicants for education positions be main-
10 tained in the Office from among individuals
11 who have applied at the national level for an
12 education position and who have expressed in-
13 terest in working in an education position any-
14 where in the United States;

15 “(B) that a local school board shall have
16 the authority to waive on a case-by-case basis,
17 any formal education or degree qualifications
18 established by regulation pursuant to subsection
19 (b)(2), in order for a tribal member to be hired
20 in an education position to teach courses on
21 tribal culture and language and that subject to
22 subsection (e)(2), a determination by a school
23 board that such a person be hired shall be insti-
24 tuted supervisor; and

1 “(C) that it shall not be a prerequisite to
2 the employment of an individual in an edu-
3 cation position at the local level that such indi-
4 vidual’s name appear on the national list main-
5 tained pursuant to subparagraph (A)(ii) or that
6 such individual has applied at the national level
7 for an education position.

8 “(2) EXCEPTION FOR CERTAIN TEMPORARY EM-
9 PLOYMENT.—The Secretary may authorize the tem-
10 porary employment in an education position of an
11 individual who has not met the certification stand-
12 ards established pursuant to regulations, if the Sec-
13 retary determines that failure to do so would result
14 in that position remaining vacant.

15 “(d) HIRING OF EDUCATORS.—

16 “(1) REQUIREMENTS.—In prescribing regula-
17 tions to govern the appointment of educators, the
18 Secretary shall require—

19 “(A)(i) that educators employed in a Bu-
20 reau operated school (other than the supervisor
21 of the school) shall be hired by the supervisor
22 of the school. In cases where there are no quali-
23 fied applicants available, such supervisor may
24 consult the national list maintained pursuant to
25 subsection (c)(1)(A)(ii);

1 “(ii) each school supervisor shall be hired
2 by the education line officer of the agency office
3 of the Bureau in which the school is located;

4 “(iii) educators employed in an agency of-
5 fice of the Bureau shall be hired by the super-
6 intendent for education of the agency office;
7 and

8 “(iv) each education line officer and edu-
9 cators employed in the Office of the Director of
10 Indian Education Programs shall be hired by
11 the Director;

12 “(B) that before an individual is employed
13 in an education position in a school by the su-
14 pervisor of a school (or with respect to the posi-
15 tion of supervisor, by the appropriate agency
16 education line officer), the local school board
17 for the school shall be consulted. A determina-
18 tion by such school board that such individual
19 should or should not be so employed shall be in-
20 stituted by the supervisor (or with respect to
21 the position of supervisor, by the agency super-
22 intendent for education);

23 “(C) that before an individual may be em-
24 ployed in an education position at the agency
25 level, the appropriate agency school board shall

1 be consulted, and that a determination by such
2 school board that such individual should or
3 should not be employed shall be instituted by
4 the agency superintendent for education; and

5 “(D) that before an individual may be em-
6 ployed in an education position in the Office of
7 the Director (other than the position of Direc-
8 tor), the national school boards representing all
9 Bureau schools shall be consulted.

10 “(2) INFORMATION REGARDING APPLICATION
11 AT NATIONAL LEVEL.—Any individual who applies
12 at the local level for an education position shall state
13 on such individual’s application whether or not such
14 individual has applied at the national level for an
15 education position in the Bureau. If such individual
16 is employed at the local level, such individual’s name
17 shall be immediately forwarded to the Secretary,
18 who shall, as soon as practicable but in no event in
19 more than 30 days, ascertain the accuracy of the
20 statement made by such individual pursuant to the
21 first sentence of this paragraph. Notwithstanding
22 subsection (e), if the individual’s statement is found
23 to have been false, such individual, at the Sec-
24 retary’s discretion, may be disciplined or discharged.
25 If the individual has applied at the national level for

1 an education position in the Bureau, the appoint-
2 ment of such individual at the local level shall be
3 conditional for a period of 90 days, during which pe-
4 riod the Secretary may appoint a more qualified in-
5 dividual (as determined by the Secretary) from the
6 list maintained at the national level pursuant to sub-
7 section (c)(1)(A)(ii) to the position to which such in-
8 dividual was appointed.

9 “(3) STATUTORY CONSTRUCTION.—Except as
10 expressly provided, nothing in this section shall be
11 construed as conferring upon local school boards au-
12 thority over, or control of, educators at Bureau
13 funded schools or the authority to issue management
14 decisions.

15 “(e) DISCHARGE AND CONDITIONS OF EMPLOYMENT
16 OF EDUCATORS.—

17 “(1) REGULATIONS.—In prescribing regulations
18 to govern the discharge and conditions of employ-
19 ment of educators, the Secretary shall require—

20 “(A) that procedures be established for the
21 rapid and equitable resolution of grievances of
22 educators;

23 “(B) that no educator may be discharged
24 without notice of the reasons therefore and op-
25 portunity for a hearing under procedures that

1 comport with the requirements of due process;
2 and

3 “(C) that educators employed in Bureau
4 schools be notified 30 days prior to the end of
5 the school year whether their employment con-
6 tract will be renewed for the following year.

7 “(2) PROCEDURES FOR DISCHARGE.—The su-
8 pervisor of a Bureau school may discharge (subject
9 to procedures established under paragraph (1)(B))
10 for cause (as determined under regulations pre-
11 scribed by the Secretary) any educator employed in
12 such school. Upon giving notice of proposed dis-
13 charge to an educator, the supervisor involved shall
14 immediately notify the local school board for the
15 school of such action. A determination by the local
16 school board that such educator shall not be dis-
17 charged shall be followed by the supervisor. The su-
18 pervisor shall have the right to appeal such action
19 to the education line officer of the appropriate agen-
20 cy office of the Bureau. Upon such an appeal, the
21 agency education line officer may, for good cause
22 and in writing to the local school board, overturn the
23 determination of the local school board with respect
24 to the employment of such individual.

1 “(3) RECOMMENDATIONS OF SCHOOL BOARDS
2 FOR DISCHARGE.—Each local school board for a Bu-
3 reau school shall have the right—

4 “(A) to recommend to the supervisor of
5 such school that an educator employed in the
6 school be discharged; and

7 “(B) to recommend to the education line
8 officer of the appropriate agency office of the
9 Bureau and to the Director of the Office, that
10 the supervisor of the school be discharged.

11 “(f) APPLICABILITY OF INDIAN PREFERENCE
12 LAWS.—

13 “(1) IN GENERAL.—Notwithstanding any provi-
14 sion of the Indian preference laws, such laws shall
15 not apply in the case of any personnel action under
16 this section respecting an applicant or employee not
17 entitled to Indian preference if each tribal organiza-
18 tion concerned grants a written waiver of the appli-
19 cation of such laws with respect to such personnel
20 action and states that such waiver is necessary. This
21 paragraph shall not relieve the Bureau’s responsi-
22 bility to issue timely and adequate announcements
23 and advertisements concerning any such personnel
24 action if such action is intended to fill a vacancy (no
25 matter how such vacancy is created).

1 “(2) TRIBAL ORGANIZATION DEFINED.—For
2 purposes of this subsection, the term ‘tribal organi-
3 zation’ means—

4 “(A) the recognized governing body of any
5 Indian tribe, band, nation, pueblo, or other or-
6 ganized community, including a Native village
7 (as defined in section 3(c) of the Alaska Native
8 Claims Settlement Act); or

9 “(B) in connection with any personnel ac-
10 tion referred to in this subsection, any local
11 school board as defined in section 1141 which
12 has been delegated by such governing body the
13 authority to grant a waiver under this sub-
14 section with respect to personnel action.

15 “(3) INDIAN PREFERENCE LAW DEFINED.—The
16 term ‘Indian preference laws’ means section 12 of
17 the Act of June 18, 1934, or any other provision of
18 law granting a preference to Indians in promotions
19 and other personnel actions. Such term shall not in-
20 clude section 7(b) of the Indian Self-Determination
21 and Education Assistance Act.

22 “(g) COMPENSATION OR ANNUAL SALARY.—

23 “(1) IN GENERAL.—(A) Except as otherwise
24 provided in this section, the Secretary shall fix the
25 basic compensation for educators and education po-

1 sitions at rates in effect under the General Schedule
2 for individuals with comparable qualifications, and
3 holding comparable positions, to whom chapter 51 of
4 title 5, United States Code, is applicable or on the
5 basis of the Federal Wage System schedule in effect
6 for the locality, and for the comparable positions,
7 the rates of compensation in effect for the senior ex-
8 ecutive service.

9 “(B) The Secretary shall establish the rate of
10 basic compensation, or annual salary rates, for the
11 positions of teachers and counselors (including dor-
12 mitory counselors and home-living counselors) at the
13 rates of basic compensation applicable (on the date
14 of the enactment of the No Child Left Behind Act
15 of 2001 and thereafter) to comparable positions in
16 the overseas schools under the Defense Department
17 Overseas Teachers Pay Act. The Secretary shall
18 allow the local school boards authority to implement
19 only the aspects of the Defense Department Over-
20 seas Teacher pay provisions that are considered es-
21 sential for recruitment and retention. Implementa-
22 tion of such provisions shall not be construed to re-
23 quire the implementation of the Act in its entirety.

24 “(C)(i) Beginning with the fiscal year following
25 the date of the enactment of the No Child Left Be-

1 hind Act of 2001, each school board may set the
2 rate of compensation or annual salary rate for teach-
3 ers and counselors (including academic counselors)
4 who are new hires at the school and who have not
5 worked at the school on the date of implementation
6 of this provision, at rates consistent with the rates
7 paid for individuals in the same positions, with the
8 same tenure and training, in any other school within
9 whose boundaries the Bureau school lies. In in-
10 stances where the adoption of such rates cause a re-
11 duction in the payment of compensation from that
12 which was in effect for the fiscal year following the
13 date of the enactment of the No Child Left Behind
14 Act of 2001, the new rate may be applied to the
15 compensation of employees of the school who worked
16 at the school on of the date of the enactment of that
17 Act by applying those rates to each contract renewal
18 such that the reduction takes effect in three equal
19 installments. Where adoption of such rates lead to
20 an increase in the payment of compensation from
21 that which was in effect for the fiscal year following
22 the date of the enactment of the No Child Left Be-
23 hind Act of 2001, the school board may make such
24 rates applicable at the next contract renewal such
25 that either—

1 “(I) the increase occurs in its entirety; or

2 “(II) the increase is applied in three equal
3 installments.

4 “(ii) The establishment of rates of basic com-
5 pensation and annual salary rates under subpara-
6 graphs (B) and (C) shall not preclude the use of
7 regulations and procedures used by the Bureau prior
8 to April 28, 1988, in making determinations regard-
9 ing promotions and advancements through levels of
10 pay that are based on the merit, education, experi-
11 ence, or tenure of the educator.

12 “(D) The establishment of rates of basic com-
13 pensation and annual salary rates under subpara-
14 graphs (B) and (C) shall not affect the continued
15 employment or compensation of an educator who
16 was employed in an education position on October
17 31, 1979, and who did not make an election under
18 subsection (p) is in effect on January 1, 1990.

19 “(2) POST-DIFFERENTIAL RATES.—(A) The
20 Secretary may pay a post-differential rate not to ex-
21 ceed 25 percent of the rate of basic compensation,
22 on the basis of conditions of environment or work
23 which warrant additional pay as a recruitment and
24 retention incentive.

1 “(B)(i) Upon the request of the supervisor and
2 the local school board of a Bureau school, the Sec-
3 retary shall grant the supervisor of the school au-
4 thorization to provide one or more post-differentials
5 under subparagraph (A) unless the Secretary deter-
6 mines for clear and convincing reasons (and advises
7 the board in writing of those reasons) that certain
8 of the requested post-differentials should be dis-
9 approved or decreased because there is no disparity
10 of compensation for the involved employees or posi-
11 tions in the Bureau school, as compared with the
12 nearest public school, that is either—

13 “(I) at least 5 percent; or

14 “(II) less than 5 percent and affects the
15 recruitment or retention of employees at the
16 school.

17 “(ii) A request under clause (i) shall be deemed
18 granted at the end of the 60th day after the request
19 is received in the Central Office of the Bureau un-
20 less before that time the request is approved, ap-
21 proved with modification, or disapproved by the Sec-
22 retary.

23 “(iii) The Secretary or the supervisor of a Bu-
24 reau school may discontinue or decrease a post-dif-

1 differential authorized under this subparagraph at the
2 beginning of a school year if—

3 “(I) the local school board requests that
4 such differential be discontinued or decreased;
5 or

6 “(II) the Secretary or the supervisor deter-
7 mines for clear and convincing reasons (and ad-
8 vises the board in writing of those reasons) that
9 there is no disparity of compensation that
10 would affect the recruitment or retention of em-
11 ployees at the school after the differential is
12 discontinued or decreased.

13 “(iv) On or before February 1 of each year, the
14 Secretary shall submit to Congress a report describ-
15 ing the requests and grants of authority under this
16 subparagraph during the previous year and listing
17 the positions contracted under those grants of au-
18 thority.

19 “(h) LIQUIDATION OF REMAINING LEAVE UPON
20 TERMINATION.—Upon termination of employment with
21 the Bureau, any annual leave remaining to the credit of
22 an individual within the purview of this section shall be
23 liquidated in accordance with sections 5551(a) and 6306
24 of title 5, United States Code, except that leave earned

1 or accrued under regulations prescribed pursuant to sub-
2 section (b)(10) of this section shall not be so liquidated.

3 “(i) TRANSFER OF REMAINING SICK LEAVE UPON
4 TRANSFER, PROMOTION, OR REEMPLOYMENT.—In the
5 case of any educator who is transferred, promoted, or re-
6 appointed, without break in service, to a position in the
7 Federal Government under a different leave system, any
8 remaining leave to the credit of such person earned or
9 credited under the regulations prescribed pursuant to sub-
10 section (b)(10) shall be transferred to such person’s credit
11 in the employing agency on an adjusted basis in accord-
12 ance with regulations which shall be prescribed by the Of-
13 fice of Personnel Management.

14 “(j) INELIGIBILITY FOR EMPLOYMENT OF VOLUN-
15 TARILY TERMINATED EDUCATORS.—An educator who vol-
16 untarily terminates employment with the Bureau before
17 the expiration of the existing employment contract be-
18 tween such educator and the Bureau shall not be eligible
19 to be employed in another education position in the Bu-
20 reau during the remainder of the term of such contract.

21 “(k) DUAL COMPENSATION.—In the case of any edu-
22 cator employed in an education position described in sub-
23 section (l)(1)(A) who—

24 “(1) is employed at the close of a school year;

1 “(2) agrees in writing to serve in such position
2 for the next school year; and

3 “(3) is employed in another position during the
4 recess period immediately preceding such next school
5 year, or during such recess period receives additional
6 compensation referred to in section 5533 of title 5,
7 United States Code, relating to dual compensation,
8 shall not apply to such educator by reason of any such
9 employment during a recess period for any receipt of addi-
10 tional compensation.

11 “(1) VOLUNTARY SERVICES.—Notwithstanding sec-
12 tion 1342 of title 31, United States Code, the Secretary
13 may, subject to the approval of the local school board con-
14 cerned, accept voluntary services on behalf of Bureau
15 schools. Nothing in this part shall be construed to require
16 Federal employees to work without compensation or to
17 allow the use of volunteer services to displace or replace
18 Federal employees. An individual providing volunteer serv-
19 ices under this section is a Federal employee only for pur-
20 poses of chapter 81 of title 5, United States Code, and
21 chapter 171 of title 28, United States Code.

22 “(m) PRORATION OF PAY.—

23 “(1) ELECTION OF EMPLOYEE.—Notwith-
24 standing any other provision of law, including laws
25 relating to dual compensation, the Secretary, at the

1 election of the employee, shall prorate the salary of
2 an employee employed in an education position for
3 the academic school year over the entire 12-month
4 period. Each educator employed for the academic
5 school year shall annually elect to be paid on a 12-
6 month basis or for those months while school is in
7 session. No educator shall suffer a loss of pay or
8 benefits, including benefits under unemployment or
9 other Federal or federally assisted programs, be-
10 cause of such election.

11 “(2) CHANGE OF ELECTION.—During the
12 course of such year the employee may change elec-
13 tion once.

14 “(3) LUMP SUM PAYMENT.—That portion of
15 the employee’s pay which would be paid between
16 academic school years may be paid in a lump sum
17 at the election of the employee.

18 “(4) DEFINITIONS.—For purposes of this sub-
19 section, the terms ‘educator’ and ‘education position’
20 have the meanings contained in paragraphs (1) and
21 (2) of subsection (o). This subsection applies to
22 those individuals employed under the provisions of
23 section 1132 of this title or title 5, United States
24 Code.

25 “(n) EXTRACURRICULAR ACTIVITIES.—

1 “(1) STIPEND.—Notwithstanding any other
2 provision of law, the Secretary may provide, for each
3 Bureau area, a stipend in lieu of overtime premium
4 pay or compensatory time off. Any employee of the
5 Bureau who performs additional activities to provide
6 services to students or otherwise support the school’s
7 academic and social programs may elect to be com-
8 pensated for all such work on the basis of the sti-
9 pend. Such stipend shall be paid as a supplement to
10 the employee’s base pay.

11 “(2) ELECTION NOT TO RECEIVE STIPEND.—If
12 an employee elects not to be compensated through
13 the stipend established by this subsection, the appro-
14 priate provisions of title 5, United States Code, shall
15 apply.

16 “(3) APPLICABILITY OF SUBSECTION.—This
17 subsection applies to all Bureau employees, whether
18 employed under section 1132 of this title or title 5,
19 United States Code.

20 “(o) DEFINITIONS.—For the purpose of this
21 section—

22 “(1) EDUCATION POSITION.—The term ‘edu-
23 cation position’ means a position in the Bureau the
24 duties and responsibilities of which—

1 “(A) are performed on a school-year basis
2 principally in a Bureau school and involve—

3 “(i) classroom or other instruction or
4 the supervision or direction of classroom or
5 other instruction;

6 “(ii) any activity (other than teach-
7 ing) which requires academic credits in
8 educational theory and practice equal to
9 the academic credits in educational theory
10 and practice required for a bachelor’s de-
11 gree in education from an accredited insti-
12 tution of higher education;

13 “(iii) any activity in or related to the
14 field of education notwithstanding that
15 academic credits in educational theory and
16 practice are not a formal requirement for
17 the conduct of such activity; or

18 “(iv) support services at, or associated
19 with, the site of the school; or

20 “(B) are performed at the agency level of
21 the Bureau and involve the implementation of
22 education-related programs other than the posi-
23 tion for agency superintendent for education.

1 “(2) EDUCATOR.—The term ‘educator’ means
2 an individual whose services are required, or who is
3 employed, in an education position.

4 “(p) COVERED INDIVIDUALS; ELECTION.—This sec-
5 tion shall apply with respect to any educator hired after
6 November 1, 1979 (and to any educator who elected for
7 coverage under that provision after November 1, 1979)
8 and to the position in which such individual is employed.
9 The enactment of this section shall not affect the contin-
10 ued employment of an individual employed on October 31,
11 1979 in an education position, or such person’s right to
12 receive the compensation attached to such position.

13 **“SEC. 1133. COMPUTERIZED MANAGEMENT INFORMATION**
14 **SYSTEM.**

15 “(a) ESTABLISHMENT OF SYSTEM.—Not later than
16 July 1, 2003, the Secretary shall establish within the Of-
17 fice, a computerized management information system,
18 which shall provide processing and information to the Of-
19 fice. The information provided shall include information
20 regarding—

- 21 “(1) student enrollment;
- 22 “(2) curriculum;
- 23 “(3) staffing;
- 24 “(4) facilities;
- 25 “(5) community demographics;

1 “(6) student assessment information;

2 “(7) information on the administrative and pro-
3 gram costs attributable to each Bureau program, di-
4 vided into discreet elements;

5 “(8) relevant reports;

6 “(9) personnel records;

7 “(10) finance and payroll; and

8 “(11) such other items as the Secretary deems
9 appropriate.

10 “(b) IMPLEMENTATION OF SYSTEM.—Not later than
11 July 1, 2004, the Secretary shall complete implementation
12 of such a system at each field office and Bureau funded
13 school.

14 **“SEC. 1134. UNIFORM EDUCATION PROCEDURES AND PRAC-**
15 **TICES.**

16 “The Secretary shall cause the various divisions of
17 the Bureau to formulate uniform procedures and practices
18 with respect to such concerns of those divisions as relate
19 to education, and shall report such practices and proce-
20 dures to the Congress.

21 **“SEC. 1135. RECRUITMENT OF INDIAN EDUCATORS.**

22 “The Secretary shall institute a policy for the recruit-
23 ment of qualified Indian educators and a detailed plan to
24 promote employees from within the Bureau. Such plan

1 shall include opportunities for acquiring work experience
2 prior to actual work assignment.

3 **“SEC. 1136. BIENNIAL REPORT; AUDITS.**

4 “(a) BIENNIAL REPORTS.—The Secretary shall sub-
5 mit to each appropriate committee of Congress, all Bureau
6 funded schools, and the tribal governing bodies of such
7 schools, a detailed biennial report on the state of education
8 within the Bureau and any problems encountered in In-
9 dian education during the 2-year period covered by the
10 report. Such report shall contain suggestions for the im-
11 provement of the Bureau educational system and for in-
12 creasing tribal or local Indian control of such system. Such
13 report shall also include the current status of tribally con-
14 trolled community colleges. The annual budget submission
15 for the Bureau’s education programs shall include—

16 “(1) information on the funds provided to pre-
17 viously private schools under section 208 of the In-
18 dian Self-Determination and Education Assistance
19 Act, and recommendations with respect to the future
20 use of such funds;

21 “(2) the needs and costs of operations and
22 maintenance of tribally controlled community col-
23 leges eligible for assistance under the Tribally Con-
24 trolled Community College Assistance Act of 1978

1 and recommendations with respect to meeting such
2 needs and costs; and

3 “(3) the plans required by sections 1121 (g),
4 1122(e), and 1125(b).

5 “(b) FINANCIAL AND COMPLIANCE AUDITS.—The
6 Inspector General of the Department of the Interior shall
7 establish a system to ensure that financial and compliance
8 audits are conducted of each Bureau operated school at
9 least once in every 3 years. Audits of Bureau schools shall
10 be based upon the extent to which such school has com-
11 plied with its local financial plan under section 1130.

12 **“SEC. 1137. RIGHTS OF INDIAN STUDENTS.**

13 “The Secretary shall prescribe such rules and regula-
14 tions as are necessary to ensure the constitutional and civil
15 rights of Indian students attending Bureau funded
16 schools, including such students’ right to privacy under
17 the laws of the United States, such students’ right to free-
18 dom of religion and expression, and such students’ right
19 to due process in connection with disciplinary actions, sus-
20 pensions, and expulsions.

21 **“SEC. 1138. REGULATIONS.**

22 “(a) IN GENERAL.—The Secretary is authorized to
23 issue only such regulations as are necessary to ensure
24 compliance with the specific provision of this Act. The Sec-
25 retary shall publish proposed regulations in the Federal

1 Register, shall provide a period of not less than 90 days
2 for public comment thereon, and shall place in parentheses
3 after each regulatory section the citation to any statutory
4 provision providing authority to promulgate such regu-
5 latory provision.

6 “(b) MISCELLANEOUS.—

7 “(1) CONSTRUCTION.—The provisions of this
8 Act shall supersede any conflicting provisions of law
9 (including any conflicting regulations) in effect on
10 the day before the date of the enactment of this Act
11 and the Secretary is authorized to repeal any regula-
12 tion inconsistent with the provisions of this Act.

13 “(2) LEGAL AUTHORITY TO BE STATED.—Reg-
14 ulations issued to implement this Act shall contain,
15 immediately following each substantive provision of
16 such regulations, citations to the particular section
17 or sections of statutory law or other legal authority
18 upon which provision is based.

19 **“SEC. 1138A. REGIONAL MEETINGS AND NEGOTIATED**
20 **RULEMAKING.**

21 “(a) MEETINGS.—

22 “(1) IN GENERAL.—The Secretary shall obtain
23 tribal involvement in the development of proposed
24 regulations under this part and the Tribally Con-
25 trolled Schools Act of 1988. The Secretary shall ob-

1 tain the advice of and recommendations from rep-
2 representatives of Indian tribes with Bureau funded
3 schools on their reservations, Indian tribes whose
4 children attend Bureau funded off-reservation board-
5 ing schools, school boards, administrators or employ-
6 ees of Bureau funded schools, and parents and
7 teachers of students enrolled in Bureau funded
8 schools.

9 “(2) ISSUES.—The Secretary shall provide for a
10 comprehensive discussion and exchange of informa-
11 tion concerning the implementation of this part and
12 the Tribally Controlled Schools Act of 1988 through
13 such mechanisms as regional meetings and electronic
14 exchanges of information. The Secretary shall take
15 into account the information received through such
16 mechanisms in the development of proposed regula-
17 tions and shall publish a summary of such informa-
18 tion in the Federal Register together with such pro-
19 posed regulations.

20 “(b) DRAFT REGULATIONS.—

21 “(1) IN GENERAL.—After obtaining the advice
22 and recommendations described in subsection (a)(1)
23 and before publishing proposed regulations in the
24 Federal Register, the Secretary shall prepare draft
25 regulations implementing this part and the Tribally

1 Controlled Schools Act of 1988 and shall submit
2 such regulations to a negotiated rulemaking process.
3 Participants in the negotiations process shall be cho-
4 sen by the Secretary from individuals nominated by
5 the entities described in subsection (a)(1). To the
6 maximum extent possible, the Secretary shall ensure
7 that the tribal representative membership chosen
8 pursuant to the preceding sentence reflects the pro-
9 portionate share of students from tribes served by
10 the Bureau funded school system. The negotiation
11 process shall be conducted in a timely manner in
12 order that the final regulations may issued by the
13 Secretary no later than 18 months after the enact-
14 ment of this section.

15 “(2) NOTIFICATION TO CONGRESS.—If draft
16 regulations implementing this part and the Tribally
17 Controlled Schools Act of 1988 are not issued in
18 final form by the deadline provided in paragraph
19 (1), the Secretary shall notify the appropriate com-
20 mittees of Congress of which draft regulations were
21 not issued in final form by the deadline and the rea-
22 son such final regulations were not issued.

23 “(3) EXPANSION OF NEGOTIATED RULE-
24 MAKING.—All regulations pertaining to this part and
25 the Tribally Controlled Schools Act of 1988 that are

1 promulgated after the date of the enactment of this
2 subsection shall be subject to a negotiated rule-
3 making (including the selection of the regulations to
4 be negotiated), unless the Secretary determines that
5 applying such a requirement with respect to given
6 regulations is impracticable, unnecessary, or con-
7 trary to the public interest (within the meaning of
8 section 553(b)(3)(B) of title 5), and publishes the
9 basis for such determination in the Federal Register
10 at the same time as the proposed regulations in
11 question are first published. All published proposed
12 regulations shall conform to agreements resulting
13 from such negotiated rulemaking unless the Sec-
14 retary reopens the negotiated rulemaking process or
15 provides a written explanation to the participants in
16 that process why the Secretary has decided to depart
17 from such agreements. Such negotiated rulemaking
18 shall be conducted in accordance with the provisions
19 of subsection (a), and the Secretary shall ensure
20 that a clear and reliable record of agreements
21 reached during the negotiation process is main-
22 tained.

23 “(c) APPLICABILITY OF FEDERAL ADVISORY COM-
24 MITTEE ACT.—The Federal Advisory Committee Act shall
25 apply to activities carried out under this section.

1 **“SEC. 1139. EARLY CHILDHOOD DEVELOPMENT PROGRAM.**

2 “(a) IN GENERAL.—The Secretary shall provide
3 grants to tribes, tribal organizations, and consortia of
4 tribes and tribal organizations to fund early childhood de-
5 velopment programs that are operated by such tribes, or-
6 ganizations, or consortia.

7 “(b) AMOUNT OF GRANTS.—

8 “(1) IN GENERAL.—The total amount of the
9 grants provided under subsection (a) with respect to
10 each tribe, tribal organization, or consortium of
11 tribes or tribal organizations for each fiscal year
12 shall be equal to the amount which bears the same
13 relationship to the total amount appropriated under
14 the authority of subsection (g) for such fiscal year
15 (less amounts provided under subsection (f)) as—

16 “(A) the total number of children under 6
17 years of age who are members of—

18 “(i) such tribe;

19 “(ii) the tribe that authorized such
20 tribal organization; or

21 “(iii) any tribe that—

22 “(I) is a member of such consor-
23 tium; or

24 “(II) authorizes any tribal orga-
25 nization that is a member of such con-
26 sortium; bears to

1 “(B) the total number of all children under
2 6 years of age who are members of any tribe
3 that—

4 “(i) is eligible to receive funds under
5 subsection (a);

6 “(ii) is a member of a consortium that
7 is eligible to receive such funds; or

8 “(iii) authorizes a tribal organization
9 that is eligible to receive such funds.

10 “(2) LIMITATION.—No grant may be provided
11 under subsection (a)—

12 “(A) to any tribe that has less than 500
13 members;

14 “(B) to any tribal organization which is
15 authorized—

16 “(i) by only one tribe that has less
17 than 500 members; or

18 “(ii) by one or more tribes that have
19 a combined total membership of less than
20 500 members; or

21 “(C) to any consortium composed of tribes,
22 or tribal organizations authorized by tribes,
23 that have a combined total tribal membership of
24 less than 500 members.

25 “(c) APPLICATION.—

1 “(1) IN GENERAL.—A grant may be provided
2 under subsection (a) to a tribe, tribal organization,
3 or consortia of tribes and tribal organizations only
4 if the tribe, organization, or consortia submits to the
5 Secretary an application for the grant at such time
6 and in such form as the Secretary shall prescribe.

7 “(2) CONTENTS.—Applications submitted under
8 paragraph (1) shall set forth the early childhood de-
9 velopment program that the applicant desires to op-
10 erate.

11 “(d) REQUIREMENT OF PROGRAMS FUNDED.—The
12 early childhood development programs that are funded by
13 grants provided under subsection (a)—

14 “(1) shall coordinate existing programs and
15 may provide services that meet identified needs of
16 parents and children under 6 years of age which are
17 not being met by existing programs, including—

18 “(A) prenatal care;

19 “(B) nutrition education;

20 “(C) health education and screening;

21 “(D) family literacy services;

22 “(E) educational testing; and

23 “(F) other educational services;

24 “(2) may include instruction in the language,
25 art, and culture of the tribe; and

1 “(3) shall provide for periodic assessment of the
2 program.

3 “(e) COORDINATION OF FAMILY LITERACY PRO-
4 GRAMS.—Family literacy programs operated under this
5 section and other family literacy programs operated by the
6 Bureau of Indian Affairs shall be coordinated with family
7 literacy programs for Indian children under part B of title
8 I of the Elementary and Secondary Education Act of 1965
9 in order to avoid duplication and to encourage the dissemi-
10 nation of information on quality family literacy programs
11 serving Indians.

12 “(f) ADMINISTRATIVE COSTS.—The Secretary shall,
13 out of funds appropriated under subsection (g), include
14 in the grants provided under subsection (a) amounts for
15 administrative costs incurred by the tribe, tribal organiza-
16 tion, or consortium of tribes in establishing and maintain-
17 ing the early childhood development program.

18 “(g) AUTHORIZATION OF APPROPRIATIONS.—For the
19 purpose of carrying out the provisions of this section,
20 there are authorized to be appropriated \$10,000,000 for
21 fiscal year 2002 and such sums as may be necessary for
22 each of the fiscal years 2003, 2004, 2005, and 2006.

1 **“SEC. 1140. TRIBAL DEPARTMENTS OR DIVISIONS OF EDU-**
2 **CATION.**

3 “(a) IN GENERAL.—Subject to the availability of ap-
4 propriations, the Secretary shall provide grants and tech-
5 nical assistance to tribes for the development and oper-
6 ation of tribal departments of education for the purpose
7 of planning and coordinating all educational programs of
8 the tribe.

9 “(b) GRANTS.—Grants provided under this section
10 shall—

11 “(1) be based on applications from the gov-
12 erning body of the tribe;

13 “(2) reflect factors such as geographic and pop-
14 ulation diversity;

15 “(3) facilitate tribal control in all matters relat-
16 ing to the education of Indian children on Indian
17 reservations (and on former Indian reservations in
18 Oklahoma);

19 “(4) provide for the development of coordinated
20 educational programs on Indian reservations (and on
21 former Indian reservations in Oklahoma) (including
22 all preschool, elementary, secondary, and higher or
23 vocational educational programs funded by tribal,
24 Federal, or other sources) by encouraging tribal ad-
25 ministrative support of all Bureau funded edu-
26 cational programs as well as encouraging tribal co-

1 operation and coordination with all educational pro-
2 grams receiving financial support from State agen-
3 cies, other Federal agencies, or private entities;

4 “(5) provide for the development and enforce-
5 ment of tribal educational codes, including tribal
6 educational policies and tribal standards applicable
7 to curriculum, personnel, students, facilities, and
8 support programs; and

9 “(6) otherwise comply with regulations for
10 grants under section 103(a) of the Indian Self-De-
11 termination and Educational Assistance Act that are
12 in effect on the date that application for such grants
13 are made.

14 “(c) PRIORITIES.—

15 “(1) IN GENERAL.—In making grants under
16 this section, the Secretary shall give priority to any
17 application that—

18 “(A) includes assurances from the majority
19 of Bureau funded schools located within the
20 boundaries of the reservation of the applicant
21 that the tribal department of education to be
22 funded under this section will provide coordi-
23 nating services and technical assistance to all of
24 such schools, including the submission to each
25 applicable agency of a unified application for

1 funding for all of such schools which provides
2 that—

3 “(i) no administrative costs other
4 than those attributable to the individual
5 programs of such schools will be associated
6 with the unified application; and

7 “(ii) the distribution of all funds re-
8 ceived under the unified application will be
9 equal to the amount of funds provided by
10 the applicable agency to which each of
11 such schools is entitled under law;

12 “(B) includes assurances from the tribal
13 governing body that the tribal department of
14 education funded under this section will admin-
15 ister all contracts or grants (except those cov-
16 ered by the other provisions of this title and the
17 Tribally Controlled Community College Assist-
18 ance Act of 1978) for education programs ad-
19 ministered by the tribe and will coordinate all
20 of the programs to the greatest extent possible;

21 “(C) includes assurances for the moni-
22 toring and auditing by or through the tribal de-
23 partment of education of all education pro-
24 grams for which funds are provided by contract

1 or grant to ensure that the programs meet the
2 requirements of law; and

3 “(D) provides a plan and schedule for—

4 “(i) the assumption over the term of
5 the grant by the tribal department of edu-
6 cation of all assets and functions of the
7 Bureau agency office associated with the
8 tribe, insofar as those responsibilities re-
9 late to education; and

10 “(ii) the termination by the Bureau of
11 such operations and office at the time of
12 such assumption,

13 except that when mutually agreeable between
14 the tribal governing body and the Assistant
15 Secretary, the period in which such assumption
16 is to occur may be modified, reduced, or ex-
17 tended after the initial year of the grant.

18 “(2) TIME PERIOD OF GRANT.—Subject to the
19 availability of appropriated funds, grants provided
20 under this section shall be provided for a period of
21 3 years and the grant may, if performance by the
22 grantee is satisfactory to the Secretary, be renewed
23 for additional 3-year terms.

24 “(d) TERMS, CONDITIONS, OR REQUIREMENTS.—The
25 Secretary shall not impose any terms, conditions, or re-

1 requirements on the provision of grants under this section
2 that are not specified in this section.

3 “(e) AUTHORIZATION OF APPROPRIATIONS.—For the
4 purpose of carrying out the provisions of this section,
5 there are authorized to be appropriated \$2,000,000 for fis-
6 cal year 2002 and such sums as may be necessary for each
7 of the fiscal years 2003, 2004, 2005, and 2006.

8 **“SEC. 1141. DEFINITIONS.**

9 “For the purposes of this part, unless otherwise spec-
10 ified:

11 “(1) AGENCY SCHOOL BOARD.—The term
12 ‘agency school board’ means a body, the members of
13 which are appointed by all of the school boards of
14 the schools located within an agency, including
15 schools operated under contract or grant, and the
16 number of such members shall be determined by the
17 Secretary in consultation with the affected tribes, ex-
18 cept that, in agencies serving a single school, the
19 school board of such school shall fulfill these duties,
20 and in agencies having schools or a school operated
21 under contract or grant, one such member at least
22 shall be from such a school.

23 “(2) BUREAU.—The term ‘Bureau’ means the
24 Bureau of Indian Affairs of the Department of the
25 Interior.

1 “(3) BUREAU FUNDED SCHOOL.—The term
2 ‘Bureau funded school’ means—

3 “(A) a Bureau school;

4 “(B) a contract or grant school; or

5 “(C) a school for which assistance is pro-
6 vided under the Tribally Controlled Schools Act
7 of 1988.

8 “(4) BUREAU SCHOOL.—The term ‘Bureau
9 school’ means a Bureau operated elementary or sec-
10 ondary day or boarding school or a Bureau operated
11 dormitory for students attending a school other than
12 a Bureau school.

13 “(5) CONTRACT OR GRANT SCHOOL.—The term
14 ‘contract or grant school’ means an elementary or
15 secondary school or dormitory which receives finan-
16 cial assistance for its operation under a contract,
17 grant or agreement with the Bureau under section
18 102, 103(a), or 208 of the Indian Self-Determina-
19 tion and Education Assistance Act, or under the
20 Tribally Controlled Schools Act of 1988.

21 “(6) EDUCATION LINE OFFICER.—The term
22 ‘education line officer’ means education personnel
23 under the supervision of the Director, whether lo-
24 cated in the central, area, or agency offices.

1 “(7) FAMILY LITERACY SERVICES.—The term
2 ‘family literacy services’ has the meaning given that
3 term in section 8101 of the Elementary and Sec-
4 ondary Education Act of 1965 (20 U.S.C. 8801).

5 “(8) FINANCIAL PLAN.—The term ‘financial
6 plan’ means a plan of services provided by each Bu-
7 reau school.

8 “(9) INDIAN ORGANIZATION.—the term ‘Indian
9 organization’ means any group, association, partner-
10 ship, corporation, or other legal entity owned or con-
11 trolled by a federally recognized Indian tribe or
12 tribes, or a majority of whose members are members
13 of federally recognized tribes.

14 “(10) LOCAL EDUCATIONAL AGENCY.—The
15 term ‘local educational agency’ means a board of
16 education or other legally constituted local school
17 authority having administrative control and direction
18 of free public education in a county, township, inde-
19 pendent, or other school district located within a
20 State, and includes any State agency which directly
21 operates and maintains facilities for providing free
22 public education.

23 “(11) LOCAL SCHOOL BOARD.—The term ‘local
24 school board’, when used with respect to a Bureau
25 school, means a body chosen in accordance with the

1 laws of the tribe to be served or, in the absence of
2 such laws, elected by the parents of the Indian chil-
3 dren attending the school, except that in schools
4 serving a substantial number of students from dif-
5 ferent tribes, the members shall be appointed by the
6 governing bodies of the tribes affected, and the num-
7 ber of such members shall be determined by the Sec-
8 retary in consultation with the affected tribes.

9 “(12) OFFICE.—The term ‘Office’ means the
10 Office of Indian Education Programs within the Bu-
11 reau.

12 “(13) SECRETARY.—The term ‘Secretary’
13 means the Secretary of the Interior.

14 “(14) SUPERVISOR.—The term ‘supervisor’
15 means the individual in the position of ultimate au-
16 thority at a Bureau school.

17 “(15) TRIBAL GOVERNING BODY.—The term
18 ‘tribal governing body’ means, with respect to any
19 school, the tribal governing body, or tribal governing
20 bodies, that represent at least 90 percent of the stu-
21 dents served by such school.

22 “(16) TRIBE.—The term ‘tribe’ means any In-
23 dian tribe, band, nation, or other organized group or
24 community, including any Alaska Native village or
25 regional or village corporation as defined in or estab-

1 lished pursuant to the Alaska Native Claims Settle-
2 ment Act, which is recognized as eligible for the spe-
3 cial programs and services provided by the United
4 States to Indians because of their status as Indi-
5 ans.”.

6 **SEC. 314. TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.**

7 Sections 5202 through 5212 of the Tribally Con-
8 trolled Schools Act of 1988 (25 U.S.C. 2501 et seq.) are
9 amended to read as follows:

10 **“SEC. 5202. FINDINGS.**

11 “Congress, after careful review of the Federal Gov-
12 ernment’s historical and special legal relationship with,
13 and resulting responsibilities to, Indians, finds that—

14 “(1) the Indian Self-Determination and Edu-
15 cation Assistance Act, which was a product of the le-
16 gitimate aspirations and a recognition of the inher-
17 ent authority of Indian nations, was and is a crucial
18 positive step towards tribal and community control;

19 “(2) the Bureau of Indian Affairs’ administra-
20 tion and domination of the contracting process
21 under such Act has not provided the full opportunity
22 to develop leadership skills crucial to the realization
23 of self-government and has denied Indians an effec-
24 tive voice in the planning and implementation of

1 programs for the benefit of Indians which are re-
2 sponsive to the true needs of Indian communities;

3 “(3) Indians will never surrender their desire to
4 control their relationships both among themselves
5 and with non-Indian governments, organizations,
6 and persons;

7 “(4) true self-determination in any society of
8 people is dependent upon an educational process
9 which will ensure the development of qualified people
10 to fulfill meaningful leadership roles;

11 “(5) the Federal administration of education
12 for Indian children has not effected the desired level
13 of educational achievement or created the diverse op-
14 portunities and personal satisfaction that education
15 can and should provide;

16 “(6) true local control requires the least pos-
17 sible Federal interference; and

18 “(7) the time has come to enhance the concepts
19 made manifest in the Indian Self-Determination and
20 Education Assistance Act.

21 **“SEC. 5203. DECLARATION OF POLICY.**

22 “(a) RECOGNITION.—Congress recognizes the obliga-
23 tion of the United States to respond to the strong expres-
24 sion of the Indian people for self-determination by assur-
25 ing maximum Indian participation in the direction of edu-

1 cational services so as to render such services more re-
2 sponsive to the needs and desires of those communities.

3 “(b) COMMITMENT.—Congress declares its commit-
4 ment to the maintenance of the Federal Government’s
5 unique and continuing trust relationship with and respon-
6 sibility to the Indian people through the establishment of
7 a meaningful Indian self-determination policy for edu-
8 cation which will deter further perpetuation of Federal bu-
9 reaucratic domination of programs.

10 “(c) NATIONAL GOAL.—Congress declares that a
11 major national goal of the United States is to provide the
12 resources, processes, and structure which will enable tribes
13 and local communities to effect the quantity and quality
14 of educational services and opportunities which will permit
15 Indian children to compete and excel in the life areas of
16 their choice and to achieve the measure of self-determina-
17 tion essential to their social and economic well-being.

18 “(d) EDUCATIONAL NEEDS.—Congress affirms the
19 reality of the special and unique educational needs of In-
20 dian peoples, including the need for programs to meet the
21 linguistic and cultural aspirations of Indian tribes and
22 communities. These may best be met through a grant
23 process.

24 “(e) FEDERAL RELATIONS.—Congress declares its
25 commitment to these policies and its support, to the full

1 extent of its responsibility, for Federal relations with the
2 Indian Nations.

3 “(f) TERMINATION.—Congress hereby repudiates and
4 rejects House Resolution 108 of the 83d Congress and any
5 policy of unilateral termination of Federal relations with
6 any Indian Nation.

7 **“SEC. 5204. GRANTS AUTHORIZED.**

8 “(a) IN GENERAL.—

9 “(1) ELIGIBILITY.—The Secretary shall provide
10 grants to Indian tribes, and tribal organizations
11 that—

12 “(A) operate contract schools under title
13 XI of the Education Amendments of 1978 and
14 notify the Secretary of their election to operate
15 the schools with assistance under this part
16 rather than continuing as contract school;

17 “(B) operate other tribally controlled
18 schools eligible for assistance under this part
19 and submit applications (which are approved by
20 their tribal governing bodies) to the Secretary
21 for such grants; or

22 “(C) elect to assume operation of Bureau
23 funded schools with the assistance under this
24 part and submit applications (which are ap-

1 proved by their tribal governing bodies) to the
2 Secretary for such grants.

3 “(2) DEPOSIT OF FUNDS.—Grants provided
4 under this part shall be deposited into the general
5 operating fund of the tribally controlled school with
6 respect to which the grant is made.

7 “(3) USE OF FUNDS.—(A) Except as otherwise
8 provided in this paragraph, grants provided under
9 this part shall be used to defray, at the discretion
10 of the school board of the tribally controlled school
11 with respect to which the grant is provided, any ex-
12 penditures for education related activities for which
13 any funds that compose the grant may be used
14 under the laws described in section 5205(a), includ-
15 ing, but not limited to, expenditures for—

16 “(i) school operations, academic, edu-
17 cational, residential, guidance and counseling,
18 and administrative purposes; and

19 “(ii) support services for the school, includ-
20 ing transportation.

21 “(B) Grants provided under this part may, at
22 the discretion of the school board of the tribally con-
23 trolled school with respect to which such grant is
24 provided, be used to defray operations and mainte-
25 nance expenditures for the school if any funds for

1 the operation and maintenance of the school are al-
2 located to the school under the provisions of any of
3 the laws described in section 5205(a).

4 “(b) LIMITATIONS.—

5 “(1) ONE GRANT PER TRIBE OR ORGANIZATION
6 PER FISCAL YEAR.—Not more than one grant may
7 be provided under this part with respect to any In-
8 dian tribe or tribal organization for any fiscal year.

9 “(2) NONSECTARIAN USE.—Funds provided
10 under any grant made under this part may not be
11 used in connection with religious worship or sec-
12 tarian instruction.

13 “(3) ADMINISTRATIVE COSTS LIMITATION.—
14 Funds provided under any grant under this part
15 may not be expended for administrative costs (as de-
16 fined in section 1128(h)(1) of the Education Amend-
17 ments of 1978) in excess of the amount generated
18 for such costs under section 1128 of such Act.

19 “(c) LIMITATION ON TRANSFER OF FUNDS AMONG
20 SCHOOLSITES.—

21 “(1) IN GENERAL.—In the case of a grantee
22 that operates schools at more than one schoolsite,
23 the grantee may expend not more than the lesser
24 of—

1 “(A) 10 percent of the funds allocated for
2 such schoolsite under section 1128 of the Edu-
3 cation Amendments of 1978; or

4 “(B) \$400,000 of such funds, at any other
5 schoolsite.

6 “(2) DEFINITION OF SCHOOLSITE.—For pur-
7 poses of this subsection, the term ‘schoolsite’ means
8 the physical location and the facilities of an elemen-
9 tary or secondary educational or residential program
10 operated by, or under contract or grant with, the
11 Bureau for which a discreet student count is identi-
12 fied under the funding formula established under
13 section 1127 of the Education Amendments of 1978.

14 “(d) NO REQUIREMENT TO ACCEPT GRANTS.—
15 Nothing in this part may be construed—

16 “(1) to require a tribe or tribal organization to
17 apply for or accept; or

18 “(2) to allow any person to coerce any tribe or
19 tribal organization to apply for, or accept,

20 a grant under this part to plan, conduct, and administer
21 all of, or any portion of, any Bureau program. Such appli-
22 cations and the timing of such applications shall be strictly
23 voluntary. Nothing in this part may be construed as allow-
24 ing or requiring any grant with any entity other than the
25 entity to which the grant is provided.

1 “(e) NO EFFECT ON FEDERAL RESPONSIBILITY.—
2 Grants provided under this part shall not terminate, mod-
3 ify, suspend, or reduce the responsibility of the Federal
4 Government to provide a program.

5 “(f) RETROCESSION.—

6 “(1) IN GENERAL.—Whenever a tribal gov-
7 erning body requests retrocession of any program for
8 which assistance is provided under this part, such
9 retrocession shall become effective upon a date speci-
10 fied by the Secretary that is not later than 120 days
11 after the date on which the tribal governing body re-
12 quests the retrocession. A later date as may be spec-
13 ified if mutually agreed upon by the Secretary and
14 the tribal governing body. If such a program is
15 retroceded, the Secretary shall provide to any Indian
16 tribe served by such program at least the same
17 quantity and quality of services that would have
18 been provided under such program at the level of
19 funding provided under this part prior to the ret-
20 rocession.

21 “(2) STATUS AFTER RETROCESSION.—The tribe
22 requesting retrocession shall specify whether the ret-
23 rocession is to status as a Bureau operated school
24 or as a school operated under contract under title XI
25 of the Education Amendments of 1978.

1 “(3) TRANSFER OF EQUIPMENT AND MATE-
2 RIALS.—Except as otherwise determined by the Sec-
3 retary, the tribe or tribal organization operating the
4 program to be retroceded must transfer to the Sec-
5 retary (or to the tribe or tribal organization which
6 will operate the program as a contract school) the
7 existing equipment and materials which were
8 acquired—

9 “(A) with assistance under this part; or

10 “(B) upon assumption of operation of the
11 program under this part if the school was a Bu-
12 reau funded school under title XI of the Edu-
13 cation Amendments of 1978 before receiving as-
14 sistance under this part.

15 “(g) PROHIBITION OF TERMINATION FOR ADMINIS-
16 TRATIVE CONVENIENCE.—Grants provided under this
17 part may not be terminated, modified, suspended, or re-
18 duced solely for the convenience of the administering agen-
19 cy.

20 **“SEC. 5205. COMPOSITION OF GRANTS.**

21 “(a) IN GENERAL.—The grant provided under this
22 part to an Indian tribe or tribal organization for any fiscal
23 year shall consist of—

24 “(1) the total amount of funds allocated for
25 such fiscal year under sections 1127 and 1128 of the

1 Education Amendments of 1978 with respect to the
2 tribally controlled schools eligible for assistance
3 under this part which are operated by such Indian
4 tribe or tribal organization, including, but not lim-
5 ited to, funds provided under such sections, or under
6 any other provision of law, for transportation costs;

7 “(2) to the extent requested by such Indian
8 tribe or tribal organization, the total amount of
9 funds provided from operations and maintenance ac-
10 counts and, notwithstanding section 105 of the In-
11 dian Self-Determination Act, or any other provision
12 of law, other facilities accounts for such schools for
13 such fiscal year (including but not limited to those
14 referenced under section 1126(d) of the Education
15 Amendments of 1978 or any other law); and

16 “(3) the total amount of funds that are allo-
17 cated to such schools for such fiscal year under—

18 “(A) title I of the Elementary and Sec-
19 ondary Education Act of 1965;

20 “(B) the Individuals with Disabilities Edu-
21 cation Act; and

22 “(C) any other Federal education law, that
23 are allocated to such schools for such fiscal
24 year.

25 “(b) SPECIAL RULES.—

1 “(1) IN GENERAL.—(A) Funds allocated to a
2 tribally controlled school by reason of paragraph (1)
3 or (2) of subsection (a) shall be subject to the provi-
4 sions of this part and shall not be subject to any ad-
5 ditional restriction, priority, or limitation that is im-
6 posed by the Bureau with respect to funds provided
7 under—

8 “(i) title I of the Elementary and Sec-
9 ondary Education Act of 1965;

10 “(ii) the Individuals with Disabilities Edu-
11 cation Act; or

12 “(iii) any Federal education law other than
13 title XI of the Education Amendments of 1978.

14 “(B) Indian tribes and tribal organizations to
15 which grants are provided under this part, and trib-
16 ally controlled schools for which such grants are pro-
17 vided, shall not be subject to any requirements, obli-
18 gations, restrictions, or limitations imposed by the
19 Bureau that would otherwise apply solely by reason
20 of the receipt of funds provided under any law re-
21 ferred to in clause (i), (ii), or (iii) of subparagraph
22 (A).

23 “(2) SCHOOLS CONSIDERED CONTRACT
24 SCHOOLS.—Tribally controlled schools for which
25 grants are provided under this part shall be treated

1 as contract schools for the purposes of allocation of
2 funds under sections 1126(d), 1127, and 1128 of
3 the Education Amendments of 1978.

4 “(3) SCHOOLS CONSIDERED BUREAU
5 SCHOOLS.—Tribally controlled schools for which
6 grants are provided under this chapter shall be
7 treated as Bureau schools for the purposes of alloca-
8 tion of funds provided under—

9 “(A) title I of the Elementary and Sec-
10 ondary Education Act of 1965;

11 “(B) the Individuals with Disabilities Edu-
12 cation Act; and

13 “(C) any other Federal education law, that
14 are distributed through the Bureau.

15 “(4) ACCOUNTS; USE OF CERTAIN FUNDS.—(A)
16 Notwithstanding section 5204(a)(2), with respect to
17 funds from facilities improvement and repair, alter-
18 ation and renovation (major or minor), health and
19 safety, or new construction accounts included in the
20 grant under section 5204(a), the grantee shall main-
21 tain a separate account for such funds. At the end
22 of the period designated for the work covered by the
23 funds received, the grantee shall submit to the Sec-
24 retary a separate accounting of the work done and
25 the funds expended to the Secretary. Funds received

1 from these accounts may only be used for the pur-
2 pose for which they were appropriated and for the
3 work encompassed by the application or submission
4 under which they were received.

5 “(B) Notwithstanding subparagraph (A), a
6 school receiving a grant under this part for facilities
7 improvement and repair may use such grant funds
8 for new construction if the tribal government or
9 other organization provides funding for the new con-
10 struction equal to at least 25 percent of the total
11 cost of such new construction.

12 “(C) Where the appropriations measure or the
13 application submission does not stipulate a period
14 for the work covered by the funds so designated, the
15 Secretary and the grantee shall consult and deter-
16 mine such a period prior to the transfer of the
17 funds. A period so determined may be extended
18 upon mutual agreement of the Secretary and the
19 grantee.

20 “(5) ENFORCEMENT OF REQUEST TO INCLUDE
21 FUNDS.—If the Secretary fails to carry out a re-
22 quest made under subsection (a)(2) within 180 days
23 of a request filed by an Indian tribe or tribal organi-
24 zation to include in such tribe or organization’s
25 grant the funds described in subsection (a)(2), the

1 Secretary shall be deemed to have approved such re-
2 quest and the Secretary shall immediately amend
3 the grant accordingly. Such tribe or organization
4 may enforce its rights under subsection (a)(2) and
5 this paragraph, including any denial or failure to act
6 on such tribe or organization's request, pursuant to
7 the disputes authority described in section 5209(e).

8 **“SEC. 5206. ELIGIBILITY FOR GRANTS.**

9 “(a) RULES.—

10 “(1) IN GENERAL.—A tribally controlled school
11 is eligible for assistance under this part if the
12 school—

13 “(A) on April 28, 1988, was a contract
14 school under title XI of the Education Amend-
15 ments of 1978 and the tribe or tribal organiza-
16 tion operating the school submits to the Sec-
17 retary a written notice of election to receive a
18 grant under this part;

19 “(B) was a Bureau operated school under
20 title XI of the Education Amendments of 1978
21 and has met the requirements of subsection (b);

22 “(C) is a school for which the Bureau has
23 not provided funds, but which has met the re-
24 quirements of subsection (c); or

1 “(D) is a school with respect to which an
2 election has been made under paragraph (2)
3 and which has met the requirements of sub-
4 section (b).

5 “(2) NEW SCHOOLS.—Any application which
6 has been submitted under the Indian Self-Deter-
7 mination and Education Assistance Act by an Indian
8 tribe for a school which is not in operation on the
9 date of the enactment of the No Child Left Behind
10 Act of 2001 shall be reviewed under the guidelines
11 and regulations for applications submitted under the
12 Indian Self-Determination and Education Assistance
13 Act that were in effect at the time the application
14 was submitted, unless the Indian tribe or tribal or-
15 ganization elects to have the application reviewed
16 under the provisions of subsection (b).

17 “(b) ADDITIONAL REQUIREMENTS FOR BUREAU
18 FUNDED SCHOOLS AND CERTAIN ELECTING SCHOOLS.—

19 “(1) BUREAU FUNDED SCHOOLS.—A school
20 that was a Bureau funded school under title XI of
21 the Education Amendments of 1978 on the date of
22 the enactment of the No Child Left Behind Act of
23 2001, and any school with respect to which an elec-
24 tion is made under subsection (a)(2), meets the re-
25 quirements of this subsection if—

1 “(A) the Indian tribe or tribal organization
2 that operates, or desires to operate, the school
3 submits to the Secretary an application request-
4 ing that the Secretary—

5 “(i) transfer operation of the school to
6 the Indian tribe or tribal organization, if
7 the Indian tribe or tribal organization is
8 not already operating the school; and

9 “(ii) make a determination as to
10 whether the school is eligible for assistance
11 under this part; and

12 “(B) the Secretary makes a determination
13 that the school is eligible for assistance under
14 this part.

15 “(2) CERTAIN ELECTING SCHOOLS.—(A) By
16 not later than the date that is 120 days after the
17 date on which an application is submitted to the
18 Secretary under paragraph (1)(A), the Secretary
19 shall determine—

20 “(i) in the case of a school which is not
21 being operated by the Indian tribe or tribal or-
22 ganization, whether to transfer operation of the
23 school to the Indian tribe or tribal organization;
24 and

1 “(ii) whether the school is eligible for as-
2 sistance under this part.

3 “(B) In considering applications submitted
4 under paragraph (1)(A), the Secretary—

5 “(i) shall transfer operation of the school
6 to the Indian tribe or tribal organization, if the
7 tribe or tribal organization is not already oper-
8 ating the school; and

9 “(ii) shall determine that the school is eli-
10 gible for assistance under this part, unless the
11 Secretary finds by clear and convincing evidence
12 that the services to be provided by the Indian
13 tribe or tribal organization will be deleterious to
14 the welfare of the Indians served by the school.

15 “(C) In considering applications submitted
16 under paragraph (1)(A), the Secretary shall consider
17 whether the Indian tribe or tribal organization would
18 be deficient in operating the school with respect to—

19 “(i) equipment;

20 “(ii) bookkeeping and accounting proce-
21 dures;

22 “(iii) ability to adequately manage a
23 school; or

24 “(iv) adequately trained personnel.

1 “(c) ADDITIONAL REQUIREMENTS FOR A SCHOOL
2 WHICH IS NOT A BUREAU FUNDED SCHOOL.—

3 “(1) IN GENERAL.—A school which is not a Bu-
4 reau funded school under title XI of the Education
5 Amendments of 1978 meets the requirements of this
6 subsection if—

7 “(A) the Indian tribe or tribal organization
8 that operates, or desires to operate, the school
9 submits to the Secretary an application request-
10 ing a determination by the Secretary as to
11 whether the school is eligible for assistance
12 under this part; and

13 “(B) the Secretary makes a determination
14 that a school is eligible for assistance under this
15 part.

16 “(2) DEADLINE FOR DETERMINATION BY SEC-
17 RETARY.—(A) By not later than the date that is
18 180 days after the date on which an application is
19 submitted to the Secretary under paragraph (1)(A),
20 the Secretary shall determine whether the school is
21 eligible for assistance under this part.

22 “(B) In making the determination under sub-
23 paragraph (A), the Secretary shall give equal consid-
24 eration to each of the following factors:

1 “(i) with respect to the applicant’s
2 proposal—

3 “(I) the adequacy of facilities or the
4 potential to obtain or provide adequate fa-
5 cilities;

6 “(II) geographic and demographic fac-
7 tors in the affected areas;

8 “(III) adequacy of the applicant’s pro-
9 gram plans;

10 “(IV) geographic proximity of com-
11 parable public education; and

12 “(V) the needs as expressed by all af-
13 fected parties, including but not limited to
14 students, families, tribal governments at
15 both the central and local levels, and
16 school organizations; and

17 “(ii) with respect to all education services
18 already available—

19 “(I) geographic and demographic fac-
20 tors in the affected areas;

21 “(II) adequacy and comparability of
22 programs already available;

23 “(III) consistency of available pro-
24 grams with tribal education codes or tribal
25 legislation on education; and

1 “(IV) the history and success of these
2 services for the proposed population to be
3 served, as determined from all factors in-
4 cluding, if relevant, standardized examina-
5 tion performance.

6 “(C) The Secretary may not make a deter-
7 mination under this paragraph that is primarily
8 based upon the geographic proximity of com-
9 parable public education.

10 “(D) Applications submitted under para-
11 graph (1)(A) shall include information on the
12 factors described in subparagraph (B)(i), but
13 the applicant may also provide the Secretary
14 such information relative to the factors de-
15 scribed in subparagraph (B)(ii) as the applicant
16 considers appropriate.

17 “(E) If the Secretary fails to make a de-
18 termination under subparagraph (A) with re-
19 spect to an application within 180 days after
20 the date on which the Secretary received the
21 application, the Secretary shall be treated as
22 having made a determination that the tribally
23 controlled school is eligible for assistance under
24 the title and the grant shall become effective 18
25 months after the date on which the Secretary

1 received the application, or on an earlier date,
2 at the Secretary's discretion.

3 “(d) FILING OF APPLICATIONS AND REPORTS.—

4 “(1) IN GENERAL.—All applications and reports
5 submitted to the Secretary under this part, and any
6 amendments to such applications or reports, shall be
7 filed with the education line officer designated by
8 the Director of the Office of Indian Education Pro-
9 grams of the Bureau of Indian Affairs. The date on
10 which such filing occurs shall, for purposes of this
11 part, be treated as the date on which the application
12 or amendment was submitted to the Secretary.

13 “(2) SUPPORTING DOCUMENTATION.—Any ap-
14 plication that is submitted under this chapter shall
15 be accompanied by a document indicating the action
16 taken by the tribal governing body in authorizing
17 such application.

18 “(e) EFFECTIVE DATE FOR APPROVED APPLICA-
19 TIONS.—Except as provided by subsection (c)(2)(E), a
20 grant provided under this part, and any transfer of the
21 operation of a Bureau school made under subsection (b),
22 shall become effective beginning the academic year suc-
23 ceeding the fiscal year in which the application for the
24 grant or transfer is made, or at an earlier date determined
25 by the Secretary.

1 “(f) DENIAL OF APPLICATIONS.—

2 “(1) IN GENERAL.—Whenever the Secretary re-
3 fuses to approve a grant under this chapter, to
4 transfer operation of a Bureau school under sub-
5 section (b), or determines that a school is not eligi-
6 ble for assistance under this part, the Secretary
7 shall—

8 “(A) state the objections in writing to the
9 tribe or tribal organization within the allotted
10 time;

11 “(B) provide assistance to the tribe or trib-
12 al organization to overcome all stated objec-
13 tions.

14 “(C) at the request of the tribe or tribal
15 organization, provide the tribe or tribal organi-
16 zation a hearing on the record under the same
17 rules and regulations that apply under the In-
18 dian Self-Determination and Education Assist-
19 ance Act; and

20 “(D) provide an opportunity to appeal the
21 objection raised.

22 “(2) TIMELINE FOR RECONSIDERATION OF
23 AMENDED APPLICATIONS.—The Secretary shall re-
24 consider any amended application submitted under

1 this part within 60 days after the amended applica-
2 tion is submitted to the Secretary.

3 “(g) REPORT.—The Bureau shall submit an annual
4 report to the Congress on all applications received, and
5 actions taken (including the costs associated with such ac-
6 tions), under this section at the same time that the Presi-
7 dent is required to submit to Congress the budget under
8 section 1105 of title 31, United States Code.

9 **“SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION.**

10 “(a) IN GENERAL.—If the Secretary determines that
11 a tribally controlled school is eligible for assistance under
12 this part, the eligibility determination shall remain in ef-
13 fect until the determination is revoked by the Secretary,
14 and the requirements of subsection (b) or (c) of section
15 5206, if applicable, shall be considered to have been met
16 with respect to such school until the eligibility determina-
17 tion is revoked by the Secretary.

18 “(b) ANNUAL REPORTS.—

19 “(1) IN GENERAL.—Each recipient of a grant
20 provided under this part shall complete an annual
21 report which shall be limited to—

22 “(A) an annual financial statement report-
23 ing revenue and expenditures as defined by the
24 cost accounting established by the grantee;

1 “(B) an annual financial audit conducted
2 pursuant to the standards of the Single Audit
3 Act of 1984;

4 “(C) an annual submission to the Sec-
5 retary of the number of students served and a
6 brief description of programs offered under the
7 grant; and

8 “(D) a program evaluation conducted by
9 an impartial evaluation review team, to be
10 based on the standards established for purposes
11 of subsection (c)(1)(A)(ii).

12 “(2) EVALUATION REVIEW TEAMS.—Where ap-
13 propriate, other tribally controlled schools and rep-
14 resentatives of tribally controlled community colleges
15 shall make up members of the evaluation review
16 teams.

17 “(3) EVALUATIONS.—In the case of a school
18 which is accredited, evaluations will be conducted at
19 intervals under the terms of accreditation.

20 “(4) SUBMISSION OF REPORT.—

21 “(A) TO TRIBALLY GOVERNING BODY.—
22 Upon completion of the report required under
23 paragraph (a), the recipient of the grant shall
24 send (via first class mail, return receipt re-
25 quested) a copy of such annual report to the

1 tribal governing body (as defined in section
2 1132(f) of the Education Amendments of 1978)
3 of the tribally controlled school.

4 “(B) TO SECRETARY.—Not later than 30
5 days after receiving written confirmation that
6 the tribal governing body has received the re-
7 port send pursuant to subsection (A), the re-
8 cipient of the grant shall send a copy of the re-
9 port to the Secretary.

10 “(c) REVOCATION OF ELIGIBILITY.—

11 “(1) IN GENERAL.—(A) The Secretary shall not
12 revoke a determination that a school is eligible for
13 assistance under this part if—

14 “(i) the Indian tribe or tribal organization
15 submits the reports required under subsection
16 (b) with respect to the school; and

17 “(ii) at least one of the following sub-
18 clauses applies with respect to the school:

19 “(I) The school is certified or accred-
20 ited by a State or regional accrediting as-
21 sociation or is a candidate in good stand-
22 ing for such accreditation under the rules
23 of the State or regional accrediting asso-
24 ciation, showing that credits achieved by
25 the students within the education pro-

1 grams are, or will be, accepted at grade
2 level by a State certified or regionally ac-
3 credited institution.

4 “(II) A determination made by the
5 Secretary that there is a reasonable expect-
6 ation that the accreditation described in
7 subclause (I), or the candidacy in good
8 standing for such accreditation, will be
9 reached by the school within 3 years and
10 that the program offered by the school is
11 beneficial to the Indian students.

12 “(III) The school is accredited by a
13 tribal department of education if such ac-
14 creditation is accepted by a generally rec-
15 ognized regional or State accreditation
16 agency.

17 “(IV) The schools accept the stand-
18 ards promulgated under section 1121 of
19 the Education Amendments of 1978 and
20 an evaluation of performance is conducted
21 under this section in conformance with the
22 regulations pertaining to Bureau operated
23 schools by an impartial evaluator chosen
24 by the grantee, but no grantee shall be re-
25 quired to comply with these standards to a

1 higher degree than a comparable Bureau
2 operated school.

3 “(V) A positive evaluation of the
4 school is conducted by an impartial eval-
5 uator agreed upon by the Secretary and
6 the grantee every 2 years under standards
7 adopted by the contractor under a contract
8 for a school entered into under the Indian
9 Self-Determination and Education Assist-
10 ance Act (or revisions of such standards
11 agreed to by the Secretary and the grant-
12 ee) prior to the date of the enactment of
13 this Act. If the Secretary and the grantee
14 other than the tribal governing body fail to
15 agree on such an evaluator, the tribal gov-
16 erning body shall choose the evaluator or
17 perform the evaluation. If the Secretary
18 and a grantee which is the tribal governing
19 body fail to agree on such an evaluator,
20 this subclause shall not apply.

21 “(B) The choice of standards employed for the
22 purpose of subparagraph (A)(ii) shall be consistent
23 with section 1121(e) of the Education Amendments
24 of 1978.

1 “(2) NOTICE REQUIREMENTS FOR REVOCA-
2 TION.—The Secretary shall not revoke a determina-
3 tion that a school is eligible for assistance under this
4 part, or reassume control of a school that was a Bu-
5 reau school prior to approval of an application sub-
6 mitted under section 5206(b)(1)(A) until the
7 Secretary—

8 “(A) provides notice to the tribally con-
9 trolled school and the tribal governing body
10 (within the meaning of section 1141(14) of the
11 Education Amendments of 1978) of the tribally
12 controlled school which states—

13 “(i) the specific deficiencies that led
14 to the revocation or resumption determina-
15 tion; and

16 “(ii) the actions that are needed to
17 remedy such deficiencies; and

18 “(B) affords such authority an opportunity
19 to effect the remedial actions.

20 “(3) TECHNICAL ASSISTANCE.—The Secretary
21 shall provide such technical assistance as is prac-
22 ticable to effect such remedial actions. Such notice
23 and technical assistance shall be in addition to a
24 hearing and appeal to be conducted pursuant to the
25 regulations described in section 5206(f)(1)(C).

1 “(d) APPLICABILITY OF SECTION PURSUANT TO
2 ELECTION UNDER SECTION 5209(b).—With respect to a
3 tribally controlled school which receives assistance under
4 this part pursuant to an election made under section
5 5209(b)—

6 “(1) subsection (b) of this section shall apply;
7 and

8 “(2) the Secretary may not revoke eligibility for
9 assistance under this part except in conformance
10 with subsection (c) of this section.

11 **“SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS.**

12 “(a) PAYMENTS.—

13 “(1) IN GENERAL.—Except as otherwise pro-
14 vided in this subsection, the Secretary shall make
15 payments to grantees under this part in two pay-
16 ments, of which—

17 “(A) the first payment shall be made not
18 later than July 15 of each year in an amount
19 equal to 85 percent of the amount which the
20 grantee was entitled to receive during the pre-
21 ceding academic year; and

22 “(B) the second payment, consisting of the
23 remainder to which the grantee is entitled for
24 the academic year, shall be made not later than
25 December 1 of each year.

1 “(2) NEWLY FUNDED SCHOOLS.—For any
2 school for which no payment under this part was
3 made from Bureau funds in the preceding academic
4 year, full payment of the amount computed for the
5 first academic year of eligibility under this part shall
6 be made not later than December 1 of the academic
7 year.

8 “(3) LATE FUNDING.—With regard to funds for
9 grantees that become available for obligation on Oc-
10 tober 1 of the fiscal year for which such funds are
11 appropriated, the Secretary shall make payments to
12 grantees not later than December 1 of the fiscal
13 year.

14 “(4) APPLICABILITY OF CERTAIN TITLE 31 PRO-
15 VISIONS.—The provisions of chapter 39 of Title 31,
16 United States Code, shall apply to the payments re-
17 quired to be made by paragraphs (1), (2), and (3).

18 “(5) RESTRICTIONS.—Paragraphs (1), (2), and
19 (3) shall be subject to any restriction on amounts of
20 payments under this part that are imposed by a con-
21 tinuing resolution or other Act appropriating the
22 funds involved.

23 “(b) INVESTMENT OF FUNDS.—

24 “(1) TREATMENT OF INTEREST AND INVEST-
25 MENT INCOME.—Notwithstanding any other provi-

1 sion of law, any interest or investment income that
2 accrues to any funds provided under this part after
3 such funds are paid to the Indian tribe or tribal or-
4 ganization and before such funds are expended for
5 the purpose for which such funds were provided
6 under this part shall be the property of the Indian
7 tribe or tribal organization and shall not be taken
8 into account by any officer or employee of the Fed-
9 eral Government in determining whether to provide
10 assistance, or the amount of assistance, under any
11 provision of Federal law. Such interest income shall
12 be spent on behalf of the school.

13 “(2) PERMISSIBLE INVESTMENTS.—Funds pro-
14 vided under this part may be invested by the Indian
15 tribe or tribal organization before such funds are ex-
16 pended for the purposes of this part so long as such
17 funds are—

18 “(A) invested by the Indian tribe or tribal
19 organization only in obligations of the United
20 States, or in obligations or securities that are
21 guaranteed or insured by the United States, or
22 mutual (or other) funds registered with the Se-
23 curities and Exchange Commission and which
24 only invest in obligations of the United States,

1 or securities that are guaranteed or insured by
2 the United States; or

3 “(B) deposited only into accounts that are
4 insure by and agency or instrumentality of the
5 United States, or are fully collateralized to en-
6 sure protection of the funds, even in the event
7 of a bank failure.

8 “(c) RECOVERIES.—For the purposes of under-
9 recovery and overrecovery determinations by any Federal
10 agency for any other funds, from whatever source derived,
11 funds received under this part shall not be taken into con-
12 sideration.

13 **“SEC. 5209. APPLICATION WITH RESPECT TO INDIAN SELF-
14 DETERMINATION AND EDUCATION ASSIST-
15 ANCE ACT.**

16 “(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—
17 The following provisions of the Indian Self-Determination
18 and Education Assistance Act (and any subsequent revi-
19 sions thereto or renumbering thereof), shall apply to
20 grants provided under this part:

21 “(1) Section 5(f) (relating to single agency
22 audit).

23 “(2) Section 6 (relating to criminal activities;
24 penalties).

1 “(3) Section 7 (relating to wage and labor
2 standards).

3 “(4) Section 104 (relating to retention of Fed-
4 eral employee coverage).

5 “(5) Section 105(f) (relating to Federal prop-
6 erty).

7 “(6) Section 105(k) (relating to access to Fed-
8 eral sources of supply).

9 “(7) Section 105(l) (relating to lease of facility
10 used for administration and delivery of services).

11 “(8) Section 106(e) (relating to limitation on
12 remedies relating to cost allowances).

13 “(9) Section 106(i) (relating to use of funds for
14 matching or cost participation requirements).

15 “(10) Section 106(j) (relating to allowable uses
16 of funds).

17 “(11) Section 108(c) (Model Agreements provi-
18 sions (1)(a)(5) (relating to limitations of costs),
19 (1)(a)(7) (relating to records and monitoring),
20 (1)(a)(8) (relating to property), and (a)(1)(9) (relat-
21 ing to availability of funds).

22 “(12) Section 109 (relating to reassumption).

23 “(13) Section 111 (relating to sovereign immu-
24 nity and trusteeship rights unaffected).

1 “(b) ELECTION FOR GRANT IN LIEU OF CON-
2 TRACT.—

3 “(1) IN GENERAL.—Contractors for activities to
4 which this part applies who have entered into a con-
5 tract under the Indian Self-Determination and Edu-
6 cation Assistance Act that is in effect upon the date
7 of the enactment of the No Child Left Behind Act
8 of 2001 may, by giving notice to the Secretary, elect
9 to have the provisions of this part apply to such ac-
10 tivity in lieu of such contract.

11 “(2) EFFECTIVE DATE OF ELECTION.—Any
12 election made under paragraph (1) shall take effect
13 on the later of—

14 “(A) October 1 of the fiscal year suc-
15 ceeding the fiscal year in which such election is
16 made; or

17 “(B) 60 days after the date of such elec-
18 tion.

19 “(3) EXCEPTION.—In any case in which the 60-
20 day period referred to in paragraph (2)(B) is less
21 than 60 days before the beginning of the succeeding
22 fiscal year, such election shall not take effect until
23 the fiscal year after the fiscal year succeeding the
24 election.

1 “(c) NO DUPLICATION.—No funds may be provided
2 under any contract entered into under the Indian Self-De-
3 termination and Education Assistance Act to pay any ex-
4 penses incurred in providing any program or services if
5 a grant has been made under this part to pay such ex-
6 penses.

7 “(d) TRANSFERS AND CARRYOVERS.—

8 “(1) BUILDINGS, EQUIPMENT, SUPPLIES, MATE-
9 RIALS.—A tribe or tribal organization assuming the
10 operation of—

11 “(A) a Bureau school with assistance
12 under this part shall be entitled to the transfer
13 or use of buildings, equipment, supplies, and
14 materials to the same extent as if it were con-
15 tracting under the Indian Self-Determination
16 and Education Assistance Act; or

17 “(B) a contract school with assistance
18 under this part shall be entitled to the transfer
19 or use of buildings, equipment, supplies and
20 materials that were used in the operation of the
21 contract school to the same extent as if it were
22 contracting under the Indian Self-Determina-
23 tion and Education Assistance Act.

24 “(2) FUNDS.—Any tribe or tribal organization
25 which assumes operation of a Bureau school with as-

1 sistance under this part and any tribe or tribal orga-
2 nization which elects to operate a school with assist-
3 ance under this part rather than to continue as a
4 contract school shall be entitled to any funds which
5 would carryover from the previous fiscal year as if
6 such school were operated as a contract school.

7 “(e) EXCEPTIONS, PROBLEMS, AND DISPUTES.—Any
8 exception or problem cited in an audit conducted pursuant
9 to section 5207(b)(2), any dispute regarding a grant au-
10 thorized to be made pursuant to this part or any amend-
11 ment to such grant, and any dispute involving an adminis-
12 trative cost grant under section 1128 of the Education
13 Amendments of 1978 shall be administered under the pro-
14 visions governing such exceptions, problems, or disputes
15 in the case of contracts under the Indian Self-Determina-
16 tion and Education Assistance Act of 1975. The Equal
17 Access to Justice Act shall apply to administrative appeals
18 filed after September 8, 1988, by grantees regarding a
19 grant under this part, including an administrative cost
20 grant.

21 **“SEC. 5210. ROLE OF THE DIRECTOR.**

22 “Applications for grants under this part, and all ap-
23 plication modifications, shall be reviewed and approved by
24 personnel under the direction and control of the Director
25 of the Office of Indian Education Programs. Required re-

1 ports shall be submitted to education personnel under the
2 direction and control of the Director of such Office.

3 **“SEC. 5211. REGULATIONS.**

4 “The Secretary is authorized to issue regulations re-
5 lating to the discharge of duties specifically assigned to
6 the Secretary by this part. In all other matters relating
7 to the details of planning, development, implementing, and
8 evaluating grants under this part, the Secretary shall not
9 issue regulations. Regulations issued pursuant to this part
10 shall not have the standing of a Federal statute for the
11 purposes of judicial review.

12 **“SEC. 5212. THE TRIBALLY CONTROLLED GRANT SCHOOL**
13 **ENDOWMENT PROGRAM.**

14 “(a) IN GENERAL.—

15 “(1) TRUST FUNDS.—Each school receiving
16 grants under this part may establish, at a Federally
17 insured banking and savings institution, a trust fund
18 for the purposes of this section.

19 “(2) AUTHORITY OF SCHOOLS REGARDING
20 TRUST FUNDS.—The school may provide—

21 “(A) for the deposit into the trust fund,
22 only funds from non-Federal sources, except
23 that the interest on funds received from grants
24 under this part may be used for this purpose;

1 “(B) for the deposit in the account of any
2 earnings on funds deposited in the account; and

3 “(C) for the sole use of the school any
4 noncash, in-kind contributions of real or per-
5 sonal property, such property may at any time
6 be converted to cash.

7 “(b) INTEREST.—Interest from the fund established
8 under subsection (a) may periodically be withdrawn and
9 used, at the discretion of the school, to defray any ex-
10 penses associated with the operation of the school.

11 **“SEC. 5213. DEFINITIONS.**

12 “For the purposes of this part:

13 “(1) BUREAU.—The term ‘Bureau’ means the
14 Bureau of Indian Affairs of the Department of the
15 Interior.

16 “(2) ELIGIBLE INDIAN STUDENT.—The term
17 ‘eligible Indian student’ has the meaning of such
18 term in section 1127(f) of the Education Amend-
19 ments of 1978.

20 “(3) INDIAN TRIBE.—The term ‘Indian tribe’
21 means any Indian tribe, band, nation, or other orga-
22 nized group or community, including Alaska Native
23 Village or regional corporations (as defined in or es-
24 tablished pursuant to the Alaskan Native Claims
25 Settlement Act, which is recognized as eligible for

1 the special programs and services provided by the
2 United States to Indians because of their status as
3 Indians.

4 “(4) LOCAL EDUCATIONAL AGENCY.—The term
5 ‘local educational agency’ means a public board of
6 education or other public authority legally con-
7 stituted within a State for either administrative con-
8 trol or direction of, or to perform a service function
9 for, public elementary or secondary schools in a city,
10 county, township, school district, or other political
11 subdivision of a State or such combination of school
12 districts or counties as are recognized in a State as
13 an administrative agency for its public elementary or
14 secondary schools. Such term includes any other
15 public institution or agency having administrative
16 control and direction of a public elementary or sec-
17 ondary school.

18 “(5) SECRETARY.—The term ‘Secretary’ means
19 the Secretary of the Interior.

20 “(6) TRIBAL ORGANIZATION.—(A) The term
21 ‘tribal organization’ means—

22 “(i) the recognized governing body of any
23 Indian tribe; or

24 “(ii) any legally established organization of
25 Indians which—

1 “(I) is controlled, sanctioned, or char-
2 tered by such governing body or is demo-
3 cratically elected by the adult members of
4 the Indian community to be served by such
5 organization; and

6 “(II) includes the maximum participa-
7 tion of Indians in all phases of its activi-
8 ties.

9 “(B) In any case in which a grant is provided
10 under this part to an organization to provide serv-
11 ices benefiting more than one Indian tribe, the ap-
12 proval of the governing bodies of Indian tribes rep-
13 resenting 80 percent of those students attending the
14 tribally controlled school shall be considered a suffi-
15 cient tribal authorization for such grant.

16 “(7) TRIBALLY CONTROLLED SCHOOL.—The
17 term ‘tribally controlled school’ means a school oper-
18 ated by a tribe or a tribal organization, enrolling
19 students in kindergarten through grade 12, includ-
20 ing preschools, which is not a local educational agen-
21 cy and which is not directly administered by the Bu-
22 reau of Indian Affairs.”.

1 **SEC. 315. ACCOUNTABILITY FOR BUREAU FUNDED**
 2 **SCHOOLS.**

3 Notwithstanding the provisions of section 7102 of the
 4 Elementary and Secondary Education Act of 1965, the
 5 Secretary shall limit any reduction of administrative fund-
 6 ing for the Bureau of Indian Affairs under such section
 7 to no more than 50 percent of the amount that may be
 8 reserved for administration under such Act.

9 **TITLE IV—PROMOTING IN-**
 10 **FORMED PARENTAL CHOICE**
 11 **AND INNOVATIVE PROGRAMS**

12 **PART A—INNOVATIVE PROGRAMS**

13 **SEC. 401. INNOVATIVE PROGRAMS.**

14 Title IV is amended to read as follows:

15 **“TITLE IV—PROMOTING IN-**
 16 **FORMED PARENTAL CHOICE**
 17 **AND INNOVATIVE PROGRAMS**

18 **“PART A—INNOVATIVE PROGRAMS**

19 **“Subpart 1—State and Local Innovative Programs**

20 **“SEC. 4101. FINDINGS AND STATEMENT OF PURPOSE.**

21 **“(a) FINDINGS.—**Congress finds that this subpart—

22 **“(1)** provides flexibility to meet local needs;

23 **“(2)** promotes local and State education re-
 24 forms;

25 **“(3)** contributes to the improvement of aca-
 26 demic achievement for all students;

1 “(4) provides funding for critical activities; and

2 “(5) provides services for private school stu-
3 dents.

4 “(b) STATEMENT OF PURPOSE.—It is the purpose of
5 programs under this subpart—

6 “(1) to provide funding to enable States and
7 local educational agencies to implement promising
8 educational reform programs and school improve-
9 ment initiatives based on scientifically based re-
10 search;

11 “(2) to provide a continuing source of innova-
12 tion and educational improvement, including support
13 for library services and instructional and media ma-
14 terials; and

15 “(3) to meet the educational needs of all stu-
16 dents, including at-risk youth.

17 “(c) STATE AND LOCAL RESPONSIBILITY.—

18 “(1) IN GENERAL.—The States shall have the
19 basic responsibility for the administration of funds
20 made available under this subpart, but such admin-
21 istration shall be carried out with a minimum of pa-
22 perwork.

23 “(2) DESIGN AND IMPLEMENTATION.—Not-
24 withstanding paragraph (1), local educational agen-
25 cies, school superintendents and principals, and

1 classroom teachers and supporting personnel shall be
2 mainly responsible for the design and implementa-
3 tion of programs assisted under this subpart, be-
4 cause such agencies and individuals have the most
5 direct contact with students and are most likely to
6 be able to design programs to meet the educational
7 needs of students in their own school districts.

8 **“CHAPTER 1—STATE AND LOCAL**
9 **PROGRAMS**

10 **“SEC. 4111. ALLOCATION TO STATES.**

11 “(a) RESERVATIONS.—From the sums appropriated
12 to carry out this subpart for each fiscal year, the Secretary
13 shall reserve not more than 1 percent for payments to out-
14 lying areas to be allotted in accordance with their respec-
15 tive needs.

16 “(b) ALLOCATION OF REMAINDER.—From the re-
17 mainder of such sums, the Secretary shall allocate, and
18 make available in accordance with this subpart, to each
19 State an amount which bears the same ratio to the
20 amount of such remainder as the school-age population
21 of the State bears to the school-age population of all
22 States, except that no State shall receive less than an
23 amount equal to $\frac{1}{2}$ of 1 percent of such remainder.

1 **“SEC. 4112. ALLOCATION TO LOCAL EDUCATIONAL AGEN-**
2 **CIES.**

3 “(a) DISTRIBUTION RULE.—

4 “(1) IN GENERAL.—Subject to paragraph (2),
5 from the sums made available each year to carry out
6 this subpart, the State shall distribute not less than
7 85 percent to local educational agencies within such
8 State according to the relative enrollments in public
9 and private, nonprofit schools within the jurisdic-
10 tions of such agencies, adjusted, in accordance with
11 criteria approved by the Secretary, to provide higher
12 per-pupil allocations to local educational agencies
13 that have the greatest numbers or percentages of
14 children whose education imposes a higher than av-
15 erage cost per child, such as—

16 “(A) children living in areas with high con-
17 centrations of economically disadvantaged fami-
18 lies;

19 “(B) children from economically disadvan-
20 taged families; and

21 “(C) children living in sparsely populated
22 areas.

23 “(2) EXCEPTION.—100 percent of any amount
24 by which the funds paid to a State under this sub-
25 part for a fiscal year exceed the amount of such
26 funds paid to the State for fiscal year 2001 shall be

1 distributed to local educational agencies and used lo-
2 cally for innovative assistance described in section
3 4131(b).

4 “(3) LIMITATION ON USE OF FUNDS FOR AD-
5 MINISTRATION.—In each fiscal year, a State may
6 use not more than 25 percent of the funds available
7 for State programs under this subpart for State ad-
8 ministration under section 4121.

9 “(b) CALCULATION OF ENROLLMENTS.—

10 “(1) IN GENERAL.—The calculation of relative
11 enrollments under subsection (a)(1) shall be on the
12 basis of the total of—

13 “(A) the number of children enrolled in
14 public schools; and

15 “(B) the number of children enrolled in
16 private, nonprofit schools whose parents would
17 like their children to participate in programs or
18 projects assisted under this subpart, for the fis-
19 cal year preceding the fiscal year for which the
20 determination is made.

21 “(2) CONSTRUCTION.—Nothing in this sub-
22 section shall diminish the responsibility of each local
23 educational agency to contact, on an annual basis,
24 appropriate officials from private nonprofit schools
25 within the areas served by such agencies in order to

1 determine whether such schools desire that their
2 children participate in programs assisted under this
3 chapter.

4 “(3) ADJUSTMENTS.—

5 “(A) IN GENERAL.—Relative enrollments
6 calculated under subsection (a)(1) shall be ad-
7 justed, in accordance with criteria approved by
8 the Secretary under subparagraph (B), to pro-
9 vide higher per-pupil allocations only to local
10 educational agencies that serve the greatest
11 numbers or percentages of—

12 “(i) children living in areas with high
13 concentrations of economically disadvan-
14 tagged families;

15 “(ii) children from economically dis-
16 advantaged families; or

17 “(iii) children living in sparsely popu-
18 lated areas.

19 “(B) CRITERIA.—The Secretary shall re-
20 view criteria submitted by a State for adjusting
21 allocations under paragraph (1) and shall ap-
22 prove such criteria only if the Secretary deter-
23 mines that such criteria are reasonably cal-
24 culated to produce an adjusted allocation that
25 reflects the relative needs of the State’s local

1 educational agencies based on the factors set
2 forth in subparagraph (A).

3 “(c) PAYMENT OF ALLOCATIONS.—

4 “(1) DISTRIBUTION.—From the funds paid to a
5 State under this subpart for a fiscal year, a State
6 shall distribute to each eligible local educational
7 agency that has submitted an application as required
8 in section 4133 the amount of such local educational
9 agency’s allocation, as determined under subsection
10 (a).

11 “(2) ADDITIONAL FUNDS.—

12 “(A) IN GENERAL.—Additional funds re-
13 sulting from higher per-pupil allocations pro-
14 vided to a local educational agency on the basis
15 of adjusted enrollments of children described in
16 subsection (a)(1) may, in the discretion of the
17 local educational agency, be allocated for ex-
18 penditures to provide services for children en-
19 rolled in public and private, nonprofit schools in
20 direct proportion to the number of children de-
21 scribed in subsection (a)(1) and enrolled in
22 such schools within the local educational agen-
23 cy.

24 “(B) ELECTION.—In any fiscal year, any
25 local educational agency that elects to allocate

1 such additional funds in the manner described
2 in subparagraph (A) shall allocate all additional
3 funds to schools within the local educational
4 agency in such manner.

5 “(C) CONSTRUCTION.—Subparagraphs (A)
6 and (B) may not be construed to require any
7 school to limit the use of the additional funds
8 described in subparagraph (A) to the provision
9 of services to specific students or categories of
10 students.

11 **“CHAPTER 2—STATE PROGRAMS**

12 **“SEC. 4121. STATE USE OF FUNDS.**

13 “A State may use funds made available for State use
14 under this subpart only for—

15 “(1) State administration of programs under
16 this subpart including—

17 “(A) supervision of the allocation of funds
18 to local educational agencies;

19 “(B) planning, supervision, and processing
20 of State funds; and

21 “(C) monitoring and evaluation of pro-
22 grams and activities under this subpart;

23 “(2) support for planning, designing, and initial
24 implementation of charter schools as described in
25 part B;

1 “(3) statewide education reform and school im-
2 provement activities and technical assistance and di-
3 rect grants to local educational agencies which assist
4 such agencies under section 4131; and

5 “(4) support for arrangements that provide for
6 independent analysis to measure and report on
7 school district achievement.

8 **“SEC. 4122. STATE APPLICATIONS.**

9 “(a) APPLICATION REQUIREMENTS.—If a State
10 seeks to receive assistance under this subpart, the indi-
11 vidual, entity, or agency responsible for public elementary
12 and secondary education policy under the State constitu-
13 tion or State law shall submit to the Secretary an applica-
14 tion that—

15 “(1) provides for an annual statewide summary
16 of how assistance under this subpart is contributing
17 toward improving student achievement or improving
18 the quality of education for students;

19 “(2) provides information setting forth the allo-
20 cation of such funds required to implement section
21 4142;

22 “(3) provides that the State will keep such
23 records and provide such information to the Sec-
24 retary as may be required for fiscal audit and pro-

1 gram evaluation (consistent with the responsibilities
2 of the Secretary under this section);

3 “(4) provides assurance that, apart from tech-
4 nical and advisory assistance and monitoring compli-
5 ance with this subpart, the State has not exercised
6 and will not exercise any influence in the decision-
7 making processes of local educational agencies as to
8 the expenditure made pursuant to an application
9 under section 4133;

10 “(5) contains assurances that there is compli-
11 ance with the specific requirements of this subpart;
12 and

13 “(6) provides for timely public notice and public
14 dissemination of the information provided under
15 paragraph (2).

16 “(b) STATEWIDE SUMMARY.—The statewide sum-
17 mary referred to in subsection (a)(1) shall be submitted
18 to the Secretary and shall be derived from the evaluation
19 information submitted by local educational agencies to the
20 State under section 4133(a)(2)(H). The format and con-
21 tent of such summary shall be in the discretion of the
22 State and may include statistical measures such as the
23 number of students served by each type of innovative as-
24 sistance described in section 4131(b), including the num-
25 ber of teachers trained.

1 “(c) PERIOD OF APPLICATION.—An application filed
2 by the State under subsection (a) shall be for a period
3 not to exceed 3 years, and may be amended annually as
4 may be necessary to reflect changes without filing a new
5 application.

6 “(d) AUDIT LIMITATION.—Each local educational
7 agency receiving less than an average of \$5,000 under this
8 subpart may not be audited more frequently than once
9 every 5 years.

10 **“CHAPTER 3—LOCAL INNOVATIVE**
11 **EDUCATION PROGRAMS**

12 **“SEC. 4131. USE OF FUNDS.**

13 “(a) IN GENERAL.—Funds made available to local
14 educational agencies under section 4112 shall be used for
15 innovative assistance programs described in subsection
16 (b).

17 “(b) INNOVATIVE ASSISTANCE.—The innovative as-
18 sistance programs referred to in subsection (a) may
19 include—

20 “(1) professional development activities and the
21 hiring of teachers, including activities carried out in
22 accordance with title II, that give teachers, prin-
23 cipals, and administrators the knowledge and skills
24 to provide students with the opportunity to meet

1 challenging State or local academic content stand-
2 ards and student achievement standards;

3 “(2) technology related to the implementation
4 of school-based reform programs, including profes-
5 sional development to assist teachers, and other
6 school officials, regarding how to use effectively such
7 equipment and software;

8 “(3) programs for the development or acquisi-
9 tion and use of instructional and educational mate-
10 rials, including library services and materials (in-
11 cluding media materials), academic assessments, ref-
12 erence materials, computer software and hardware
13 for instructional use, and other curricular materials
14 that are tied to high academic standards, that will
15 be used to improve student achievement, and that
16 are part of an overall education reform program;

17 “(4) promising education reform projects, in-
18 cluding effective schools and magnet schools;

19 “(5) programs to improve the academic skills of
20 disadvantaged elementary and secondary school stu-
21 dents and to prevent students from dropping out of
22 school;

23 “(6) programs to combat illiteracy;

24 “(7) programs to provide for the educational
25 needs of gifted and talented children;

1 “(8) planning, designing, and initial implemen-
2 tation of charter schools as described in part B;

3 “(9) school improvement programs or activities
4 under sections 1116 and 1117;

5 “(10) community service programs that use
6 qualified school personnel to train and mobilize
7 young people to measurably strengthen their com-
8 munities through nonviolence, responsibility, com-
9 passion, respect, and moral courage;

10 “(11) activities to promote consumer, economic,
11 and personal finance education, such as dissemi-
12 nating and encouraging the best practices for teach-
13 ing the basic principles of economics and promoting
14 the concept of achieving financial literacy through
15 the teaching of personal financial management skills
16 (including the basic principles involved with earning,
17 spending, saving, and investing);

18 “(12) activities to promote, implement, or ex-
19 pand public school choice;

20 “(13) programs to hire and support school
21 nurses;

22 “(14) expanding and improving school-based
23 mental health services, including early identification
24 of drug use and violence, assessment, and direct in-
25 dividual or group counseling services provided to stu-

1 dents, parents, and school personnel by qualified
2 school based mental health services personnel;

3 “(15) alternative educational programs for
4 those students who have been expelled or suspended
5 from their regular educational setting, including pro-
6 grams to assist students to reenter the regular edu-
7 cational setting upon return from treatment or alter-
8 native educational programs;

9 “(16) programs to establish or enhance pre-
10 kindergarten programs for children ages 3 through
11 5;

12 “(17) academic intervention programs that are
13 operated jointly with community-based organizations
14 and that support academic enrichment and coun-
15 seling programs conducted during the school day
16 (including during extended school day or extended
17 school year programs) for students most-at-risk of
18 not meeting challenging State academic standards or
19 not completing secondary school;

20 “(18) programs for cardiopulmonary resuscita-
21 tion (CPR) training in schools; and

22 “(19) programs to establish smaller learning
23 communities.

1 **“SEC. 4132. ADMINISTRATIVE AUTHORITY.**

2 “In order to conduct the activities authorized by this
3 subpart, each State or local educational agency may use
4 funds made available under this subpart to make grants
5 to, and to enter into contracts with, local educational
6 agencies, institutions of higher education, libraries, muse-
7 ums, and other public and private nonprofit agencies, or-
8 ganizations, and institutions, including religious organiza-
9 tions.

10 **“SEC. 4133. LOCAL APPLICATIONS.**

11 “(a) CERTIFICATION.—

12 “(1) IN GENERAL.—A local educational agency
13 or a consortium of such agencies may receive an al-
14 location of funds under this subpart for any year for
15 which the agency or consortium submits an applica-
16 tion under this section that is certified by the State
17 to meet the requirements of this section.

18 “(2) CONTENTS OF APPLICATION.—The State
19 shall certify each application that—

20 “(A) describes locally identified needs rel-
21 ative to the purposes of this subpart and to the
22 innovative assistance described in section
23 4131(b);

24 “(B) based on the needs identified in sub-
25 paragraph (A), sets forth the planned allocation
26 of funds among innovative assistance programs

1 described in section 4131 and describes the pro-
2 grams, projects, and activities designed to carry
3 out such innovative assistance programs that
4 the local educational agency intends to support;

5 “(C) contains information setting forth the
6 allocation of such funds required to implement
7 section 4142;

8 “(D) describes how assistance under this
9 subpart will contribute to improving student
10 academic achievement;

11 “(E) provides assurances of compliance
12 with the provisions of this subpart, including
13 the participation of children enrolled in private,
14 nonprofit schools in accordance with section
15 4142;

16 “(F) provides assurance that the local edu-
17 cational agency will keep such records, and pro-
18 vide such information to the State as may be
19 reasonably required for fiscal audit and pro-
20 gram evaluation, consistent with the respon-
21 sibilities of the State under this subpart;

22 “(G) provides in the allocation of funds for
23 the assistance authorized by this subpart, and
24 in the design, planning, and implementation of
25 such programs, for systematic consultation with

1 parents of children attending elementary and
2 secondary schools in the area served by the
3 local educational agency, with teachers and ad-
4 ministrative personnel in such schools, and with
5 other groups involved in the implementation of
6 this subpart (such as librarians, school coun-
7 selors, and other pupil services personnel) as
8 may be considered appropriate by the local edu-
9 cational agency; and

10 “(H) provides assurance that—

11 “(i) programs, services, and activities
12 will be evaluated annually;

13 “(ii) such evaluation will be used to
14 determine and implement appropriate
15 changes in program services and activities
16 for the subsequent year;

17 “(iii) such evaluation will describe
18 how assistance under this subpart contrib-
19 uted toward improving student academic
20 achievement; and

21 “(iv) such evaluation will be submitted
22 to the State in the time and manner re-
23 quested by the State.

24 “(b) TIME PERIOD TO WHICH APPLICATION RE-
25 LATES.—An application submitted by a local educational

1 agency under subsection (a) may seek allocations under
 2 this part for a period of time not to exceed 3 fiscal years
 3 and may be amended annually as may be necessary to re-
 4 flect changes without the filing of a new application.

5 “(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—

6 “(1) IN GENERAL.—Subject to the limitations
 7 and requirements of this subpart, a local educational
 8 agency shall have complete discretion in determining
 9 how funds made available under this chapter will be
 10 divided among programs and activities described in
 11 section 4131.

12 “(2) LIMITATION.—In exercising the discretion
 13 described in paragraph (1), a local educational agen-
 14 cy shall ensure that expenditures under this chapter
 15 carry out the purposes of this subpart and are used
 16 to meet the educational needs within the schools of
 17 such local educational agency.

18 **“CHAPTER 4—GENERAL PROVISIONS**

19 **“SEC. 4141. MAINTENANCE OF EFFORT; FEDERAL FUNDS**
 20 **SUPPLEMENTARY.**

21 “(a) MAINTENANCE OF EFFORT.—

22 “(1) IN GENERAL.—Except as provided in para-
 23 graph (2), a State is entitled to receive its full allo-
 24 cation of funds under this subpart for any fiscal
 25 year only if the Secretary determines that either the

1 combined fiscal effort per student or the aggregate
2 expenditures within the State with respect to the
3 provision of free public education for the fiscal year
4 preceding the fiscal year for which the determination
5 is made was not less than 90 percent of such com-
6 bined fiscal effort or aggregate expenditures for the
7 fiscal year that is 2 fiscal years before the fiscal year
8 for which the determination is made.

9 “(2) REDUCTION OF FUNDS.—The Secretary
10 shall reduce the amount of the allocation of funds
11 under this subpart in any fiscal year in the exact
12 proportion to which the State fails to meet the re-
13 quirements of paragraph (1) by falling below 90 per-
14 cent of both the fiscal effort per student and aggre-
15 gate expenditures (using the measure most favorable
16 to the State), and no such lesser amount shall be
17 used for computing the effort required under para-
18 graph (1) for subsequent years.

19 “(3) WAIVER.—The Secretary may waive, for 1
20 fiscal year only, the requirements of this section if
21 the Secretary determines that such a waiver would
22 be equitable due to exceptional or uncontrollable cir-
23 cumstances such as a natural disaster or a precipi-
24 tous and unforeseen decline in the financial re-
25 sources of the State.

1 “(b) FEDERAL FUNDS SUPPLEMENTARY.—A State
2 or local educational agency may use and allocate funds
3 received under this subpart only to supplement and, to the
4 extent practical, to increase the level of funds that would,
5 in the absence of Federal funds made available under this
6 subpart, be made available from non-Federal sources, and
7 in no case may such funds be used so as to supplant funds
8 from non-Federal sources.

9 **“SEC. 4142. PARTICIPATION OF CHILDREN ENROLLED IN**
10 **PRIVATE SCHOOLS.**

11 “(a) PARTICIPATION ON EQUITABLE BASIS.—

12 “(1) IN GENERAL.—To the extent consistent
13 with the number of children in the school district of
14 a local educational agency which is eligible to receive
15 funds under this subpart or which serves the area in
16 which a program or project assisted under this sub-
17 part is located, who are enrolled in private nonprofit
18 elementary and secondary schools, or with respect to
19 instructional or personnel training programs funded
20 by the State from funds made available for State
21 use, such agency, after consultation with appropriate
22 private school officials—

23 “(A) shall provide for the benefit of such
24 children in such schools secular, neutral, and
25 nonideological services, materials, and equip-

1 ment, including the participation of the teach-
2 ers of such children (and other educational per-
3 sonnel serving such children) in training pro-
4 grams, and the repair or minor remodeling of
5 public facilities as may be necessary for their
6 provision (consistent with subsection (c) of this
7 section); or

8 “(B) if such services, materials, and equip-
9 ment are not feasible or necessary in one or
10 more such private schools as determined by the
11 local educational agency after consultation with
12 the appropriate private school officials, shall
13 provide such other arrangements as will assure
14 equitable participation of such children in the
15 purposes and benefits of this subpart.

16 “(2) OTHER PROVISIONS FOR SERVICES.—If no
17 program or project is carried out under paragraph
18 (1) in the school district of a local educational agen-
19 cy, the State shall make arrangements, such as
20 through contracts with nonprofit agencies or organi-
21 zations, under which children in private schools in
22 such district are provided with services and mate-
23 rials to the extent that would have occurred if the
24 local educational agency had received funds under
25 this subpart.

1 “(3) APPLICATION OF REQUIREMENTS.—The
2 requirements of this section relating to the partici-
3 pation of children, teachers, and other personnel serv-
4 ing such children shall apply to programs and
5 projects carried out under this subpart by a State or
6 local educational agency, whether directly or through
7 grants to or contracts with other public or private
8 agencies, institutions, or organizations.

9 “(b) EQUAL EXPENDITURES.—

10 “(1) IN GENERAL.—Expenditures for programs
11 pursuant to subsection (a) shall be equal (consistent
12 with the number of children to be served) to expend-
13 itures for programs under this subpart for children
14 enrolled in the public schools of the local educational
15 agency.

16 “(2) CONCENTRATED PROGRAMS.—Taking into
17 account the needs of the individual children and
18 other factors which relate to the expenditures re-
19 ferred to in paragraph (1), and when funds available
20 to a local educational agency under this subpart are
21 used to concentrate programs or projects on a par-
22 ticular group, attendance area, or grade or age level,
23 children enrolled in private schools who are included
24 within the group, attendance area, or grade or age
25 level selected for such concentration shall, after con-

1 sultation with the appropriate private school offi-
2 cials, be assured equitable participation in the pur-
3 poses and benefits of such programs or projects.

4 “(c) ADMINISTRATIVE RULES.—

5 “(1) FUNDS AND PROPERTY.—The control of
6 funds provided under this subpart, and title to mate-
7 rials, equipment, and property repaired, remodeled,
8 or constructed with such funds, shall be in a public
9 agency for the uses and purposes provided in this
10 subpart, and a public agency shall administer such
11 funds and property.

12 “(2) PROVISION OF SERVICES.—The provision
13 of services pursuant to this subpart shall be provided
14 by employees of a public agency or through contract
15 by such public agency with a person, an association,
16 agency, or corporation who or which, in the provi-
17 sion of such services, is independent of such private
18 school and of any religious organizations, and such
19 employment or contract shall be under the control
20 and supervision of such public agency, and the funds
21 provided under this subpart shall not be commingled
22 with State or local funds.

23 “(d) WAIVER.—

24 “(1) STATE PROHIBITION WAIVER.—If by rea-
25 son of any provision of law a State or local edu-

1 cational agency is prohibited from providing for the
2 participation in programs of children enrolled in pri-
3 vate elementary and secondary schools, as required
4 by this section, the Secretary shall waive such re-
5 quirements and shall arrange for the provision of
6 services to such children through arrangements
7 which shall be subject to the requirements of this
8 section.

9 “(2) FAILURE TO COMPLY.—If the Secretary
10 determines that a State or a local educational agen-
11 cy has substantially failed or is unwilling to provide
12 for the participation on an equitable basis of chil-
13 dren enrolled in private elementary and secondary
14 schools as required by this section, the Secretary
15 may waive such requirements and shall arrange for
16 the provision of services to such children through ar-
17 rangements which shall be subject to the require-
18 ments of this section.

19 “(e) WITHHOLDING OF ALLOCATION.—Pending final
20 resolution of any investigation or complaint that could re-
21 sult in a waiver under subsection (d)(1) or (d)(2), the Sec-
22 retary may withhold from the allocation of the affected
23 State or local educational agency the amount estimated
24 by the Secretary to be necessary to pay the cost of services
25 to be provided by the Secretary under such subsection.

1 “(f) TERM OF DETERMINATIONS.—Any determina-
2 tion by the Secretary under this section shall continue in
3 effect until the Secretary determines that there will no
4 longer be any failure or inability on the part of the State
5 or local educational agency to meet the requirements of
6 subsections (a) and (b).

7 “(g) PAYMENT FROM STATE ALLOTMENT.—When
8 the Secretary arranges for services pursuant to this sec-
9 tion, the Secretary shall, after consultation with the ap-
10 propriate public and private school officials, pay the cost
11 of such services, including the administrative costs of ar-
12 ranging for those services, from the appropriate allotment
13 of the State under this subpart.

14 “(h) REVIEW.—

15 “(1) WRITTEN OBJECTIONS.—The Secretary
16 shall not take any final action under this section
17 until the State and the local educational agency af-
18 fected by such action have had an opportunity, for
19 not less than 45 days after receiving written notice
20 thereof, to submit written objections and to appear
21 before the Secretary or the Secretary’s designee to
22 show cause why that action should not be taken.

23 “(2) COURT ACTION.—If a State or local edu-
24 cational agency is dissatisfied with the Secretary’s
25 final action after a proceeding under paragraph (1),

1 such agency may, not later than 60 days after notice
2 of such action, file with the United States court of
3 appeals for the circuit in which such State is located
4 a petition for review of that action. A copy of the
5 petition shall be transmitted by the clerk of the
6 court to the Secretary. The Secretary thereupon
7 shall file in the court the record of the proceedings
8 on which the Secretary based this action, as pro-
9 vided in section 2112 of title 28, United States
10 Code.

11 “(3) REMAND TO SECRETARY.—The findings of
12 fact by the Secretary, if supported by substantial
13 evidence, shall be conclusive; but the court, for good
14 cause shown, may remand the case to the Secretary
15 to take further evidence and the Secretary may
16 make new or modified findings of fact and may mod-
17 ify the Secretary’s previous action, and shall file in
18 the court the record of the further proceedings. Such
19 new or modified findings of fact shall likewise be
20 conclusive if supported by substantial evidence.

21 “(4) COURT REVIEW.—Upon the filing of such
22 petition, the court shall have jurisdiction to affirm
23 the action of the Secretary or to set such action
24 aside, in whole or in part. The judgment of the court
25 shall be subject to review by the Supreme Court of

1 the United States upon certiorari or certification as
2 provided in section 1254 of title 28, United States
3 Code.

4 “(i) PRIOR DETERMINATION.—Any bypass deter-
5 mination by the Secretary under chapter 2 of title I of
6 this Act (as such chapter was in effect on the day pre-
7 ceding the date of enactment of the Improving America’s
8 Schools Act of 1994) shall, to the extent consistent with
9 the purposes of this title, apply to programs under this
10 title.

11 **“SEC. 4143. FEDERAL ADMINISTRATION.**

12 “(a) TECHNICAL ASSISTANCE.—The Secretary, upon
13 request, shall provide technical assistance to States and
14 local educational agencies under this subpart.

15 “(b) RULEMAKING.—The Secretary shall issue regu-
16 lations under this subpart only to the extent that such
17 regulations are necessary to ensure that there is compli-
18 ance with the specific requirements and assurances re-
19 quired by this subpart.

20 “(c) AVAILABILITY OF APPROPRIATIONS.—Notwith-
21 standing any other provision of law, unless expressly in
22 limitation of this subsection, funds appropriated in any
23 fiscal year to carry out activities under this subpart shall
24 become available for obligation on July 1 of such fiscal

1 year and shall remain available for obligation until the end
2 of the subsequent fiscal year.

3 **“SEC. 4144. DEFINITIONS.**

4 “In this subpart, the following definitions apply:

5 “(1) SCHOOL-AGE POPULATION.—The term
6 ‘school-age population’ means the population aged 5
7 through 17.

8 “(2) STATE.—The term ‘State’ means each of
9 the 50 States, the District of Columbia, and the
10 Commonwealth of Puerto Rico.

11 **“SEC. 4145. AUTHORIZATION OF APPROPRIATIONS.**

12 “There are authorized to be appropriated to carry out
13 this subpart \$450,000,000 for fiscal year 2002 and such
14 sums as may be necessary for each of fiscal years 2003
15 through 2006.

16 **“Subpart 2—Arts Education**

17 **“SEC. 4151. ASSISTANCE FOR ARTS EDUCATION.**

18 “(a) FINDINGS.—The Congress finds that—

19 “(1) every student can benefit from an edu-
20 cation in the arts;

21 “(2) a growing body of research indicates that
22 education in the arts may provide cognitive benefits
23 and bolster academic achievement, beginning at an
24 early age and continuing through secondary school;

1 “(3) qualified arts teachers and a sequential
2 curriculum are the basis and core for substantive
3 arts education for students;

4 “(4) the arts should be taught according to rig-
5 orous academic standards under arts education pro-
6 grams that provide mechanisms under which edu-
7 cators are accountable to parents, school officials,
8 and the community;

9 “(5) opportunities to participate in the arts
10 have enabled individuals with disabilities of all ages
11 to participate more fully in school and community
12 activities; and

13 “(6) arts education is a valuable part of the ele-
14 mentary and secondary school curriculum.

15 “(b) PURPOSES.—The purposes of this subpart are
16 to—

17 “(1) support systemic education reform by
18 strengthening arts education as an integral part of
19 the elementary and secondary school curriculum;
20 and

21 “(2) help ensure that all students meet chal-
22 lenging State academic content standards and chal-
23 lenging State student academic achievement stand-
24 ards in the arts.

1 “(c) AUTHORITY.—In accordance with this subpart,
2 the Secretary may make grants to, or enter into contracts
3 or cooperative agreements with, eligible entities described
4 in subsection (d).

5 “(d) ELIGIBLE ENTITIES.—The Secretary may make
6 assistance available under subsection (c) to each of the
7 following entities:

8 “(1) States.

9 “(2) Local educational agencies.

10 “(3) Institutions of higher education.

11 “(4) Museums or other cultural institutions.

12 “(5) Any other public or private agencies, insti-
13 tutions, and organizations.

14 “(e) USE OF FUNDS.—Assistance made available
15 under this subpart may be used only for—

16 “(1) research on arts education;

17 “(2) planning, developing, acquiring, expanding,
18 improving, or disseminating model school-based arts
19 education programs;

20 “(3) the development of model State arts edu-
21 cation assessments based on State academic stand-
22 ards;

23 “(4) the development and implementation of
24 curriculum frameworks for arts education;

1 “(5) the development of model inservice profes-
2 sional development programs for arts educators and
3 other instructional staff;

4 “(6) supporting collaborative activities with
5 Federal agencies or institutions, arts educators, and
6 organizations representing the arts, including State
7 and local arts agencies involved in arts education;

8 “(7) supporting model projects or programs in
9 the performing arts for children and youth or pro-
10 grams which assure the participation in mainstream
11 settings in arts and education programs of individ-
12 uals with disabilities through arrangements made
13 with organizations such as the John F. Kennedy
14 Center for the Performing Arts and VSA arts;

15 “(8) supporting model projects or programs to
16 integrate arts education into the regular elementary
17 and secondary school curriculum; or

18 “(9) other activities that further the purposes
19 of this subpart.

20 “(f) CONDITIONS.—As conditions of receiving assist-
21 ance made available under this subpart, the Secretary
22 shall require each entity receiving such assistance—

23 “(1) to coordinate, to the extent practicable,
24 each project or program carried out with such assist-
25 ance with appropriate activities of public or private

1 cultural agencies, institutions, and organizations, in-
2 cluding museums, arts education associations, librari-
3 es, and theaters; and

4 “(2) to use such assistance only to supplement
5 and not to supplant any other assistance or funds
6 made available from non-Federal sources for the ac-
7 tivities assisted under this subpart.

8 “(g) CONSULTATION.—In carrying out this part, the
9 Secretary shall consult with Federal agencies or institu-
10 tions, arts educators (including professional arts education
11 associations), and organizations representing the arts in-
12 cluding State and local arts agencies involved in arts edu-
13 cation.

14 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to carry out this subpart
16 such sums as may be necessary for each of fiscal years
17 2002 through 2006.

18 **“Subpart 3—Gifted and Talented Children**

19 **“SEC. 4161. SHORT TITLE.**

20 “This subpart may be cited as the ‘Jacob K. Javits
21 Gifted and Talented Students Education Act of 2001’.

22 **“SEC. 4162. FINDINGS AND PURPOSE.**

23 “(a) FINDINGS.—Congress finds the following:

24 “(1) While the families and communities of
25 some gifted and talented students can provide pri-

1 vate educational programs with appropriately
2 trained staff to supplement public educational offer-
3 ings, most gifted and talented students, especially
4 those from inner cities, rural communities, or low-in-
5 come families, must rely on the services and per-
6 sonnel available in public schools. In order to ensure
7 that there are equal educational opportunities for all
8 gifted and talented students in the United States,
9 the public schools should provide gifted and talented
10 education programs carried out by qualified profes-
11 sionals.

12 “(2) Due to the wide dispersal of students who
13 are gifted and talented and the national interest in
14 a well-educated populace, it is the Federal Govern-
15 ment that can most effectively and appropriately
16 conduct scientifically based research and develop-
17 ment to ensure that there is a national capacity to
18 educate students who are gifted and talented in the
19 21st century.

20 “(3) Many State and local educational agencies
21 lack the specialized resources and trained personnel
22 necessary to consistently plan and implement effec-
23 tive programs for the identification of gifted and tal-
24 ented students and for the provision of educational

1 services and programs appropriate for the needs of
2 such students.

3 “(4) Because gifted and talented students are
4 generally more advanced academically, are generally
5 able to learn more quickly, and generally study in
6 more depth and complexity than others their age,
7 they require educational opportunities and experi-
8 ences that are different from those usually available
9 to other students.

10 “(5) A typical elementary school student who is
11 academically gifted and talented has already mas-
12 tered 35 to 50 percent of the content to be learned
13 in several subjects in any school year before that
14 year begins. Without an advanced and challenging
15 curriculum, such a student may lose motivation and
16 develop poor study habits that are difficult to break.

17 “(6) Classes in elementary and secondary
18 schools in the United States consist of students with
19 a wide variety of traits, characteristics, and needs.
20 Although most teachers receive some training to
21 meet the needs of students with limited English pro-
22 ficiency, students with disabilities, and students
23 from diverse cultural and racial backgrounds, few re-
24 ceive training to meet the needs of students who are
25 gifted and talented.

1 “(b) PURPOSE.—The purpose of this subpart is to
2 initiate a coordinated program of scientifically based re-
3 search, demonstration projects, innovative strategies, and
4 similar activities designed to build and enhance the ability
5 of elementary and secondary schools nationwide to meet
6 the special educational needs of gifted and talented stu-
7 dents.

8 **“SEC. 4163. RULE OF CONSTRUCTION.**

9 Nothing in this subpart shall be construed to prohibit
10 a recipient of funds under this subpart from serving gifted
11 and talented students simultaneously with students with
12 similar educational needs, in the same educational settings
13 where appropriate.

14 **“SEC. 4164. AUTHORIZED PROGRAMS.**

15 “(a) ESTABLISHMENT OF PROGRAM.—

16 “(1) IN GENERAL.—From the sums available to
17 carry out this subpart in any fiscal year, the Sec-
18 retary (after consultation with experts in the field of
19 the education of gifted and talented students) shall
20 make grants to, or enter into contracts with, State
21 educational agencies, local educational agencies, in-
22 stitutions of higher education, other public agencies,
23 and other private agencies and organizations (includ-
24 ing Indian tribes and Indian organizations (as such
25 terms are defined in section 4 of the Indian Self-De-

1 termination and Education Assistance Act (25
2 U.S.C. 450b)) and Native Hawaiian organizations)
3 to assist such agencies, institutions, and organiza-
4 tions in carrying out programs or projects author-
5 ized by this subpart that are designed to meet the
6 educational needs of gifted and talented students, in-
7 cluding the training of personnel in the education of
8 gifted and talented students and in the use, where
9 appropriate, of gifted and talented services, mate-
10 rials, and methods for all students.

11 “(2) APPLICATION.—

12 “(A) IN GENERAL.—Each entity seeking
13 assistance under this subpart shall submit an
14 application to the Secretary at such time, in
15 such manner, and containing such information
16 as the Secretary may reasonably require.

17 “(B) CONTENTS.—Each application sub-
18 mitted under this paragraph shall describe
19 how—

20 “(i) the proposed gifted and talented
21 services, materials, and methods can be
22 adapted, if appropriate, for use by all stu-
23 dents; and

24 “(ii) the proposed programs can be
25 evaluated.

1 “(b) USE OF FUNDS.—Programs and projects as-
2 sisted under this section may include each of the following:

3 “(1) Conducting—

4 “(A) scientifically based research on meth-
5 ods and techniques for identifying and teaching
6 gifted and talented students, and for using gift-
7 ed and talented programs and methods to serve
8 all students; and

9 “(B) program evaluations, surveys, and the
10 collection, analysis, and development of infor-
11 mation needed to accomplish the purpose of this
12 subpart.

13 “(2) Professional development (including fellow-
14 ships) for personnel (including leadership personnel)
15 involved in the education of gifted and talented stu-
16 dents.

17 “(3) Establishment and operation of model
18 projects and exemplary programs for serving gifted
19 and talented students, including innovative methods
20 for identifying and educating students who may not
21 be served by traditional gifted and talented pro-
22 grams, including summer programs, mentoring pro-
23 grams, service learning programs, and cooperative
24 programs involving business, industry, and edu-
25 cation.

1 “(4) Implementing innovative strategies, such
2 as cooperative learning, peer tutoring, and service
3 learning.

4 “(5) Programs of technical assistance and in-
5 formation dissemination, including assistance and
6 information with respect to how gifted and talented
7 programs and methods, where appropriate, may be
8 adapted for use by all students.

9 “(c) ESTABLISHMENT OF NATIONAL CENTER.—

10 “(1) IN GENERAL.—The Secretary (after con-
11 sultation with experts in the field of the education
12 of gifted and talented students) shall establish a Na-
13 tional Center for Research and Development in the
14 Education of Gifted and Talented Children and
15 Youth through grants to or contracts with one or
16 more institutions of higher education or State edu-
17 cational agencies, or a combination or consortium of
18 such institutions and agencies and other public or
19 private agencies and organizations, for the purpose
20 of carrying out activities described in paragraph (1)
21 of subsection (b).

22 “(2) DIRECTOR.—The National Center estab-
23 lished under paragraph (1) shall be headed by a Di-
24 rector. The Secretary may authorize the Director to
25 carry out such functions of the National Center as

1 may be agreed upon through arrangements with in-
2 stitutions of higher education, State or local edu-
3 cational agencies, or other public or private agencies
4 and organizations.

5 “(d) LIMITATION.—Not more than 30 percent of the
6 funds available in any fiscal year to carry out the pro-
7 grams and projects authorized by this section may be used
8 to conduct activities pursuant to subsection (b)(1) or sub-
9 section (c).

10 “(e) COORDINATION.—Scientifically based research
11 activities supported under this subpart—

12 “(1) shall be carried out in consultation with
13 the Office of Educational Research and Improve-
14 ment to ensure that such activities are coordinated
15 with and enhance the research and development ac-
16 tivities supported by such Office; and

17 “(2) may include collaborative scientifically
18 based research activities which are jointly funded
19 and carried out with such Office.

20 **“SEC. 4165. PROGRAM PRIORITIES.**

21 “(a) GENERAL PRIORITY.—In carrying out this sub-
22 part, the Secretary shall give highest priority to programs
23 and projects designed to develop new information that—

1 “(1) improves the capability of schools to plan,
2 conduct, and improve programs to identify and serve
3 gifted and talented students; and

4 “(2) assists schools in the identification of, and
5 provision of services to, gifted and talented students
6 who may not be identified and served through tradi-
7 tional assessment methods (including economically
8 disadvantaged individuals, individuals of limited
9 English proficiency, and individuals with disabili-
10 ties).

11 “(b) SERVICE PRIORITY.—In approving applications
12 for assistance under section 4164(a)(2), the Secretary
13 shall ensure that in each fiscal year not less than 50 per-
14 cent of the applications approved under such section ad-
15 dress the priority described in subsection (a)(2) of this
16 section.

17 **“SEC. 4166. GENERAL PROVISIONS.**

18 “(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN
19 AND TEACHERS.—In making grants and entering into
20 contracts under this subpart, the Secretary shall ensure,
21 where appropriate, that provision is made for the equitable
22 participation of students and teachers in private nonprofit
23 elementary and secondary schools, including the participa-
24 tion of teachers and other personnel in professional devel-
25 opment programs serving such children.

1 “(b) REVIEW, DISSEMINATION, AND EVALUATION.—

2 The Secretary shall—

3 “(1) use a peer review process in reviewing ap-
4 plications under this subpart;

5 “(2) ensure that information on the activities
6 and results of programs and projects funded under
7 this subpart is disseminated to appropriate State
8 and local educational agencies and other appropriate
9 organizations, including nonprofit private organiza-
10 tions; and

11 “(3) evaluate the effectiveness of programs
12 under this subpart in accordance with section 8651,
13 both in terms of the impact on students traditionally
14 served in separate gifted and talented programs and
15 on other students, and submit the results of such
16 evaluation to the Congress not later than 2 years
17 after the date of the enactment of the No Child Left
18 Behind Act of 2001.

19 “(c) PROGRAM OPERATIONS.—The Secretary shall
20 ensure that the programs under this subpart are adminis-
21 tered within the Department by a person who has recog-
22 nized professional qualifications and experience in the field
23 of the education of gifted and talented students and who
24 shall—

1 “(1) administer and coordinate the programs
2 authorized under this subpart;

3 “(2) serve as a focal point of national leader-
4 ship and information on the educational needs of
5 gifted and talented students and the availability of
6 educational services and programs designed to meet
7 such needs; and

8 “(3) assist the Assistant Secretary of the Office
9 of Educational Research and Improvement in identi-
10 fying research priorities which reflect the needs of
11 gifted and talented students.

12 **“SEC. 4167. AUTHORIZATION OF APPROPRIATIONS.**

13 “‘There are authorized to be appropriated to carry out
14 this subpart such sums as may be necessary for each of
15 fiscal years 2002 through 2006.’”.

16 **SEC. 402. CONTINUATION OF AWARDS.**

17 Notwithstanding any other provision of this Act, any
18 person or agency that was awarded a grant under part
19 B or D of title X (20 U.S.C. 8031 et seq., 8091 et seq.)
20 prior to the date of the enactment of this Act shall con-
21 tinue to receive funds in accordance with the terms of such
22 award until the date on which the award period terminates
23 under such terms.

1 **PART B—PUBLIC CHARTER SCHOOLS**

2 **SEC. 411. PUBLIC CHARTER SCHOOLS.**

3 Title IV, as amended by section 401, is further
4 amended by adding at the end the following:

5 **“PART B—PUBLIC CHARTER SCHOOLS**

6 **“SEC. 4201. FINDINGS AND PURPOSE.**

7 “(a) FINDINGS.—The Congress finds that—

8 “(1) enhancement of parent and student choices
9 among public schools can assist in promoting com-
10 prehensive educational reform and give more stu-
11 dents the opportunity to meet challenging State aca-
12 demic content standards and State student academic
13 achievement standards, if sufficiently diverse and
14 high-quality choices, and genuine opportunities to
15 take advantage of such choices, are available to all
16 students;

17 “(2) useful examples of such choices can come
18 from States and communities that experiment with
19 methods of offering teachers and other educators,
20 parents, and other members of the public the oppor-
21 tunity to design and implement new public schools
22 and to transform existing public schools;

23 “(3) charter schools are a mechanism for test-
24 ing a variety of educational approaches and should,
25 therefore, be exempted from restrictive rules and
26 regulations if the leadership of such schools commits

1 to attaining specific and ambitious educational re-
2 sults for educationally disadvantaged students con-
3 sistent with challenging State academic content
4 standards and State student academic achievement
5 standards for all students;

6 “(4) charter schools can embody the necessary
7 mixture of enhanced choice, exemption from restric-
8 tive regulations, and a focus on learning gains;

9 “(5) charter schools, including charter schools
10 that are schools-within-schools, can help reduce
11 school size, and this reduction can have a significant
12 effect on student achievement;

13 “(6) the Federal Government should test, evalu-
14 ate, and disseminate information on a variety of
15 charter school models in order to help demonstrate
16 the benefits of this promising educational reform;
17 and

18 “(7) there is a strong documented need for
19 cash-flow assistance to charter schools that are
20 starting up, because State and local operating rev-
21 enue streams are not immediately available.

22 “(b) PURPOSE.—It is the purpose of this part to in-
23 crease national understanding of the charter schools model
24 by—

1 “(1) providing financial assistance for the plan-
2 ning, program design and initial implementation of
3 charter schools;

4 “(2) evaluating the effects of such schools, in-
5 cluding the effects on students, student academic
6 achievement, staff, and parents; and

7 “(3) expanding the number of high-quality
8 charter schools available to students across the Na-
9 tion.

10 **“SEC. 4202. PROGRAM AUTHORIZED.**

11 “(a) IN GENERAL.—The Secretary may award grants
12 to State educational agencies having applications approved
13 pursuant to section 4203 to enable such agencies to con-
14 duct a charter school grant program in accordance with
15 this part.

16 “(b) SPECIAL RULE.—If a State educational agency
17 elects not to participate in the program authorized by this
18 part or does not have an application approved under sec-
19 tion 4203, the Secretary may award a grant to an eligible
20 applicant that serves such State and has an application
21 approved pursuant to section 4203(c).

22 “(c) PROGRAM PERIODS.—

23 “(1) GRANTS TO STATES.—Grants awarded to
24 State educational agencies under this part shall be
25 awarded for a period of not more than 3 years.

1 “(2) GRANTS TO ELIGIBLE APPLICANTS.—
2 Grants awarded by the Secretary to eligible appli-
3 cants or subgrants awarded by State educational
4 agencies to eligible applicants under this part shall
5 be awarded for a period of not more than 3 years,
6 of which the eligible applicant may use—

7 “(A) not more than 18 months for plan-
8 ning and program design;

9 “(B) not more than 2 years for the initial
10 implementation of a charter school; and

11 “(C) not more than 2 years to carry out
12 dissemination activities described in section
13 4204(f)(6)(B).

14 “(d) LIMITATION.—A charter school may not
15 receive—

16 “(1) more than one grant for activities de-
17 scribed in subparagraphs (A) and (B) of subsection
18 (c)(2); or

19 “(2) more than one grant for activities under
20 subparagraph (C) of subsection (c)(2).

21 “(e) PRIORITY TREATMENT.—

22 “(1) IN GENERAL.—In awarding grants under
23 this part from any funds appropriated under section
24 4211, the Secretary shall give priority to States to
25 the extent that the States meet the criteria described

1 in paragraph (2) and one or more of the criteria de-
2 scribed in subparagraph (A), (B), or (C) of para-
3 graph (3).

4 “(2) REVIEW AND EVALUATION PRIORITY CRI-
5 TERIA.—The criteria referred to in paragraph (1) is
6 that the State provides for periodic review and eval-
7 uation by the authorized public chartering agency of
8 each charter school, at least once every 5 years un-
9 less required more frequently by State law, to deter-
10 mine whether the charter school is meeting the
11 terms of the school’s charter, and is meeting or ex-
12 ceeding the academic performance requirements and
13 goals for charter schools as set forth under State
14 law or the school’s charter.

15 “(3) PRIORITY CRITERIA.—The criteria referred
16 to in paragraph (1) are the following:

17 “(A) The State has demonstrated progress,
18 in increasing the number of high quality charter
19 schools that are held accountable in the terms
20 of the schools’ charters for meeting clear and
21 measurable objectives for the educational
22 progress of the students attending the schools,
23 in the period prior to the period for which a
24 State educational agency or eligible applicant
25 applies for a grant under this part.

1 “(B) The State—

2 “(i) provides for one authorized public
3 chartering agency that is not a local edu-
4 cational agency, such as a State chartering
5 board, for each individual or entity seeking
6 to operate a charter school pursuant to
7 such State law; or

8 “(ii) in the case of a State in which
9 local educational agencies are the only au-
10 thorized public chartering agencies, allows
11 for an appeals process for the denial of an
12 application for a charter school.

13 “(C) The State ensures that each charter
14 school has a high degree of autonomy over the
15 charter school’s budgets and expenditures.

16 “(f) AMOUNT CRITERIA.—In determining the amount
17 of a grant to be awarded under this part to a State edu-
18 cational agency, the Secretary shall take into consider-
19 ation the number of charter schools that are operating,
20 or are approved to open, in the State.

21 **“SEC. 4203. APPLICATIONS.**

22 “(a) APPLICATIONS FROM STATE AGENCIES.—Each
23 State educational agency desiring a grant from the Sec-
24 retary under this part shall submit to the Secretary an
25 application at such time, in such manner, and containing

1 or accompanied by such information as the Secretary may
2 require.

3 “(b) CONTENTS OF A STATE EDUCATIONAL AGENCY
4 APPLICATION.—Each application submitted pursuant to
5 subsection (a) shall—

6 “(1) describe the objectives of the State edu-
7 cational agency’s charter school grant program and
8 how such objectives will be fulfilled, including steps
9 taken by the State educational agency to inform
10 teachers, parents, and communities of the State edu-
11 cational agency’s charter school grant program; and

12 “(2) describe how the State educational
13 agency—

14 “(A) will inform each charter school in the
15 State regarding—

16 “(i) Federal funds that the charter
17 school is eligible to receive; and

18 “(ii) Federal programs in which the
19 charter school may participate;

20 “(B) will ensure that each charter school
21 in the State receives the charter school’s com-
22 mensurate share of Federal education funds
23 that are allocated by formula each year, includ-
24 ing during the first year of operation of the
25 charter school; and

1 “(C) will disseminate best or promising
2 practices of charter schools to each local edu-
3 cational agency in the State; and

4 “(3) contain assurances that the State edu-
5 cational agency will require each eligible applicant
6 desiring to receive a subgrant to submit an applica-
7 tion to the State educational agency containing—

8 “(A) a description of the educational pro-
9 gram to be implemented by the proposed char-
10 ter school, including—

11 “(i) how the program will enable all
12 students to meet challenging State student
13 academic achievement standards;

14 “(ii) the grade levels or ages of chil-
15 dren to be served; and

16 “(iii) the curriculum and instructional
17 practices to be used;

18 “(B) a description of how the charter
19 school will be managed;

20 “(C) a description of—

21 “(i) the objectives of the charter
22 school; and

23 “(ii) the methods by which the charter
24 school will determine its progress toward
25 achieving those objectives;

1 “(D) a description of the administrative re-
2 relationship between the charter school and the
3 authorized public chartering agency;

4 “(E) a description of how parents and
5 other members of the community will be in-
6 volved in the planning, program design and im-
7 plementation of the charter school;

8 “(F) a description of how the authorized
9 public chartering agency will provide for contin-
10 ued operation of the school once the Federal
11 grant has expired, if such agency determines
12 that the school has met the objectives described
13 in subparagraph (C)(i);

14 “(G) a request and justification for waivers
15 of any Federal statutory or regulatory provi-
16 sions that the applicant believes are necessary
17 for the successful operation of the charter
18 school, and a description of any State or local
19 rules, generally applicable to public schools,
20 that will be waived for, or otherwise not apply
21 to, the school;

22 “(H) a description of how the subgrant
23 funds or grant funds, as appropriate, will be
24 used, including a description of how such funds

1 will be used in conjunction with other Federal
2 programs administered by the Secretary;

3 “(I) a description of how students in the
4 community will be—

5 “(i) informed about the charter
6 school; and

7 “(ii) given an equal opportunity to at-
8 tend the charter school;

9 “(J) an assurance that the eligible appli-
10 cant will annually provide the Secretary and the
11 State educational agency such information as
12 may be required to determine if the charter
13 school is making satisfactory progress toward
14 achieving the objectives described in subpara-
15 graph (C)(i);

16 “(K) an assurance that the applicant will
17 cooperate with the Secretary and the State edu-
18 cational agency in evaluating the program as-
19 sisted under this part;

20 “(L) a description of how a charter school
21 that is considered a local educational agency
22 under State law, or a local educational agency
23 in which a charter school is located, will comply
24 with sections 613(a)(5) and 613(e)(1)(B) of the
25 Individuals with Disabilities Education Act;

1 “(M) if the eligible applicant desires to use
2 subgrant funds for dissemination activities
3 under section 4202(c)(2)(C), a description of
4 those activities and how those activities will in-
5 volve charter schools and other public schools,
6 local educational agencies, developers, and po-
7 tential developers; and

8 “(N) such other information and assur-
9 ances as the Secretary and the State edu-
10 cational agency may require.

11 “(c) CONTENTS OF ELIGIBLE APPLICANT APPLICA-
12 TION.—Each eligible applicant desiring a grant pursuant
13 to section 4202(b) shall submit an application to the State
14 educational agency or Secretary, respectively, at such
15 time, in such manner, and accompanied by such informa-
16 tion as the State educational agency or Secretary, respec-
17 tively, may reasonably require.

18 “(d) CONTENTS OF APPLICATION.—Each application
19 submitted pursuant to subsection (c) shall contain—

20 “(1) the information and assurances described
21 in subparagraphs (A) through (N) of subsection
22 (b)(3), except that for purposes of this subsection
23 subparagraphs (J), (K), and (N) of such subsection
24 shall be applied by striking ‘and the State edu-
25 cational agency’ each place such term appears;

1 “(2) assurances that the State educational
2 agency—

3 “(A) will grant, or will obtain, waivers of
4 State statutory or regulatory requirements; and

5 “(B) will assist each subgrantee in the
6 State in receiving a waiver under section
7 4204(e); and

8 “(3) assurances that the eligible applicant has
9 provided its authorized public chartering authority
10 timely notice, and a copy, of the application, except
11 that the State educational agency (or the Secretary,
12 in the case of an application submitted to the Sec-
13 retary) may waive this requirement in the case of an
14 application for a precharter planning grant or
15 subgrant if the authorized public chartering author-
16 ity to which a charter school proposal will be sub-
17 mitted has not been determined at the time the
18 grant or subgrant application is submitted.

19 **“SEC. 4204. ADMINISTRATION.**

20 “(a) SELECTION CRITERIA FOR STATE EDU-
21 CATIONAL AGENCIES.—The Secretary shall award grants
22 to State educational agencies under this part on the basis
23 of the quality of the applications submitted under section
24 4203(b), after taking into consideration such factors as—

1 “(1) the contribution that the charter schools
2 grant program will make to assisting educationally
3 disadvantaged and other students to achieving State
4 academic content standards and State student aca-
5 demic achievement standards and, in general, a
6 State’s education improvement plan;

7 “(2) the degree of flexibility afforded by the
8 State educational agency to charter schools under
9 the State’s charter schools law;

10 “(3) the ambitiousness of the objectives for the
11 State charter school grant program;

12 “(4) the quality of the strategy for assessing
13 achievement of those objectives;

14 “(5) the likelihood that the charter school grant
15 program will meet those objectives and improve edu-
16 cational results for students;

17 “(6) the number of high quality charter schools
18 created under this part in the State; and

19 “(7) in the case of State educational agencies
20 that propose to use grant funds to support dissemi-
21 nation activities under section 4202(c)(2)(C), the
22 quality of those activities and the likelihood that
23 those activities will improve student academic
24 achievement.

1 “(b) SELECTION CRITERIA FOR ELIGIBLE APPLI-
2 CANTS.—The Secretary shall award grants to eligible ap-
3 plicants under this part on the basis of the quality of the
4 applications submitted under section 4203(c), after taking
5 into consideration such factors as—

6 “(1) the quality of the proposed curriculum and
7 instructional practices;

8 “(2) the degree of flexibility afforded by the
9 State educational agency and, if applicable, the local
10 educational agency to the charter school;

11 “(3) the extent of community support for the
12 application;

13 “(4) the ambitiousness of the objectives for the
14 charter school;

15 “(5) the quality of the strategy for assessing
16 achievement of those objectives;

17 “(6) the likelihood that the charter school will
18 meet those objectives and improve educational re-
19 sults for students; and

20 “(7) in the case of an eligible applicant that
21 proposes to use grant funds to support dissemina-
22 tion activities under section 4202(c)(2)(C), the qual-
23 ity of those activities and the likelihood that those
24 activities will improve student achievement.

1 “(c) PEER REVIEW.—The Secretary, and each State
2 educational agency receiving a grant under this part, shall
3 use a peer review process to review applications for assist-
4 ance under this part.

5 “(d) DIVERSITY OF PROJECTS.—The Secretary and
6 each State educational agency receiving a grant under this
7 part, shall award subgrants under this part in a manner
8 that, to the extent possible, ensures that such grants and
9 subgrants—

10 “(1) are distributed throughout different areas
11 of the Nation and each State, including urban and
12 rural areas; and

13 “(2) will assist charter schools representing a
14 variety of educational approaches, such as ap-
15 proaches designed to reduce school size.

16 “(e) WAIVERS.—The Secretary may waive any statu-
17 tory or regulatory requirement over which the Secretary
18 exercises administrative authority except any such require-
19 ment relating to the elements of a charter school described
20 in section 4210(1), if—

21 “(1) the waiver is requested in an approved ap-
22 plication under this part; and

23 “(2) the Secretary determines that granting
24 such a waiver will promote the purpose of this part.

25 “(f) USE OF FUNDS.—

1 “(1) STATE EDUCATIONAL AGENCIES.—Each
2 State educational agency receiving a grant under
3 this part shall use such grant funds to award sub-
4 grants to one or more eligible applicants in the State
5 to enable such applicant to plan and implement a
6 charter school in accordance with this part, except
7 that the State educational agency may reserve not
8 more than 10 percent of the grant funds to support
9 dissemination activities described in paragraph (6).

10 “(2) ELIGIBLE APPLICANTS.—Each eligible ap-
11 plicant receiving funds from the Secretary or a State
12 educational agency shall use such funds to plan and
13 implement a charter school, or to disseminate infor-
14 mation about the charter school and successful prac-
15 tices in the charter school, in accordance with this
16 part.

17 “(3) ALLOWABLE ACTIVITIES.—An eligible ap-
18 plicant receiving a grant or subgrant under this part
19 may use the grant or subgrant funds only for—

20 “(A) post-award planning and design of
21 the educational program, which may include—

22 “(i) refinement of the desired edu-
23 cational results and of the methods for
24 measuring progress toward achieving those
25 results; and

1 “(ii) professional development of
2 teachers and other staff who will work in
3 the charter school; and

4 “(B) initial implementation of the charter
5 school, which may include—

6 “(i) informing the community about
7 the school;

8 “(ii) acquiring necessary equipment
9 and educational materials and supplies;

10 “(iii) acquiring or developing cur-
11 rriculum materials; and

12 “(iv) other initial operational costs
13 that cannot be met from State or local
14 sources.

15 “(4) ADMINISTRATIVE EXPENSES.—Each State
16 educational agency receiving a grant pursuant to
17 this part may reserve not more than 5 percent of
18 such grant funds for administrative expenses associ-
19 ated with the charter school grant program assisted
20 under this part. A local educational agency may not
21 deduct funds for administrative fees or expenses
22 from a subgrant awarded to an eligible applicant.

23 “(5) REVOLVING LOAN FUNDS.—Each State
24 educational agency receiving a grant pursuant to
25 this part may reserve not more than 10 percent of

1 the grant amount for the establishment of a revolving
2 ing loan fund. Such fund may be used to make loans
3 to eligible applicants that have received a subgrant
4 under this part, under such terms as may be deter-
5 mined by the State educational agency, for the ini-
6 tial operation of the charter school grant program of
7 such recipient until such time as the recipient begins
8 receiving ongoing operational support from State or
9 local financing sources.

10 “(6) DISSEMINATION.—

11 “(A) IN GENERAL.—A charter school may
12 apply for funds under this part, whether or not
13 the charter school has applied for or received
14 funds under this part for planning, program de-
15 sign, or implementation, to carry out the activi-
16 ties described in subparagraph (B) if the char-
17 ter school has been in operation for at least 3
18 consecutive years and has demonstrated overall
19 success, including—

20 “(i) substantial progress in improving
21 student academic achievement;

22 “(ii) high levels of parent satisfaction;
23 and

24 “(iii) the management and leadership
25 necessary to overcome initial start-up prob-

1 lems and establish a thriving, financially
2 viable charter school.

3 “(B) ACTIVITIES.—A charter school de-
4 scribed in subparagraph (A) may use funds re-
5 served under paragraph (1) to assist other
6 schools in adapting the charter school’s pro-
7 gram (or certain aspects of the charter school’s
8 program), or to disseminate information about
9 the charter school, through such activities as—

10 “(i) assisting other individuals with
11 the planning and start-up of one or more
12 new public schools, including charter
13 schools, that are independent of the assist-
14 ing charter school and the assisting charter
15 school’s developers, and that agree to be
16 held to at least as high a level of account-
17 ability as the assisting charter school;

18 “(ii) developing partnerships with
19 other public schools, including charter
20 schools, designed to improve student aca-
21 demic achievement in each of the schools
22 participating in the partnership;

23 “(iii) developing curriculum materials,
24 academic assessments, and other materials
25 that promote increased student academic

1 achievement and are based on successful
2 practices within the assisting charter
3 school; and

4 “(iv) conducting evaluations and de-
5 veloping materials that document the suc-
6 cessful practices of the assisting charter
7 school and that are designed to improve
8 student academic achievement in other
9 schools.

10 “(g) TRIBALLY CONTROLLED SCHOOLS.—Each State
11 that receives a grant under this part and designates a trib-
12 ally controlled school as a charter school shall not consider
13 payments to a school under the Tribally Controlled
14 Schools Act of 1988 (25 U.S.C. 2507) in determining—

15 “(1) the eligibility of the school to receive any
16 other Federal, State, or local aid; or

17 “(2) the amount of such aid.

18 **“SEC. 4205. NATIONAL ACTIVITIES.**

19 “(a) IN GENERAL.—The Secretary shall reserve for
20 each fiscal year the greater of 5 percent or \$5,000,000
21 of the amount appropriated to carry out this part, except
22 that in no fiscal year shall the total amount so reserved
23 exceed \$8,000,000, to carry out the following activities:

24 “(1) To provide charter schools, either directly
25 or through State educational agencies, with—

1 “(A) information regarding—

2 “(i) Federal funds that charter
3 schools are eligible to receive; and

4 “(ii) other Federal programs in which
5 charter schools may participate; and

6 “(B) assistance in applying for Federal
7 education funds that are allocated by formula,
8 including assistance with filing deadlines and
9 submission of applications.

10 “(2) To provide for other evaluations or studies
11 that include the evaluation of the impact of charter
12 schools on student academic achievement, including
13 information regarding—

14 “(A) students attending charter schools re-
15 ported on the basis of race, age, disability, gen-
16 der, limited English proficiency, and previous
17 enrollment in public school; and

18 “(B) the professional qualifications of
19 teachers within a charter school and the turn-
20 over of the teaching force.

21 “(3) To provide—

22 “(A) information to applicants for assist-
23 ance under this part;

1 “(B) assistance to applicants for assistance
2 under this part with the preparation of applica-
3 tions under section 4203;

4 “(C) assistance in the planning and start-
5 up of charter schools;

6 “(D) training and technical assistance to
7 existing charter schools; and

8 “(E) for the dissemination to other public
9 schools of best or promising practices in charter
10 schools.

11 “(4) To provide (including through the use of
12 one or more contracts that use a competitive bidding
13 process) for the collection of information regarding
14 the financial resources available to charter schools,
15 including access to private capital, and to widely dis-
16 seminate to charter schools any such relevant infor-
17 mation and model descriptions of successful pro-
18 grams.

19 “(b) CONSTRUCTION.—Nothing in this section shall
20 be construed to require charter schools to collect any data
21 described in subsection (a).

1 **“SEC. 4206. FEDERAL FORMULA ALLOCATION DURING**
2 **FIRST YEAR AND FOR SUCCESSIVE ENROLL-**
3 **MENT EXPANSIONS.**

4 “(a) IN GENERAL.—For purposes of the allocation
5 to schools by the States or their agencies of funds under
6 part A of title I, and any other Federal funds which the
7 Secretary allocates to States on a formula basis, the Sec-
8 retary and each State educational agency shall take such
9 measures as are necessary to ensure that every charter
10 school receives the Federal funding for which the charter
11 school is eligible not later than 5 months after the charter
12 school first opens, notwithstanding the fact that the iden-
13 tity and characteristics of the students enrolling in that
14 charter school are not fully and completely determined
15 until that charter school actually opens. The measures
16 similarly shall ensure that every charter school expanding
17 its enrollment in any subsequent year of operation receives
18 the Federal funding for which the charter school is eligible
19 not later than 5 months after such expansion.

20 “(b) ADJUSTMENT AND LATE OPENINGS.—

21 “(1) IN GENERAL.—The measures described in
22 subsection (a) shall include provision for appropriate
23 adjustments, through recovery of funds or reduction
24 of payments for the succeeding year, in cases where
25 payments made to a charter school on the basis of
26 estimated or projected enrollment data exceed the

1 amounts that the school is eligible to receive on the
2 basis of actual or final enrollment data.

3 “(2) RULE.—For charter schools that first
4 open after November 1 of any academic year, the
5 State, in accordance with guidance provided by the
6 Secretary and applicable Federal statutes and regu-
7 lations, shall ensure that such charter schools that
8 are eligible for the funds described in subsection (a)
9 for such academic year have a full and fair oppor-
10 tunity to receive those funds during the charter
11 schools’ first year of operation.

12 **“SEC. 4207. SOLICITATION OF INPUT FROM CHARTER**
13 **SCHOOL OPERATORS.**

14 “To the extent practicable, the Secretary shall ensure
15 that administrators, teachers, and other individuals di-
16 rectly involved in the operation of charter schools are con-
17 sulted in the development of any rules or regulations re-
18 quired to implement this part, as well as in the develop-
19 ment of any rules or regulations relevant to charter
20 schools that are required to implement part A of title I,
21 the Individuals with Disabilities Education Act (20 U.S.C.
22 1400 et seq.), or any other program administered by the
23 Secretary that provides education funds to charter schools
24 or regulates the activities of charter schools.

1 **“SEC. 4208. RECORDS TRANSFER.**

2 “State educational agencies and local educational
3 agencies, to the extent practicable, shall ensure that a stu-
4 dent’s records and, if applicable, a student’s individualized
5 education program as defined in section 602(11) of the
6 Individuals with Disabilities Education Act (20 U.S.C.
7 1401(11)), are transferred to a charter school upon the
8 transfer of the student to the charter school, to another
9 public school upon the transfer of the student from a char-
10 ter school to another public school, and to a private school
11 upon the transfer of the student from a charter or public
12 school to the private school (with the written consent of
13 a parent of the student), in accordance with applicable
14 State law.

15 **“SEC. 4209. PAPERWORK REDUCTION.**

16 “To the extent practicable, the Secretary and each
17 authorized public chartering agency shall ensure that im-
18 plementation of this part results in a minimum of paper-
19 work for any eligible applicant or charter school.

20 **“SEC. 4210. DEFINITIONS.**

21 “As used in this part:

22 “(1) The term ‘charter school’ means a public
23 school that—

24 “(A) in accordance with a specific State
25 statute authorizing the granting of charters to
26 schools, is exempted from significant State or

1 local rules that inhibit the flexible operation
2 and management of public schools, but not
3 from any rules relating to the other require-
4 ments of this paragraph;

5 “(B) is created by a developer as a public
6 school, or is adapted by a developer from an ex-
7 isting public school, and is operated under pub-
8 lic supervision and direction;

9 “(C) operates in pursuit of a specific set of
10 educational objectives determined by the
11 school’s developer and agreed to by the author-
12 ized public chartering agency;

13 “(D) provides a program of elementary or
14 secondary education, or both;

15 “(E) is nonsectarian in its programs, ad-
16 missions policies, employment practices, and all
17 other operations, and is not affiliated with a
18 sectarian school or religious institution;

19 “(F) does not charge tuition;

20 “(G) complies with the Age Discrimination
21 Act of 1975, title VI of the Civil Rights Act of
22 1964, title IX of the Education Amendments of
23 1972, section 504 of the Rehabilitation Act of
24 1973, and part B of the Individuals with Dis-
25 abilities Education Act;

1 “(H) is a school to which parents choose to
2 send their children, and that admits students
3 on the basis of a lottery, or in another non-
4 discriminatory manner consistent with State
5 law, if more students apply for admission than
6 can be accommodated;

7 “(I) agrees to comply with the same Fed-
8 eral and State audit requirements as do other
9 elementary and secondary schools in the State,
10 unless such requirements are specifically waived
11 for the purpose of this program;

12 “(J) meets all applicable Federal, State,
13 and local health and safety requirements;

14 “(K) operates in accordance with State
15 law; and

16 “(L) has a written performance contract
17 with the authorized public chartering agency in
18 the State that includes a description of how
19 student academic achievement will be measured
20 in charter schools pursuant to State academic
21 assessments that are required of other schools
22 and pursuant to any other assessments mutu-
23 ally agreeable to the authorized public char-
24 tering agency and the charter school.

1 “(2) The term ‘developer’ means an individual
2 or group of individuals (including a public or private
3 nonprofit organization), which may include teachers,
4 administrators and other school staff, parents, or
5 other members of the local community in which a
6 charter school project will be carried out.

7 “(3) The term ‘eligible applicant’ means a de-
8 veloper that has—

9 “(A) applied to an authorized public char-
10 tering authority; and

11 “(B) provided adequate and timely notice
12 to that authority under section 4203(d)(3).

13 “(4) The term ‘authorized public chartering
14 agency’ means a State educational agency, local edu-
15 cational agency, or other public entity that has the
16 authority pursuant to State law and approved by the
17 Secretary to authorize or approve a charter school.

18 **“SEC. 4211. AUTHORIZATION OF APPROPRIATIONS.**

19 “For the purpose of carrying out this part, there are
20 authorized to be appropriated \$225,000,000 for fiscal year
21 2002 and such sums as may be necessary for each of the
22 4 succeeding fiscal years.”.

23 **SEC. 412. CONTINUATION OF AWARDS.**

24 Notwithstanding any other provision of this Act, any
25 person or agency that was awarded a grant or subgrant

1 under subpart 1 of part C of title X (20 U.S.C. 8061 et
2 seq.) prior to the date of the enactment of this Act shall
3 continue to receive funds in accordance with the terms of
4 such award until the date on which the award period ter-
5 minates under such terms.

6 **PART C—MAGNET SCHOOLS ASSISTANCE;**

7 **WOMEN’S EDUCATIONAL EQUITY**

8 **SEC. 421. MAGNET SCHOOLS ASSISTANCE.**

9 Title IV, as amended by sections 401 and 411, is fur-
10 ther amended by adding at the end the following:

11 **“PART C—MAGNET SCHOOLS ASSISTANCE;**

12 **WOMEN’S EDUCATIONAL EQUITY**

13 **“Subpart 1—Magnet Schools Assistance**

14 **“SEC. 4301. FINDINGS.**

15 “The Congress finds as follows:

16 “(1) Magnet schools are a significant part of
17 the Nation’s efforts to achieve voluntary desegrega-
18 tion in our schools.

19 “(2) The use of magnet schools has increased
20 dramatically since the inception of the magnet
21 schools assistance program under this Act, with ap-
22 proximately 2,000,000 students nationwide attend-
23 ing such schools, of whom more than 65 percent are
24 non-white.

1 “(3) Magnet schools offer a wide range of dis-
2 tinctive programs that have served as models for
3 school improvement efforts.

4 “(4) It is in the best interests of the United
5 States—

6 “(A) to continue the Federal Government’s
7 support of local educational agencies that are
8 implementing court-ordered desegregation plans
9 and local educational agencies that are volun-
10 tarily seeking to foster meaningful interaction
11 among students of different racial and ethnic
12 backgrounds, beginning at the earliest stage of
13 such students’ education;

14 “(B) to ensure that all students have equi-
15 table access to a quality education that will pre-
16 pare them to function well in a highly competi-
17 tive economy;

18 “(C) to maximize the ability of local edu-
19 cational agencies to plan, develop, implement,
20 and continue effective and innovative magnet
21 schools that contribute to State and local sys-
22 temic reform; and

23 “(D) to ensure that grant recipients pro-
24 vide adequate data that demonstrate an ability
25 to improve student academic achievement.

1 **“SEC. 4302. STATEMENT OF PURPOSE.**

2 “The purpose of this part is to assist in the desegre-
3 gation of schools served by local educational agencies by
4 providing financial assistance to eligible local educational
5 agencies for—

6 “(1) the elimination, reduction, or prevention of
7 minority group isolation in elementary and sec-
8 ondary schools with substantial proportions of mi-
9 nority students;

10 “(2) the development and implementation of
11 magnet school projects that will assist local edu-
12 cational agencies in achieving systemic reforms and
13 providing all students the opportunity to meet chal-
14 lenging State academic content standards and stu-
15 dent academic achievement standards;

16 “(3) the development and design of innovative
17 educational methods and practices that promote di-
18 versity and increase choices in public elementary and
19 secondary schools and educational programs; and

20 “(4) courses of instruction within magnet
21 schools that will substantially strengthen the knowl-
22 edge of academic subjects and the grasp of tangible
23 and marketable vocational and technical skills of
24 students attending such schools.

1 **“SEC. 4303. PROGRAM AUTHORIZED.**

2 “The Secretary, in accordance with this part, is au-
3 thorized to make grants to eligible local educational agen-
4 cies, and consortia of such agencies where appropriate, to
5 carry out the purpose of this part for magnet schools that
6 are—

7 “(1) part of an approved desegregation plan;

8 and

9 “(2) designed to bring students from different
10 social, economic, ethnic, and racial backgrounds to-
11 gether.

12 **“SEC. 4304. DEFINITION.**

13 “For the purpose of this part, the term ‘magnet
14 school’ means a public elementary or secondary school or
15 public elementary or secondary education center that of-
16 fers a special curriculum capable of attracting substantial
17 numbers of students of different racial backgrounds.

18 **“SEC. 4305. ELIGIBILITY.**

19 “A local educational agency, or consortium of such
20 agencies where appropriate, is eligible to receive assistance
21 under this part to carry out the purpose of this part if
22 such agency or consortium—

23 “(1) is implementing a plan undertaken pursu-
24 ant to a final order issued by a court of the United
25 States, or a court of any State, or any other State
26 agency or official of competent jurisdiction, that re-

1 quires the desegregation of minority-group-seg-
2 regated children or faculty in the elementary and
3 secondary schools of such agency; or

4 “(2) without having been required to do so, has
5 adopted and is implementing, or will, if assistance is
6 made available to such local educational agency or
7 consortium of such agencies under this part, adopt
8 and implement a plan that has been approved by the
9 Secretary as adequate under title VI of the Civil
10 Rights Act of 1964 for the desegregation of minor-
11 ity-group-segregated children or faculty in such
12 schools.

13 **“SEC. 4306. APPLICATIONS AND REQUIREMENTS.**

14 “(a) APPLICATIONS.—An eligible local educational
15 agency, or consortium of such agencies, desiring to receive
16 assistance under this part shall submit an application to
17 the Secretary at such time, in such manner, and con-
18 taining such information and assurances as the Secretary
19 may reasonably require.

20 “(b) INFORMATION AND ASSURANCES.—Each such
21 application shall include—

22 “(1) a description of—

23 “(A) how assistance made available under
24 this part will be used to promote desegregation,
25 including how the proposed magnet school

1 project will increase interaction among students
2 of different social, economic, ethnic, and racial
3 backgrounds;

4 “(B) the manner and extent to which the
5 magnet school project will increase student aca-
6 demic achievement in the instructional area or
7 areas offered by the school;

8 “(C) how an applicant will continue the
9 magnet school project after assistance under
10 this part is no longer available, including, if ap-
11 plicable, an explanation of why magnet schools
12 established or supported by the applicant with
13 funds under this part cannot be continued with-
14 out the use of funds under this part;

15 “(D) how funds under this part will be
16 used to improve student academic performance
17 for all students attending the magnet schools;
18 and

19 “(E) the criteria to be used in selecting
20 students to attend the proposed magnet school
21 projects; and

22 “(2) assurances that the applicant will—

23 “(A) use funds under this part for the pur-
24 pose specified in section 4302;

1 “(B) employ fully qualified teachers in the
2 courses of instruction assisted under this part;

3 “(C) not engage in discrimination based on
4 race, religion, color, national origin, sex, or dis-
5 ability in—

6 “(i) the hiring, promotion, or assign-
7 ment of employees of the agency or other
8 personnel for whom the agency has any ad-
9 ministrative responsibility;

10 “(ii) the assignment of students to
11 schools, or to courses of instruction within
12 the school, of such agency, except to carry
13 out the approved plan; and

14 “(iii) designing or operating extra-
15 curricular activities for students;

16 “(D) carry out a high-quality education
17 program that will encourage greater parental
18 decisionmaking and involvement; and

19 “(E) give students residing in the local at-
20 tendance area of the proposed magnet school
21 projects equitable consideration for placement
22 in those projects.

23 **“SEC. 4307. PRIORITY.**

24 “‘In approving applications under this part, the Sec-
25 retary shall give priority to applicants that—

1 “(1) demonstrate the greatest need for assist-
2 ance, based on the expense or difficulty of effectively
3 carrying out an approved desegregation plan and the
4 projects for which assistance is sought;

5 “(2) propose to carry out new magnet school
6 projects, or significantly revise existing magnet
7 school projects; and

8 “(3) propose to select students to attend mag-
9 net school projects by methods such as lottery, rath-
10 er than through academic examination.

11 **“SEC. 4308. USE OF FUNDS.**

12 “(a) IN GENERAL.—Grant funds made available
13 under this part may be used by an eligible local edu-
14 cational agency or consortium of such agencies—

15 “(1) for planning and promotional activities di-
16 rectly related to the development, expansion, con-
17 tinuation, or enhancement of academic programs
18 and services offered at magnet schools;

19 “(2) for the acquisition of books, materials, and
20 equipment, including computers and the mainte-
21 nance and operation thereof, necessary for the con-
22 duct of programs in magnet schools;

23 “(3) for the payment, or subsidization of the
24 compensation, of elementary and secondary school
25 teachers who are fully qualified, and instructional

1 staff where applicable, who are necessary for the
2 conduct of programs in magnet schools;

3 “(4) with respect to a magnet school program
4 offered to less than the entire student population of
5 a school, for instructional activities that—

6 “(A) are designed to make available the
7 special curriculum that is offered by the magnet
8 school project to students who are enrolled in
9 the school but who are not enrolled in the mag-
10 net school program; and

11 “(B) further the purpose of this part; and

12 “(5) for activities, which may include profes-
13 sional development, that will build the recipient’s ca-
14 pacity to operate magnet school programs once the
15 grant period has ended.

16 “(b) SPECIAL RULE.—Grant funds under this part
17 may be used in accordance with paragraphs (2) and (3)
18 of subsection (a) only if the activities described in such
19 paragraphs are directly related to improving the students’
20 academic performance based on the State’s challenging
21 academic content standards and student academic achieve-
22 ment standards or directly related to improving the stu-
23 dents’ reading skills or knowledge of mathematics, science,
24 history, geography, English, foreign languages, art, or
25 music, or to improving vocational and technical skills.

1 **“SEC. 4309. PROHIBITIONS.**

2 “(a) TRANSPORTATION.—Grants under this part may
3 not be used for transportation or any activity that does
4 not augment academic improvement.

5 “(b) PLANNING.—A local educational agency shall
6 not expend funds under this part after the third year that
7 such agency receives funds under this part for such
8 project.

9 **“SEC. 4310. LIMITATIONS.**

10 “(a) DURATION OF AWARDS.—A grant under this
11 part shall be awarded for a period that shall not exceed
12 three fiscal years.

13 “(b) LIMITATION ON PLANNING FUNDS.—A local
14 educational agency may expend for planning not more
15 than 50 percent of the funds received under this part for
16 the first year of the project, 15 percent of such funds for
17 the second such year, and 10 percent of such funds for
18 the third such year.

19 “(c) AMOUNT.—No local educational agency or con-
20 sortium awarded a grant under this part shall receive
21 more than \$4,000,000 under this part in any one fiscal
22 year.

23 “(d) TIMING.—To the extent practicable, the Sec-
24 retary shall award grants for any fiscal year under this
25 part not later than July 1 of the applicable fiscal year.

1 **“SEC. 4311. EVALUATIONS.**

2 “(a) RESERVATION.—The Secretary may reserve not
3 more than 2 percent of the funds appropriated under sec-
4 tion 4312(a) for any fiscal year to carry out evaluations,
5 technical assistance, and dissemination projects with re-
6 spect to magnet school projects and programs assisted
7 under this part.

8 “(b) CONTENTS.—Each evaluation described in sub-
9 section (a), at a minimum, shall address—

10 “(1) how and the extent to which magnet school
11 programs lead to educational quality and improve-
12 ment;

13 “(2) the extent to which magnet school pro-
14 grams enhance student access to quality education;

15 “(3) the extent to which magnet school pro-
16 grams lead to the elimination, reduction, or preven-
17 tion of minority group isolation in elementary and
18 secondary schools with substantial proportions of mi-
19 nority students; and

20 “(4) the extent to which magnet school pro-
21 grams differ from other school programs in terms of
22 the organizational characteristics and resource allo-
23 cations of such magnet school programs.

1 **“SEC. 4312. AUTHORIZATION OF APPROPRIATIONS; RES-**
2 **ERVATION.**

3 “(a) **AUTHORIZATION.**—For the purpose of carrying
4 out this part, there are authorized to be appropriated
5 \$125,000,000 for fiscal year 2002 and such sums as may
6 be necessary for each of the 4 succeeding fiscal years.

7 “(b) **AVAILABILITY OF FUNDS FOR GRANTS TO**
8 **AGENCIES NOT PREVIOUSLY ASSISTED.**—In any fiscal
9 year for which the amount appropriated pursuant to sub-
10 section (a) exceeds \$75,000,000, the Secretary shall give
11 priority to using such amounts in excess of \$75,000,000
12 to award grants to local educational agencies or consortia
13 of such agencies that did not receive a grant under this
14 part in the preceding fiscal year.”.

15 **SEC. 422. WOMEN’S EDUCATIONAL EQUITY.**

16 (a) **TRANSFER AND REDESIGNATION.**—Part B of
17 title V (20 U.S.C. 7231 et seq.) is transferred and redesi-
18 gnated as subpart 2 of part C of title IV. Sections 5201
19 through 5208 are redesignated as sections 4321 through
20 4328, respectively.

21 (b) **REPORT.**—Section 4326 (as so redesignated) is
22 amended by striking “January 1, 1999,” and inserting
23 “January 1, 2005,”.

24 (c) **EVALUATION AND DISSEMINATION.**—Section
25 4327(a) (as so redesignated) is amended—

1 (1) by striking “14701,” and inserting “8651,”;

2 and

3 (2) by striking “January 1, 1998.” and insert-
4 ing “January 1, 2004.”.

5 (d) REAUTHORIZATION.—Section 4328 (as so redese-
6 ignated) is amended by striking “\$5,000,000 for fiscal
7 year 1995 and such sums as may be necessary for each
8 of the four succeeding fiscal years,” and inserting
9 “\$3,000,000 for fiscal year 2002 and such sums as may
10 be necessary for each of the four succeeding fiscal years,”.

11 (e) OTHER CONFORMING AMENDMENTS.—

12 (1) SHORT TITLE.—Section 4321(a) (as so re-
13 designated) is amended to read as follows:

14 “(a) SHORT TITLE.—This subpart may be cited as
15 the ‘Women’s Educational Equity Act of 2001’.”.

16 (2) REFERENCES.—Subpart 2 of part C of title
17 IV (as so redesignated) is amended—

18 (A) by striking “this part” each place such
19 term appears and inserting “this subpart”; and

20 (B) by striking “5203(b)” each place such
21 term appears and inserting “4423(b)”.

22 **SEC. 423. CONTINUATION OF AWARDS.**

23 Notwithstanding any other provision of this Act, any
24 person or agency that was awarded a grant under part
25 A of title V (20 U.S.C. 7201 et seq.), or a grant, contract,

1 or cooperative agreement under part B of such title (20
2 U.S.C. 7231 et seq.), prior to the date of the enactment
3 of this Act shall continue to receive funds in accordance
4 with the terms of such award until the date on which the
5 award period terminates under such terms.

6 **TITLE V—21ST CENTURY**
7 **SCHOOLS**

8 **SEC. 501. SAFE SCHOOLS.**

9 Title V, except part B (which is transferred and re-
10 designated as subpart 2 of part C of title IV by section
11 422(a) of this Act) is amended to read as follows:

12 **“TITLE V—21ST CENTURY**
13 **SCHOOLS**

14 **“PART A—SUPPORTING VIOLENCE AND DRUG**
15 **PREVENTION AND ACADEMIC ENRICHMENT**

16 **“SEC. 5001. SHORT TITLE.**

17 “‘This part may be cited as the ‘21st Century Schools
18 Act of 2001’.

19 **“SEC. 5002. PURPOSE.**

20 “‘The purpose of this part is to support programs that
21 prevent the use of illegal drugs, prevent violence, provide
22 quality before and after school activities and supervision
23 for school age youth, involve parents and communities,
24 and are coordinated with related Federal, State, and com-
25 munity efforts and resources to foster a safe and drug-

1 free learning environment in which students increase their
2 academic achievement, through the provision of Federal
3 assistance to—

4 “(1) States for grants to local educational agen-
5 cies and consortia of such agencies to establish, op-
6 erate, and improve local programs of drug and vio-
7 lence prevention in elementary and secondary
8 schools;

9 “(2) States for grants to local educational agen-
10 cies, community-based organizations, and other pub-
11 lic entities and private organizations, for before and
12 after school programs for youth; and

13 “(3) States and public and private nonprofit
14 and for-profit organizations to conduct training,
15 demonstrations, and evaluations.

16 **“SEC. 5003. AUTHORIZATION OF APPROPRIATIONS.**

17 “There are authorized to be appropriated—

18 “(1) \$475,000,000 for fiscal year 2002, and
19 such sums as may be necessary for each of the 4
20 succeeding fiscal years, for State grants under sub-
21 part 1;

22 “(2) \$900,000,000 for fiscal year 2002, and
23 such sums as may be necessary for each of the four
24 succeeding fiscal years, for State grants under sub-
25 part 2; and

1 “(3) \$60,000,000 for fiscal year 2002, and for
2 each of the 4 succeeding fiscal years, for national
3 programs under subpart 3.

4 **“Subpart 1—Safe Schools**

5 **“SEC. 5111. RESERVATIONS AND ALLOTMENTS.**

6 “(a) RESERVATIONS.—From the amount made avail-
7 able under section 5003(1) to carry out this subpart for
8 each fiscal year, the Secretary—

9 “(1) shall reserve 1 percent or \$4,750,000
10 (whichever is greater) of such amount for grants to
11 Guam, American Samoa, the United States Virgin
12 Islands, and the Commonwealth of the Northern
13 Mariana Islands, to be allotted in accordance with
14 the Secretary’s determination of their respective
15 needs and to carry out programs described in this
16 subpart;

17 “(2) shall reserve 1 percent or \$4,750,000
18 (whichever is greater) of such amount for the Sec-
19 retary of the Interior to carry out programs de-
20 scribed in this subpart for Indian youth;

21 “(3) shall reserve 0.2 percent of such amount
22 for Native Hawaiians to be used to carry out pro-
23 grams described in this subpart;

24 “(4) notwithstanding section 3 of the Leave No
25 Child Behind Act of 2001, shall reserve an amount

1 necessary to make continuation grants to grantees
2 under part I of title X of this Act (under the terms
3 of those grants), as such part existed on the day be-
4 fore the effective date of the Leave No Child Behind
5 Act of 2001; and

6 “(5) notwithstanding section 3 of the Leave No
7 Child Behind Act of 2001, shall reserve an amount
8 necessary to make continuation grants to grantees
9 under the Safe Schools/Healthy Students initiative
10 (under the terms of those grants), as it existed on
11 the day before the date of the effective date of the
12 Leave No Child Behind Act of 2001.

13 “(b) STATE ALLOTMENTS.—

14 “(1) IN GENERAL.—Except as provided in para-
15 graph (2), the Secretary, for each fiscal year, shall
16 allocate among the States—

17 “(A) one-half of the remainder not re-
18 served under subsection (a) according to the
19 ratio between the school-aged population of
20 each State and the school-aged population of all
21 the States; and

22 “(B) one-half of such remainder according
23 to the ratio between the amount each State re-
24 ceived under part A of title I for the preceding

1 activities to support community efforts that com-
2 plement activities of local educational agencies de-
3 scribed in section 5115. Such officer shall award
4 grants based on—

5 “(A) the quality of the activity or program
6 proposed; and

7 “(B) how the program or activity is
8 aligned with the appropriate principles of effec-
9 tiveness described in section 5114(a).

10 “(2) SPECIAL CONSIDERATION.—In awarding
11 funds under subparagraph (A), a chief executive of-
12 ficer shall give special consideration to grantees that
13 pursue a comprehensive approach to drug and vio-
14 lence prevention by providing and incorporating
15 mental health services in their programs.

16 “(3) ADMINISTRATIVE COSTS.—The chief execu-
17 tive officer of a State may use not more than 1
18 percent of the amount described in subparagraph
19 (A) for the administrative costs incurred in carrying
20 out the duties of such officer under this section.

21 “(b) STATE FUNDS.—

22 “(1) ADDITIONAL RESERVATIONS.—Each State
23 shall reserve an amount equal to the total amount
24 allotted to a State under section 5111(b), less the
25 amount reserved under subsection (a) and para-

1 graphs (2) and (3) of this subsection, for each fiscal
2 year for its local educational agencies.

3 “(2) STATE ACTIVITIES.—A State may use not
4 more than 4 percent of the total amount available
5 under subsection (a) for State activities described in
6 subsection (c).

7 “(3) STATE ADMINISTRATION.—A State may
8 use not more than 1 percent of the amount made
9 available under subsection (a) for the administrative
10 costs of carrying out its responsibilities under this
11 subpart.

12 “(c) ACTIVITIES.—

13 “(1) IN GENERAL.—A State shall use a portion
14 of the funds described in subsection (b)(2), either di-
15 rectly, or through grants and contracts, to plan, de-
16 velop, and implement capacity building, technical as-
17 sistance, evaluation, program improvement services,
18 and coordination activities for local educational
19 agencies, community-based organizations, other pub-
20 lic entities, and private organizations that are de-
21 signed to support the implementation of programs
22 and activities under this subpart.

23 “(2) DATA COLLECTION.—

24 “(A) STATISTICS.—A State may use a por-
25 tion of the funds, not to exceed 20 percent, de-

1 scribed in subsection (b)(2), either directly or
2 through grants and contracts, to establish and
3 implement a statewide system of collecting data
4 regarding statistics on—

5 “(i) truancy rates; and

6 “(ii) the frequency, seriousness, and
7 incidence of violence and drug related of-
8 fenses resulting in suspensions and expul-
9 sion in elementary and secondary schools
10 in States.

11 “(B) COMPILATION OF STATISTICS.—The
12 statistics shall be compiled in accordance with
13 definitions as determined in the State criminal
14 code, but shall not identify victims of crimes or
15 persons accused of crimes. The collected data
16 shall include, incident reports by school offi-
17 cials, anonymous student surveys, and anony-
18 mous teacher surveys.

19 “(C) REPORTING.—Such data and statis-
20 tics shall be reported to the public and shall be
21 reported on a school-by-school basis.

22 “(D) LIMITATION.—Nothing in this sub-
23 section shall be construed to authorize the Sec-
24 retary to require particular policies, procedures,

1 or practices with respect to crimes on school
2 property or school security.

3 “(3) SAFE SCHOOLS.—The State shall establish
4 and implement a statewide policy requiring that stu-
5 dents attending persistently dangerous public ele-
6 mentary and secondary schools, as determined by
7 the State, or who become a victim of a violent crimi-
8 nal offense, as defined by State law, while in or on
9 the grounds of a public elementary school or sec-
10 ondary school that the student attends, be allowed to
11 attend a safe public elementary or secondary school,
12 within the local educational agency, including a pub-
13 lic charter school and allowing payment of reason-
14 able transportation costs and tuition costs for such
15 students.

16 **“SEC. 5113. STATE APPLICATION.**

17 “(a) IN GENERAL.—In order to receive an allotment
18 under section 5111 for any fiscal year, a State shall sub-
19 mit to the Secretary, at such time as the Secretary may
20 require, an application that—

21 “(1) describes the activities to be funded under
22 section 5112(c);

23 “(2) describes how activities funded under this
24 subpart will support State academic achievement
25 standards in accordance with section 1111;

1 “(3) describes how funds under this subpart
2 will be coordinated with programs under this Act,
3 and other programs, as appropriate, in accordance
4 with the provisions of section 8306;

5 “(4) provides an assurance that the application
6 was developed in consultation and coordination with
7 appropriate State officials and others, including the
8 chief executive officer, the chief State school officer,
9 the head of the State alcohol and drug abuse agency,
10 the heads of the State health and mental health
11 agencies, the head of the State criminal justice plan-
12 ning agency, the head of the State child welfare
13 agency, the head of the State board of education, or
14 their designees, and representatives of parents, stu-
15 dents, and community-based organizations;

16 “(5) provides an assurance that the State will
17 cooperate with, and assist, the Secretary in con-
18 ducting data collection as required by section
19 5116(a);

20 “(6) provides an assurance that the local edu-
21 cational agencies in the State will comply with the
22 provisions of section 8503 pertaining to the partici-
23 pation of private school children and teachers in the
24 programs and activities under this subpart;

1 “(7) provides an assurance that funds under
2 this subpart will be used to increase the level of
3 State, local, and other non-Federal funds that
4 would, in the absence of funds under this subpart,
5 be made available for programs and activities au-
6 thorized under this subpart, and in no case supplant
7 such State, local, and other non-Federal funds;

8 “(8) describes the results of the State’s needs
9 and resources assessment for violence and illegal
10 drug use prevention which shall be based on the re-
11 sults of on-going evaluation (which may include data
12 on the incidence and prevalence, age of onset, per-
13 ception of health risk and perception of social dis-
14 approval of violence and illegal drug use by youth in
15 schools and communities and the prevalence of risk
16 and protective factors or other scientifically based
17 research variables in the school and community);

18 “(9)(A) provides a statement of the State’s per-
19 formance measures for drug and violence prevention
20 programs and activities to be funded under this part
21 that shall be developed in consultation between the
22 State and local officials and that consist of—

23 “(i) performance indicators for drug and
24 violence prevention programs and activities; and

1 “(ii) levels of performance for each per-
2 formance indicator;

3 “(B) a description of the procedures the State
4 will use for assessing and publicly reporting progress
5 toward meeting those performance measures; and

6 “(C) a plan for monitoring the implementation
7 of, and providing technical assistance regarding, the
8 activities and programs conducted by local edu-
9 cational agencies, community-based organizations,
10 other public entities, and private organizations under
11 this subpart;

12 “(10) provides an assurance that the State will
13 consult with a representative sample of local edu-
14 cational agencies in the development of the definition
15 of ‘persistently dangerous school’ for the purposes of
16 section 5112(c)(3);

17 “(11) provides a description of how the State
18 defines ‘persistently dangerous school’ for the pur-
19 poses of section 5112(c)(3); and

20 “(12) provides an assurance that the State ap-
21 plication will be available for public review after sub-
22 mission of the application.

23 “(b) GENERAL APPROVAL.—A State application sub-
24 mitted pursuant to subsection (a) shall be deemed to be
25 approved by the Secretary unless the Secretary makes a

1 written determination, prior to the expiration of the 90-
2 day period beginning on the date that the Secretary re-
3 ceives the application, that the application is in violation
4 of this subpart.

5 “(c) DISAPPROVAL.—The Secretary shall not finally
6 disapprove a State application, except after giving the
7 State notice and opportunity for a hearing.

8 **“SEC. 5114. FORMULA GRANT PROGRAM.**

9 “(a) IN GENERAL.—

10 “(1) FUNDS TO LOCAL EDUCATIONAL AGEN-
11 CIES.—A State shall provide the amount made avail-
12 able to the State under this subpart, less the
13 amounts reserved under sections 5111 and 5112 to
14 local educational agencies for drug and violence pre-
15 vention and education as follows:

16 “(A) 60 percent of such amount based on
17 the relative amount such agencies received
18 under part A of title I for the preceding fiscal
19 year.

20 “(B) 40 percent of such amount to local
21 educational agencies based on the relative en-
22 rollments in public and private nonprofit ele-
23 mentary and secondary schools within the
24 boundaries of such agencies.

1 “(2) ADMINISTRATIVE COSTS.—Of the amount
2 received under paragraph (1), a local educational
3 agency may use not more than 1 percent for the ad-
4 ministrative costs of carrying out its responsibilities
5 under this subpart.

6 “(3) RETURN OF FUNDS TO STATE; REALLOCA-
7 TION.—

8 “(A) RETURN.—Except as provided in
9 subparagraph (B), upon the expiration of the 1-
10 year period beginning on the date that a local
11 educational agency receives its allocation—

12 “(i) such agency shall return to the
13 State any funds from such allocation that
14 remain unobligated; and

15 “(ii) the State shall reallocate any
16 such amount to local educational agencies
17 that have submitted plans for using such
18 amount for programs or activities on a
19 timely basis.

20 “(B) CARRYOVER.—In any fiscal year, a
21 local educational agency, may retain for obliga-
22 tion in the succeeding fiscal year—

23 “(i) an amount equal to not more
24 than 25 percent of the allocation it re-

1 ceived under this subpart for such fiscal
2 year; or

3 “(ii) upon a demonstration of good
4 cause by such agency and approval by the
5 State, an amount that exceeds 25 percent
6 of such allocation.

7 “(b) ELIGIBILITY.—To be eligible to receive a
8 subgrant under this subpart, a local educational agency
9 desiring a subgrant shall submit an application to the
10 State. Such an application shall be amended, as necessary,
11 to reflect changes in the activities and programs of the
12 local educational agency.

13 “(c) DEVELOPMENT.—

14 “(1) CONSULTATION.—

15 “(A) IN GENERAL.—A local educational
16 agency shall develop its application through
17 timely and meaningful consultation with State
18 and local government representatives, represent-
19 atives of schools to be served, school personnel,
20 and community organizations with relevant and
21 demonstrated expertise in drug and violence
22 prevention activities, students and parents.

23 “(B) CONTINUED CONSULTATION.—On an
24 ongoing basis, the local educational agency shall
25 consult with such representatives and organiza-

1 tions in order to seek advice regarding how best
2 to coordinate such agency’s activities under this
3 subpart with other related strategies, programs,
4 and activities being conducted in the commu-
5 nity.

6 “(2) DESIGN AND DEVELOPMENT.—To ensure
7 timely and meaningful consultation, a local edu-
8 cational agency at the initial stages of design and
9 development of a program or activity shall consult,
10 in accordance with this subsection, with appropriate
11 entities and persons on issues regarding the design
12 and development of the program or activity, includ-
13 ing efforts to meet the principles of effectiveness de-
14 scribed in section 5115(a).

15 “(d) CONTENTS OF APPLICATIONS.—

16 “(1) IN GENERAL.—An application submitted
17 by a local educational agency under this section shall
18 contain—

19 “(A) an assurance that the activities or
20 programs to be funded support State academic
21 achievement goals in accordance with section
22 1111;

23 “(B) a detailed explanation of the local
24 educational agency’s comprehensive plan for

1 drug and violence prevention, which shall in-
2 clude a description of—

3 “(i) how the plan will be coordinated
4 with programs under this Act, other Fed-
5 eral, State, and local programs for drug
6 and violence prevention, in accordance with
7 the provisions of section 8306;

8 “(ii) the local educational agency’s
9 performance measures for drug and vio-
10 lence prevention programs and activities,
11 that shall consist of—

12 “(I) performance indicators for
13 drug and violence prevention pro-
14 grams and activities; and

15 “(II) levels of performance for
16 each performance indicator;

17 “(iii) how such agency will assess and
18 publicly report progress toward attaining
19 its performance measures;

20 “(iv) the drug and violence prevention
21 activity or program to be funded, including
22 how the activity or program will meet the
23 principles of effectiveness described in sec-
24 tion 5115(a), and the means of evaluating
25 such activity or program; and

1 “(v) how the services will be targeted
2 to schools and students with the greatest
3 need;

4 “(C) a certification that a meaningful as-
5 sessment has been conducted to determine com-
6 munity needs (including consultation with com-
7 munity leaders, businesses, and school officials),
8 available resources and capacity in the public
9 and private sector (which may include an anal-
10 ysis based on data reasonably available at the
11 time on the incidence and prevalence, age of
12 onset, perception of health risk, and perception
13 of social disapproval of drug use and violence
14 by youth in schools and communities, preva-
15 lence of risk and protective factors, buffers or
16 assets, or other scientifically based research
17 variables in the school and community), the
18 findings of such assessments;

19 “(D) an assurance that funds under this
20 subpart will be used to increase the level of
21 State, local, and other non-Federal funds that
22 would, in the absence of funds under this sub-
23 part, be made available for programs and activi-
24 ties authorized under this subpart, and in no

1 case supplant such State, local, and other non-
2 Federal funds;

3 “(E) a description of the mechanisms used
4 to provide effective notice to the community of
5 an intention to submit an application under this
6 title;

7 “(F) an assurance that drug prevention
8 programs supported under this part convey a
9 clear and consistent message that the illegal use
10 of drugs is wrong and harmful;

11 “(G) an assurance that the local edu-
12 cational agency has established and imple-
13 mented a student code of conduct policy that
14 clearly states responsibilities of students, teach-
15 ers, and administrators in maintaining a class-
16 room environment that allows a teacher to com-
17 municate effectively with all students in the
18 class, that allows all students in the class to
19 learn, has consequences that are fair and ap-
20 propriate for violations, and is enforced equi-
21 tably;

22 “(H) an assurance that the application and
23 any waiver request will be available for public
24 review after submission of the application; and

1 “(I) such other information and assurances
2 as the State may reasonably require.

3 “(2) GENERAL APPROVAL.—A local educational
4 agency’s application submitted to the State under
5 this subpart shall be deemed to be approved by the
6 State unless the State makes a written determina-
7 tion, prior to the expiration of the 90-day period be-
8 ginning on the date that the State receives the appli-
9 cation, that the application is in violation of this
10 subpart.

11 “(3) DISAPPROVAL.—The State shall not finally
12 disapprove a local educational agency application,
13 except after giving such agency notice and an oppor-
14 tunity for a hearing.

15 **“SEC. 5115. AUTHORIZED ACTIVITIES.**

16 “(a) PRINCIPLES OF EFFECTIVENESS.—

17 “(1) IN GENERAL.—For a program or activity
18 developed pursuant to this subpart to meet the prin-
19 ciples of effectiveness, such program or activity
20 shall—

21 “(A) be based upon an assessment of ob-
22 jective data regarding the incidence of violence
23 and illegal drug use in the elementary and sec-
24 ondary schools and communities to be served,
25 including an objective analysis of the current

1 conditions and consequences regarding violence
2 and illegal drug use, including delinquency and
3 serious discipline problems, among students
4 who attend such schools (including private
5 school students who participate in the drug and
6 violence prevention program) that is based on
7 ongoing local assessment or evaluation activi-
8 ties;

9 “(B) be based upon an established set of
10 performance measures aimed at ensuring that
11 the elementary and secondary schools and com-
12 munities to be served by the program have a
13 drug-free, safe, and orderly learning environ-
14 ment; and

15 “(C) be based upon scientifically based re-
16 search that provides evidence that the program
17 to be used will reduce violence and illegal drug
18 use.

19 “(2) PERIODIC EVALUATION.—The program or
20 activity shall undergo a periodic evaluation to assess
21 its progress toward reducing violence and illegal
22 drug use in schools to be served based on perform-
23 ance measures described in section 5114(d)(1)(B)(ii)
24 The results shall be used to refine, improve, and
25 strengthen the program, and to refine the perform-

1 ance measures. The results shall also be made avail-
2 able to the public upon request, with public notice
3 of such availability provided.

4 “(3) WAIVER.—A local educational agency may
5 apply to the State for a waiver of the requirement
6 of paragraph (1)(C) to allow innovative activities or
7 programs that demonstrate substantial likelihood of
8 success.

9 “(b) LOCAL EDUCATIONAL AGENCY ACTIVITIES.—

10 “(1) PROGRAM REQUIREMENTS.—A local edu-
11 cational agency shall use funds made available under
12 section 5114 to develop, implement, and evaluate
13 comprehensive programs and activities, which are co-
14 ordinated with other school and community-based
15 services and programs, that shall—

16 “(A) support State academic achievement
17 goals in accordance with section 1111;

18 “(B) be consistent with the principles of
19 effectiveness described in subsection (a);

20 “(C) be designed to—

21 “(i) prevent or reduce violence and il-
22 legal drug use, delinquency, serious dis-
23 cipline problems, and poor academic
24 achievement and illegal drug use; and

1 “(ii) create a well disciplined environ-
2 ment conducive to learning, which includes
3 consultation between teachers, principals,
4 and other school personnel to identify early
5 warning signs of drug use and violence and
6 to provide behavioral interventions as part
7 of classroom management efforts; and

8 “(D) include activities to promote the in-
9 volvement of parents in the activity or program,
10 to promote coordination with community groups
11 and coalitions, and government agencies, and to
12 distribute information about the local edu-
13 cational agency’s needs, goals, and programs
14 under this subpart.

15 “(2) AUTHORIZED ACTIVITIES.—Each local
16 educational agency or consortium of such agencies,
17 that receives a subgrant under this subpart may use
18 such funds to carry out activities, such as—

19 “(A) developmentally appropriate drug and
20 violence prevention programs in both elemen-
21 tary and secondary schools that incorporate a
22 variety of prevention strategies and activities,
23 which may include—

24 “(i) teaching students that most peo-
25 ple do not use illegal drugs;

1 “(ii) teaching students to recognize
2 social and peer pressure to use illegal
3 drugs and the skills for resisting illegal
4 drug use;

5 “(iii) teaching students about the dan-
6 gers of emerging drugs;

7 “(iv) engaging students in the learn-
8 ing process;

9 “(v) incorporating activities in sec-
10 ondary schools that reinforce prevention
11 activities implemented in elementary
12 schools; and

13 “(vi) involving families and commu-
14 nities in setting clear expectations against
15 violence and illegal drug use and enforcing
16 appropriate consequences for violence and
17 illegal drug use;

18 “(B) training of school personnel and par-
19 ents in youth drug and violence prevention, in-
20 cluding training in early identification, interven-
21 tion, and prevention of threatening behavior;

22 “(C) community-wide strategies for reduc-
23 ing violence and illegal drug use, and illegal
24 gang activity;

1 “(D) to the extent that expenditures do
2 not exceed 20 percent of the amount made
3 available to a local educational agency under
4 this subpart (except that this subparagraph
5 shall not apply to the hiring and training of
6 school resource officers pursuant to clause (ii)),
7 law enforcement and security activities,
8 including—

9 “(i) acquisition and installation of
10 metal detectors;

11 “(ii) hiring and training of security
12 personnel (including school resource offi-
13 cers), that are related to youth drug and
14 violence prevention;

15 “(iii) reporting of criminal offenses on
16 school property; and

17 “(iv) development of comprehensive
18 school security assessments;

19 “(E) expanding and improving school-
20 based mental health services, including early
21 identification of violence and illegal drug use,
22 assessment, and direct individual or group
23 counseling services provided to students, par-
24 ents, and school personnel by qualified school
25 based mental health services personnel;

1 “(F) establishing and maintaining peer
2 mediation programs that include educating and
3 training peer mediators and a designated fac-
4 ulty supervisor and purchasing necessary mate-
5 rials to facilitate training and the mediation
6 process;

7 “(G) alternative education programs or
8 services that reduce the need for suspensions or
9 expulsions or programs or services for students
10 who have been expelled or suspended from the
11 regular educational settings, including programs
12 or services to assist students to reenter the reg-
13 ular education setting upon return from treat-
14 ment or alternative education programs;

15 “(H) counseling, mentoring, and referral
16 services, and other student assistance practices
17 and programs, including assistance provided by
18 qualified school based mental health services
19 personnel and the training of teachers by
20 school-based mental health service providers in
21 appropriate identification and intervention tech-
22 niques for students, at risk of violent behavior
23 and drug use;

24 “(I) activities that reduce truancy;

1 “(J) age appropriate, developmentally
2 based violence prevention and education pro-
3 grams that address the legal, health, personal,
4 and social consequences of illegal drug use and
5 violent and disruptive behavior and that include
6 activities designed to help students develop a
7 sense of individual responsibility and respect for
8 the rights of others, and to resolve conflicts
9 without violence;

10 “(K) providing guidance to students that
11 encourages students to seek advice for anxiety,
12 threats of violence, or actual violence and to
13 confide in a trusted adult regarding an uncom-
14 fortable or threatening situation;

15 “(L) the development of educational pro-
16 grams that prevent school based crime, includ-
17 ing preventing crimes motivated by hate that
18 result in acts of physical violence at school and
19 any programs or published materials that ad-
20 dress school based crime shall not recommend
21 or require any action that abridges or infringes
22 upon the constitutionally protected rights of
23 free speech, religion, and equal protection of
24 students, their parents, or legal guardians;

1 “(M) testing students for illegal drug use
2 or conducting student locker searches for illegal
3 drugs or drug paraphernalia consistent with the
4 4th amendment to the Constitution;

5 “(N) emergency intervention services fol-
6 lowing traumatic crisis events, such as a shoot-
7 ing, major accident, or a drug-related incident,
8 that has disrupted the learning environment;

9 “(O) establishing and implementing a sys-
10 tem for transferring suspension and expulsion
11 records by a local educational agency to any
12 public or private elementary or secondary
13 school;

14 “(P) allowing students attending a persist-
15 ently dangerous public elementary or secondary
16 school, as determined by the State, or who be-
17 come a victim of a violent criminal offense, as
18 defined by State law, while in or on the grounds
19 of a public elementary school or secondary
20 school that the student attends, to attend a safe
21 public elementary or secondary school, within
22 the local educational agency, including a public
23 charter school, and allowing payment of reason-
24 able transportation costs and tuition costs for
25 such students;

1 “(Q) the development and implementation
2 of character education and training programs
3 that reflect values, that take into account the
4 views of parents or guardians of the student for
5 whom the program is intended, which may in-
6 clude honesty, citizenship, courage, justice, re-
7 spect, personal responsibility, and trust-
8 worthiness;

9 “(R) establishing and maintaining a school
10 violence hotline;

11 “(S) activities to ensure students’ safe
12 travel to and from school, including pedestrian
13 and bicycle safety education; and

14 “(T) the evaluation of any of the activities
15 authorized under this subsection and the collec-
16 tion of any data required by this part.

17 **“SEC. 5116. EVALUATION AND REPORTING.**

18 “(a) DATA COLLECTION.—

19 “(1) IN GENERAL.—The National Center for
20 Education Statistics shall report, and when appro-
21 priate, collect data to determine the frequency, seri-
22 ousness, and incidence of illegal drug use and vio-
23 lence by youth in schools and communities in the
24 States, using if appropriate, data submitted by the
25 States pursuant to subsection (b).

1 “(2) REPORT.—The Secretary shall submit to
2 the Congress a report on the data collected under
3 this subsection.

4 “(b) STATE REPORT.—

5 “(1) IN GENERAL.—Not later than October 1,
6 2004, and every third year thereafter, the chief execu-
7 tive officer of a State, in consultation with the
8 State educational agency, shall submit to the Sec-
9 retary a report on the implementation and effective-
10 ness of State and local programs under this subpart.

11 “(2) SPECIAL RULE.—The report required by
12 this subsection shall be—

13 “(A) based on the State’s ongoing evalua-
14 tion activities, and shall include data on the
15 prevalence of violence and illegal drug use by
16 youth in schools and communities; and

17 “(B) made available to the public upon re-
18 quest, with public notice of such availability
19 provided.

20 “(c) LOCAL EDUCATIONAL AGENCY REPORT.—Each
21 local educational agency receiving funds under this sub-
22 part shall submit to the State such information, and at
23 such intervals as the State reasonably requires to complete
24 the State report required by subsection (b), information
25 on the prevalence of violence and illegal drug use by youth

1 in the schools and the community and the progress of the
2 local educational agency toward meeting its performance
3 measures. The report shall be made available to the public
4 upon request, with public notice of such availability pro-
5 vided.

6 **“Subpart 2—21st Century Schools**

7 **“SEC. 5121. STATE ALLOTMENTS FOR 21ST CENTURY**
8 **SCHOOLS.**

9 “(a) STATE ALLOTMENTS.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (2), from the amount made available under
12 section 5003(2) to carry out this subpart for each
13 fiscal year, the Secretary shall allocate among the
14 States—

15 “(A) one-half of such amount according to
16 the ratio between the school-aged population of
17 each State and the school-aged population of all
18 the States; and

19 “(B) one-half of such amount according to
20 the ratio between the amount each State re-
21 ceived under part A of title I for the preceding
22 year and the sum of such amounts received by
23 all the States.

24 “(2) MINIMUM.—For any fiscal year, no State
25 shall be allotted under this subsection an amount

1 that is less than $\frac{1}{2}$ of 1 percent of the total amount
2 allotted to all the States under this subsection.

3 “(b) REALLOTMENT OF UNUSED FUNDS.—If any
4 State does not apply for an allotment under this subpart
5 for a fiscal year, the Secretary shall reallocate the amount
6 of the State’s allotment to the remaining States in accord-
7 ance with this section.

8 “(c) STATE FUNDS.—

9 “(1) IN GENERAL.—Each State that receives a
10 grant under this subpart shall reserve an amount
11 equal to the amount allotted to such State under
12 subsection (a), less the amount reserved under para-
13 graphs (2) and (3) of this subsection, for each fiscal
14 year for its local educational agencies.

15 “(2) STATE ADMINISTRATION.—A State may
16 use not more than 1 percent of the amount made
17 available under subsection (a) for the administrative
18 costs of carrying out its responsibilities under this
19 subpart.

20 “(3) STATE ACTIVITIES.—A State may use not
21 more than 4 percent of the amount made available
22 under subsection (a) for the following activities:

23 “(A) Monitoring and evaluation of pro-
24 grams and activities assisted under this sub-
25 part.

1 “(B) Providing capacity building, training,
2 and technical assistance under this subpart.

3 **“SEC. 5122. STATE APPLICATION.**

4 “(a) IN GENERAL.—In order to receive an allotment
5 under section 5121(a) for any fiscal year, a State shall
6 submit to the Secretary, at such time as the Secretary may
7 require, an application that—

8 “(1) designates the State educational agency as
9 the agency responsible for the administration and
10 supervision of programs assisted under this subpart;

11 “(2) describes the competitive procedures and
12 criteria the State will use to ensure that grants
13 under this subpart will support quality extended
14 learning opportunities;

15 “(3) an assurance that the program will pri-
16 marily target students who attend schools eligible for
17 schoolwide programs under section 1114;

18 “(4) describes the steps the State will take to
19 ensure that programs implement effective strategies,
20 including providing ongoing technical assistance and
21 training, evaluation, and dissemination of promising
22 practices;

23 “(5) describe how activities funded under this
24 subpart will support State academic achievement
25 goals in accordance with section 1111;

1 “(6) describe how funds under this subpart will
2 be coordinated with programs under this Act, and
3 other programs; as appropriate, in accordance with
4 the provisions of section 8306;

5 “(7) provides an assurance that funds under
6 this subpart will be used to increase the level of
7 State, local, and other non-Federal funds that
8 would, in the absence of funds under this subpart,
9 be made available for programs and activities au-
10 thORIZED under this subpart; and in no case supplant
11 such State, local, and other non-Federal funds:

12 “(8) provides an assurance that the application
13 was developed in consultation and coordination with
14 appropriate State officials, including the chief State
15 school officer, the heads of the State health and
16 mental health agencies or their designees, represent-
17 atives of teachers, parents, students, the business
18 community, and community-based organizations, in-
19 cluding religious organizations;

20 “(9) describes the results of the State’s needs
21 and resources assessment for before and after school
22 activities, which shall be based on the results of on-
23 going State evaluation activities;

24 “(10) describes how the State will evaluate the
25 effectiveness of programs and activities carried out

1 under this subpart which shall include at a
2 minimum—

3 “(A) a description of the performance indi-
4 cators and performance measures that will be
5 used to evaluate programs and activities; and

6 “(B) public dissemination of the evalua-
7 tions of programs and activities carried out
8 under this subpart; and

9 “(11) provides for timely public notice of intent
10 to file application and an assurance that the applica-
11 tion will be available for public review after submis-
12 sion of the application.

13 “(b) GENERAL APPROVAL.—A State application sub-
14 mitted pursuant to subsection (a) shall be deemed to be
15 approved by the Secretary unless the Secretary makes a
16 written determination, prior to the expiration of the 90-
17 day period beginning on the date that the Secretary re-
18 ceives the application, that the application is in violation
19 of this subpart.

20 “(c) DISAPPROVAL.—The Secretary shall not finally
21 disapprove a State application, except after giving the
22 State notice and opportunity for a hearing.

23 **“SEC. 5123. COMPETITIVE GRANT PROGRAM.**

24 “(a) IN GENERAL.—A State that receives funds
25 under this subpart shall provide the amount made avail-

1 able under section 5121 to eligible entities for 21st cen-
2 tury community learning programs in accordance with this
3 subpart.

4 “(b) ELIGIBILITY.—

5 “(1) IN GENERAL.—To be eligible to receive a
6 subgrant under this subpart, an eligible entity desir-
7 ing a subgrant shall submit an application to the
8 State that contains—

9 “(A) a description of the before and after
10 school activity to be funded including—

11 “(i) an assurance that the program
12 will take place in a safe and easily acces-
13 sible facility;

14 “(ii) a description of how students
15 participating in the center will travel safely
16 to and from the community learning center
17 and back home; and

18 “(iii) a description of how the eligible
19 applicant will disseminate information
20 about the project (including its location) to
21 the community in a manner that is under-
22 standable and accessible.

23 “(B) a description of how the activity is
24 expected to improve student academic perform-
25 ance;

1 “(C) a description of how the activity will
2 meet the principles of effectiveness described in
3 section 5124;

4 “(D) an assurance that the program will
5 primarily target students who attend schools el-
6 igible for schoolwide programs under section
7 1114;

8 “(E) provides an assurance that funds
9 under this subpart will be used to increase the
10 level of State, local, and other non-Federal
11 funds that would, in the absence of funds under
12 this subpart, be made available for programs
13 and activities authorized under this subpart;
14 and in no case supplant such State, local, and
15 other non-Federal funds;

16 “(F) a description of the partnership with
17 local educational agency, a community-based or-
18 ganization, and another public entity or private
19 organization, if appropriate;

20 “(G) a certification that a meaningful as-
21 sessment has been conducted to determine com-
22 munity needs, available resources and capacity
23 in the findings of such assessments, and a de-
24 scription of the mechanisms used to provide ef-

1 fective notice to the community of an intention
2 to submit an application under this subpart;

3 “(H) a description of the applicants experi-
4 ence, or promise of success, in providing edu-
5 cational or related activities that will com-
6 pliment and enhance the student’s academic
7 achievement;

8 “(I) an assurance that the applicant will
9 develop a plan to continue the activity after
10 funding under this subpart ends;

11 “(J) an assurance that the application and
12 any waiver request will be available for public
13 review after submission of the application; and

14 “(K) such other information and assur-
15 ances as the State may reasonably require.

16 “(2) ELIGIBLE ENTITY.—An eligible entity
17 under this subpart is a local educational agency,
18 community-based organization, and other public en-
19 tity or private organization or a consortium of two
20 or more of such groups.

21 “(c) PEER REVIEW.—In reviewing local applications
22 under this section, a State shall use a peer review process
23 or other methods of assuring the quality of such applica-
24 tions.

1 “(d) GEOGRAPHIC DIVERSITY.—To the extent prac-
2 ticable, a State shall distribute funds equitably among geo-
3 graphic areas within the State.

4 “(e) DURATION OF AWARDS.—Grants under this
5 subpart may be awarded for a period of not less than 3
6 years and not more than 5 years.

7 “(f) AMOUNT OF AWARDS.—A grant awarded under
8 this subpart may not be made in an amount of less than
9 \$50,000.

10 “(g) PRIORITY.—In making awards under this sub-
11 part, the State shall give priority to applications submitted
12 by applicants proposing to target services to students who
13 attend schools that have been identified as in need of im-
14 provement under section 1116.

15 “(h) PERMISSIVE LOCAL MATCH.—

16 “(1) IN GENERAL.—A State may require an eli-
17 gible entity to match funds awarded under this sub-
18 part, except that such match may not exceed the
19 amount of the grant award.

20 “(2) SLIDING SCALE.—The amount of a match
21 under paragraph (1) shall be established based on a
22 sliding fee scale that takes into account—

23 “(A) the relative poverty of the population
24 to be targeted by the eligible entity; and

1 “(B) the ability of the eligible entity to ob-
2 tain such matching funds.

3 “(3) IN-KIND CONTRIBUTIONS.—Each State
4 that requires an eligible entity to match funds under
5 this subsection shall permit such entity to provide all
6 or any portion of such match in the form of in-kind
7 contributions.

8 “(4) CONSIDERATION.—Notwithstanding this
9 subsection, a State shall not consider an eligible en-
10 tity’s ability to match funds when determining which
11 eligible entities will receive subgrants under this sub-
12 part.

13 **“SEC. 5124. LOCAL ACTIVITIES.**

14 “(a) PRINCIPLES OF EFFECTIVENESS.—

15 “(1) IN GENERAL.—For a program or activity
16 developed pursuant to this subpart to meet the prin-
17 ciples of effectiveness, such program or activity
18 shall—

19 “(A) be based upon an assessment of ob-
20 jective data regarding the need for before and
21 after school programs and activities in such
22 schools and communities;

23 “(B) be based upon an established set of
24 performance measures aimed at ensuring the

1 availability of quality extended learning oppor-
2 tunities; and

3 “(C) if appropriate, be based upon scientif-
4 ically based research that provides evidence that
5 the program will help students meet State and
6 local performance standards to be used.

7 “(2) PERIODIC EVALUATION.—The program or
8 activity shall undergo a periodic evaluation to assess
9 its progress toward achieving its goal of providing
10 quality extended learning opportunities. The results
11 shall be used to refine, improve, and strengthen the
12 program, and to refine the performance measures.
13 The results shall also be made available to the public
14 upon request, with public notice of such availability
15 provided.

16 “(b) SERVICES.—Each eligible entity that receives a
17 subgrant under this subpart shall use such funds to estab-
18 lish or expand activities in community learning centers
19 that—

20 “(1) provide quality extended learning opportu-
21 nities to help students, particularly students who at-
22 tend low-performing schools, to meet State and local
23 student performance standards in the core academic
24 subjects, such as reading and mathematics; and

1 “(2) provide students with additional activities,
2 such as drug and violence prevention programs, art
3 and music programs, technology education pro-
4 grams, recreational activity, and character education
5 programs that are linked to, and reinforce, the reg-
6 ular academic program of schools those students at-
7 tend.

8 “(c) AUTHORIZED ACTIVITIES.—Each eligible entity
9 that receives a subgrant under this subpart may use such
10 funds to carry out activities, such as—

11 “(1) before and after school activities (including
12 summer school programs) that advance student
13 achievement, including—

14 “(A) remedial education activities and aca-
15 demic enrichment learning programs, including
16 providing additional assistance to students in
17 order to allow them to improve their academic
18 achievement;

19 “(B) math and science education activities;

20 “(C) arts and music education activities;

21 “(D) entrepreneurial education programs;

22 “(E) tutoring services (including those pro-
23 vided by senior citizen volunteers) and men-
24 toring programs;

25 “(F) recreational activities;

1 “(G) telecommunications and technology
2 education programs;

3 “(H) expanded library service hours;

4 “(I) programs that promote parental in-
5 volvement; and

6 “(J) programs that provide assistance to
7 students who have been truant, suspended, or
8 expelled to allow them to improve their aca-
9 demic achievement; and

10 “(2) establishing or enhancing programs or ini-
11 tiatives that improve academic achievement.

12 “(d) DEFINITION.—For the purpose of this section,
13 a ‘community learning center’ is an entity that assists stu-
14 dents to meet State and local content and student per-
15 formance standards in core academic subjects, such as
16 reading and mathematics, by providing them with quality
17 extended learning opportunities and related activities
18 (such as drug and violence-prevention programs, art and
19 music programs, recreational programs, technology edu-
20 cation programs, and character education programs) that
21 are linked to, and reinforce, the regular academic program
22 of schools attended by the students served and is operated
23 by a local educational agency, community-based organiza-
24 tion, other public entity or private organization or a con-
25 sortium of two or more such groups. Community learning

1 centers shall operate outside school hours, such as before
2 or after school, during the summer, or when school is not
3 in session.

4 **“Subpart 3—National Programs**

5 **“SEC. 5131. FEDERAL ACTIVITIES.**

6 “(a) PROGRAM AUTHORIZED.—

7 “(1) IN GENERAL.—From funds made available
8 to carry out this part under section 5003(3), the
9 Secretary, in consultation with the Secretary of
10 Health and Human Services, the Director of the Of-
11 fice of National Drug Control Policy, and the Attor-
12 ney General, shall evaluate the effectiveness of pro-
13 grams and activities that prevent violence and the il-
14 legal use of drugs by youth, that promote safety and
15 discipline for students in elementary and secondary
16 schools, and that provide before and after school su-
17 pervision and academic enrichment, based on the
18 needs reported by States and local educational agen-
19 cies.

20 “(2) COORDINATION.—The Secretary shall
21 carry out activities described in paragraph (1) di-
22 rectly, or through grants, contracts, or cooperative
23 agreements with public and private nonprofit and
24 for-profit organizations, and individuals, or through
25 agreements with other Federal agencies, and shall

1 coordinate such activities with other appropriate
2 Federal activities.

3 “(3) PROGRAMS.—Activities described in para-
4 graph (1) may include—

5 “(A) demonstrations and rigorous scientif-
6 ically based evaluations of innovative ap-
7 proaches to drug and violence prevention and
8 before and after school activities based on needs
9 reported by State and local educational agen-
10 cies;

11 “(B) the provision of information on drug
12 abuse education and prevention to the Secretary
13 of Health and Human Services for dissemina-
14 tion by the clearinghouse for alcohol and drug
15 abuse information established under section
16 501(d)(16) of the Public Health Service Act;

17 “(C) the provision of information on vio-
18 lence prevention and school safety to the Attor-
19 ney General for dissemination; and

20 “(D) continuing technical assistance to
21 chief executive officers, State agencies, and
22 local educational agencies to build capacity to
23 develop and implement high-quality, effective
24 programs consistent with the principles of effec-
25 tiveness.

1 “(b) PEER REVIEW.—The Secretary shall use a peer
2 review process in reviewing applications for funds under
3 this section.

4 **“Subpart 4—Gun Possession**

5 **“SEC. 5141. GUN-FREE SCHOOL REQUIREMENTS.**

6 “(a) REQUIREMENTS.—

7 “(1) STATE LAW.—Each State receiving funds
8 under this Act shall—

9 “(A) have in effect a State law requiring
10 each local educational agency to expel from
11 school for a period of not less than one year a
12 student who is determined to have possessed a
13 firearm in or at a school or on school grounds
14 under the jurisdiction of a local educational
15 agency in that State, except that such State law
16 shall allow the chief administering officer of
17 such local educational agency to modify such
18 expulsion requirement for a student on a case-
19 by-case basis; and

20 “(B) require each local educational agency
21 to adopt a policy requiring each elementary and
22 secondary school to refer to the criminal justice
23 or juvenile delinquency system any student who
24 possesses a firearm in school.

1 “(2) CONSTRUCTION.—Nothing in this part
2 shall be construed to prevent a State from allowing
3 a local educational agency that has expelled a stu-
4 dent from such student’s regular school setting from
5 providing educational services to such student in an
6 alternative setting.

7 “(b) REPORT TO STATE.—Each local educational
8 agency requesting assistance from the State educational
9 agency that is to be provided from funds made available
10 to the State under this Act shall provide to the State, in
11 the application requesting such assistance—

12 “(1) an assurance that such local educational
13 agency is in compliance with the requirements of
14 subsection (a); and

15 “(2) a description of the circumstances sur-
16 rounding incidents of possessions and any expulsions
17 imposed under the State law required by subsection
18 (a)(1), including—

19 “(A) the name of the school concerned;

20 “(B) the number of students expelled from
21 such school for firearm possession; and

22 “(C) the type of firearm concerned.

23 “(c) SPECIAL RULE.—The provisions of this section
24 shall be construed in a manner consistent with the Individ-
25 uals with Disabilities Education Act.

1 “(d) DEFINITIONS.—For the purpose of this
2 subpart—

3 “(1) the term ‘firearm’ has the same meaning
4 given to such term under section 921(a)(3) of title
5 18, United States Code; and

6 “(2) the term ‘school’ does not include a home
7 school, regardless of whether a home school is treat-
8 ed as a private school under State law.

9 **“Subpart 5—General Provisions**

10 **“SEC. 5151. DEFINITIONS.**

11 “For the purposes of this part, the following terms
12 have the following meanings:

13 “(1) BEFORE AND AFTER SCHOOL ACTIVI-
14 TIES.—The term ‘before and after school activities’
15 means academic, recreational, and enrichment activi-
16 ties for school-age youth outside of the regular
17 school hours or school year.

18 “(2) CONTROLLED SUBSTANCE.—The term
19 ‘controlled substance’ means a drug or other sub-
20 stance identified under Schedule I, II, III, IV, or V
21 in section 202(c) of the Controlled Substances Act
22 (21 U.S.C. 812(e)).

23 “(3) DRUG.—The term ‘drug’ includes con-
24 trolled substances; the illegal use of alcohol and to-
25 bacco; and the harmful, abusive, or addictive use of

1 substances, including inhalants and anabolic
2 steroids.

3 “(4) DRUG AND VIOLENCE PREVENTION.—The
4 term ‘drug and violence prevention’ means—

5 “(A) with respect to drugs, prevention,
6 early intervention, rehabilitation referral, or
7 education related to the illegal use of drugs;
8 and

9 “(B) with respect to violence, the pro-
10 motion of school safety, such that students and
11 school personnel are free from violent and dis-
12 ruptive acts, on school premises, going to and
13 from school, and at school-sponsored activities,
14 through the creation and maintenance of a
15 school environment that is free of weapons and
16 harassment and fosters individual responsibility
17 and respect for the rights of others.

18 “(5) NONPROFIT.—The term ‘nonprofit,’ as ap-
19 plied to a school, agency, organization, or institution
20 means a school, agency, organization, or institution
21 owned and operated by one or more nonprofit cor-
22 porations or associations, no part of the net earnings
23 of which inures, or may lawfully inure, to the benefit
24 of any private shareholder or individual.

1 “(6) SCHOOL-AGED POPULATION.—The term
2 ‘school-aged population’ means the population aged
3 5 through 17, as determined by the Secretary on the
4 basis of the most recent satisfactory data available
5 from the Department of Commerce.

6 “(7) SCHOOL BASED MENTAL HEALTH SERV-
7 ICES PROVIDER.—The term ‘school based mental
8 health services provider’ includes a State licensed or
9 State certified school counselor, school psychologist,
10 school social worker, or other State licensed or cer-
11 tified mental health professional qualified under
12 State law to provide such services to children and
13 adolescents.

14 “(8) SCHOOL PERSONNEL.—The term ‘school
15 personnel’ includes teachers, principals, administra-
16 tors, guidance counselors, social workers, psycholo-
17 gists, nurses, librarians, and other support staff who
18 are employed by a school or who perform services for
19 the school on a contractual basis.

20 “(9) STATE.—The term ‘State’ means each of
21 the 50 States, the District of Columbia, and the
22 Commonwealth of Puerto Rico.

23 **“SEC. 5152. MESSAGE AND MATERIALS.**

24 “(a) ‘WRONG AND HARMFUL’ MESSAGE.—Drug pre-
25 vention programs supported under this title shall convey

1 a clear and consistent message that the illegal use of drugs
2 is wrong and harmful.

3 “(b) CURRICULUM.—The Secretary shall not pre-
4 scribe the use of specific curricula for programs supported
5 under this part.

6 **“SEC. 5153. PARENTAL CONSENT.**

7 “Upon receipt of written notification from the par-
8 ents or legal guardians of a student, the local educational
9 agency shall withdraw such student from any program or
10 activity funded under this title. The local educational
11 agency shall make reasonable efforts to inform parents or
12 legal guardians of the content of such programs or activi-
13 ties funded under this title, other than classroom instruc-
14 tion.

15 **“SEC. 5154. PROHIBITED USES OF FUNDS.**

16 “No funds under this part may be used for—

17 “(1) construction (except for minor remodeling
18 needed to accomplish the purposes of this part); or

19 “(2) medical services, drug treatment or reha-
20 bilitation, except for pupil services or referral to
21 treatment for students who are victims of, or wit-
22 nesses to, use of drugs or crime.

23 **“SEC. 5155. DISCIPLINE OF CHILDREN WITH DISABILITIES.**

24 “(a) AUTHORITY OF SCHOOL PERSONNEL.—Each
25 State receiving funds under this Act shall require each

1 local educational agency to have in effect a policy under
2 which school personnel of such agency may discipline (in-
3 cluding expel or suspend) a child with a disability who—

4 “(1) carries or possesses a weapon to or at a
5 school, on school premises, or to or at a school func-
6 tion, under the jurisdiction of a State or a local edu-
7 cational agency;

8 “(2) knowingly possesses or uses illegal drugs
9 or sells or solicits the sale of a controlled substance
10 at a school, on school premises, or at a school func-
11 tion, under the jurisdiction of a State or a local edu-
12 cational agency; or

13 “(3) commits an aggravated assault or battery
14 (as defined under State or local law) at a school, on
15 school premises, or at a school function, under the
16 jurisdiction of a State or local educational agency,

17 in the same manner in which such personnel may dis-
18 cipline a child without a disability. Such personnel may
19 modify the disciplinary action on a case-by-case basis.

20 “(b) RULE OF CONSTRUCTION.—Nothing in sub-
21 section (a) shall be construed to prevent a child with a
22 disability who is disciplined pursuant to the authority pro-
23 vided under paragraph (1) or (2) of subsection (a) from
24 asserting a defense that the carrying or possession of the
25 weapon, or the possession or use of the illegal drugs (or

1 the sale or solicitation of the controlled substance), as the
2 case may be, was unintentional or innocent.

3 “(c) FREE APPROPRIATE PUBLIC EDUCATION.—

4 “(1) CEASING TO PROVIDE EDUCATION.—Not-
5 withstanding any other provision of Federal law, a
6 child expelled or suspended under subsection (a)
7 shall not be entitled to continue educational services,
8 including a free appropriate public education, re-
9 quired under Federal law during the term of such
10 expulsion or suspension, if the State in which the
11 local educational agency responsible for providing
12 educational services to such child does not require a
13 child without a disability to receive educational serv-
14 ices after being expelled or suspended.

15 “(2) PROVIDING EDUCATION.—Notwithstanding
16 paragraph (1), the local educational agency respon-
17 sible for providing educational services to a child
18 with a disability who is expelled or suspended under
19 paragraph (1) may choose to continue to provide
20 educational services or mental health services to
21 such child. If the local educational agency so chooses
22 to continue to provide the services—

23 “(A) nothing in any other provision of
24 Federal law shall require the local educational

1 agency to provide such child with any particular
2 level of service; and

3 “(B) the location where the local edu-
4 cational agency provides the services shall be
5 left to the discretion of the local educational
6 agency.

7 “(d) DEFINITIONS.—In this section:

8 “(1) CONTROLLED SUBSTANCE.—The term
9 ‘controlled substance’ has the meaning given the
10 term in section 5151.

11 “(2) ILLEGAL DRUG.—The term ‘illegal drug’
12 means a controlled substance, but does not include
13 such a substance that is legally possessed or used
14 under the supervision of a licensed health-care pro-
15 fessional or that is legally possessed or used under
16 any other authority under the Controlled Substances
17 Act or under any other provision of Federal law.

18 “(3) WEAPON.—The term ‘weapon’ has the
19 meaning given the term ‘dangerous weapon’ under
20 subsection (g)(2) of section 930 of title 18, United
21 States Code.

1 **“PART B—ENHANCING EDUCATION THROUGH**
2 **TECHNOLOGY**

3 **“SEC. 5201. SHORT TITLE.**

4 “‘This part may be cited as the ‘Enhancing Education
5 Through Technology Act of 2001’.

6 **“SEC. 5202. PURPOSES.**

7 “‘The purposes of this part are as follows:

8 “(1) To provide assistance to States and local-
9 ities for implementing innovative technology initia-
10 tives that lead to increased student academic
11 achievement and that may be evaluated for effective-
12 ness and replicated if successful.

13 “(2) To encourage the establishment or expan-
14 sion of initiatives, including those involving public-
15 private partnerships, designed to increase access to
16 technology, particularly in high-need local edu-
17 cational agencies.

18 “(3) To assist States and localities in the acqui-
19 sition, development, interconnection, implementation,
20 improvement, and maintenance of an effective edu-
21 cational technology infrastructure in a manner that
22 expands access to technology for students (particu-
23 larly for disadvantaged students) and teachers.

24 “(4) To promote initiatives that provide school
25 teachers, principals, and administrators with the ca-
26 pacity to effectively integrate technology into cur-

1 riculum that is aligned with challenging State aca-
2 demic content and student academic achievement
3 standards, through such means as high quality pro-
4 fessional development programs.

5 “(5) To enhance the ongoing professional devel-
6 opment of teachers, principals, and administrators
7 by providing constant access to training to updated
8 research in teaching and learning via electronic
9 means.

10 “(6) To support the development of electronic
11 networks and other innovative methods, such as dis-
12 tance learning, of delivering challenging courses and
13 curricula for students who would otherwise not have
14 access to such courses and curricula, particularly in
15 geographically remote regions.

16 “(7) To support the rigorous evaluation of pro-
17 grams funded under this part, particularly the im-
18 pact of such initiatives on student academic per-
19 formance, and ensure that timely information on the
20 results of such evaluations is widely accessible
21 through electronic means.

22 “(8) To support local efforts for the use of
23 technology to promote parent and family involve-
24 ment in education and communication among stu-

1 dents, parents, teachers, principals, and administra-
2 tors.

3 **“SEC. 5203. AUTHORIZATION OF APPROPRIATIONS; FUND-**
4 **ING RULE.**

5 “(a) IN GENERAL.—There are authorized to be
6 appropriated—

7 “(1) to carry out subparts 1 and 2 of this
8 part—

9 “(A) \$1,000,000,000 for fiscal year 2002;
10 and

11 “(B) such sums as may be necessary for
12 each of fiscal years 2003 through 2006; and

13 “(2) to carry out subpart 3 of this part—

14 “(A) \$24,500,000 for fiscal year 2002; and

15 “(B) such sums as may be necessary for
16 each of fiscal years 2003 through 2006.

17 “(b) ALLOCATION OF FUNDS BETWEEN NATIONAL
18 AND STATE AND LOCAL INITIATIVES.—The amount of
19 funds made available under subsection (a) shall be allo-
20 cated as follows:

21 “(1) Not less than 95 percent shall be made
22 available for State and local technology initiatives
23 under subpart 1.

24 “(2) Not more than 5 percent may be made
25 available for activities of the Secretary under sub-

1 part 2, of which not more than \$15,000,000 may be
2 used for the study required by section 5221(a)(1).

3 **“SEC. 5204. DEFINITIONS.**

4 “In this part:

5 “(1) The term ‘distance learning’ means the
6 transmission of educational or instructional pro-
7 gramming to geographically dispersed individuals
8 and groups via telecommunications.

9 “(2) The term ‘eligible local entity’ means—

10 “(A) a high-need local educational agency;

11 or

12 “(B) an eligible local partnership.

13 “(3) The term ‘eligible local partnership’ means
14 a partnership that includes at least one high-need
15 local educational agency and at least one—

16 “(A) local educational agency that can
17 demonstrate that teachers in schools served by
18 that agency are effectively integrating tech-
19 nology and proven teaching practices into in-
20 struction, based on scientifically based research,
21 that result in improvement in—

22 “(i) classroom instruction in the core
23 academic subject areas; and

24 “(ii) the preparation of students to
25 meet challenging State academic content

1 and student academic achievement stand-
2 ards;

3 “(B) institution of higher education that is
4 in full compliance with the reporting require-
5 ments of section 207(f) of the Higher Edu-
6 cation Act of 1965 (20 U.S.C. 1027(f)) and
7 that has not been identified by its State as low-
8 performing under section 208 of such Act (20
9 U.S.C. 1028);

10 “(C) for-profit business or organization
11 that develops, designs, manufactures, or pro-
12 duces technology products or services, or has
13 substantial expertise in the application of tech-
14 nology; or

15 “(D) public or private nonprofit organiza-
16 tion with demonstrated experience in the appli-
17 cation of educational technology.

18 “(4) The term ‘high-need local educational
19 agency’ means a local educational agency that—

20 “(A) is among the local educational agen-
21 cies in the State with the highest numbers or
22 percentages of children from families with in-
23 comes below the poverty line, as defined by the
24 Office of Management and Budget and revised
25 annually in accordance with section 673(2) of

1 the Community Services Block Grant Act (42
2 U.S.C. 9902(2));

3 “(B) includes one or more schools identi-
4 fied under section 1116; and

5 “(C) has a substantial need for assistance
6 in acquiring and using technology.

7 **“Subpart 1—State and Local Technology for Success**
8 **Grants**

9 **“SEC. 5211. DETERMINATION OF AMOUNT OF STATE ALLOT-**
10 **MENT.**

11 “(a) IN GENERAL.—Except as otherwise provided in
12 this subpart, each State shall be eligible to receive a grant
13 under this subpart for a fiscal year in an allotment deter-
14 mined as follows:

15 “(1) 50 percent shall bear the same relationship
16 to the amount made available under section
17 5203(b)(1) for such year as the amount such State
18 received under part A for title I for such year bears
19 to the amount received for such year under such
20 part by all States.

21 “(2) 50 percent shall be determined on the
22 basis of the State’s relative population of individuals
23 age 5 through 17, as determined by the Secretary on
24 the basis of the most recent satisfactory data.

1 “(b) RESERVATION OF FUNDS FOR BUREAU OF IN-
2 DIAN AFFAIRS AND OUTLYING AREAS.—Of the amount
3 made available to carry out this subpart under section
4 5203(b)(1) for a fiscal year—

5 “(1) the Secretary shall reserve $\frac{1}{2}$ of 1 percent
6 for the Secretary of the Interior for programs under
7 this subpart for schools operated or funded by the
8 Bureau of Indian Affairs; and

9 “(2) the Secretary shall reserve $\frac{1}{2}$ of 1 percent
10 to provide assistance under this subpart to the out-
11 lying areas.

12 “(c) MINIMUM ALLOTMENT.—The amount of any
13 State’s allotment under subsection (a) for any fiscal year
14 may not be less than $\frac{1}{2}$ of 1 percent of the amount made
15 available under section 5203(b)(1) for such year.

16 “(d) REALLOTMENT OF UNUSED FUNDS.—If any
17 State does not apply for an allotment under this subpart
18 for a fiscal year, or does not use its entire allotment for
19 that fiscal year, the Secretary shall reallocate the amount of
20 the State’s allotment, or the unused portion thereof, to
21 the remaining States in accordance with this section.

22 **“SEC. 5212. USE OF ALLOTMENT BY STATE.**

23 “(a) IN GENERAL.—Of the amount provided to a
24 State from its allotment under section 5211—

1 “(1) the State may use not more than 5 percent
2 to carry out activities under section 5215; and

3 “(2) subject to subsection (b), not less than 95
4 percent shall be distributed by the State as follows:

5 “(A) 60 percent of such amount shall—

6 “(i) be awarded to local educational
7 agencies that have submitted applications
8 to the State under section 5214 (which, in
9 the case of a local educational agency that
10 is an eligible local entity, may be combined
11 with an application for funds awarded
12 under subparagraph (B)), in an amount
13 that bears the same relationship to the
14 amount made available under section
15 5211(a) for such year as the amount such
16 local educational agency received under
17 part A of title I for such year bears to the
18 amount received for such year under such
19 part by all local educational agencies with-
20 in the State; and

21 “(ii) be used for the activities de-
22 scribed in section 5216.

23 “(B) 40 percent of such amount shall be
24 awarded through a State-determined competi-
25 tive process to eligible local entities that have

1 submitted applications to the State under sec-
2 tion 5214 (which, in the case of an eligible local
3 entity that is a local educational agency, may be
4 combined with an application for funds provided
5 under subparagraph (A)), to be used to carry
6 out activities consistent with activities described
7 in section 5216.

8 “(b) CONTINUATION OF AWARDS.—Notwithstanding
9 section 3 of the No Child Left Behind Act of 2001, a State
10 shall make continuation awards on multiyear grants
11 awarded by the State under section 3132(a)(2) (as in ef-
12 fect on the day preceding the date of enactment of such
13 Act) from the funds described in subsection (a)(2) for the
14 shorter of—

15 “(1) the duration of the original grant period;

16 or

17 “(2) two years after the date of enactment of
18 such Act.

19 **“SEC. 5213. STATE APPLICATIONS.**

20 “(a) IN GENERAL.—To be eligible to receive a grant
21 under this subpart, a State shall submit an application
22 to the Secretary containing a new or updated statewide,
23 long-range strategic educational technology plan (which
24 shall consider the educational technology needs of local
25 educational agencies), and such other information as the

1 Secretary may reasonably require, at such time and in
2 such manner as the Secretary may specify.

3 “(b) CONTENTS.—Each State application submitted
4 under this section shall include the following:

5 “(1) A description of how the State will use
6 funds provided under this subpart to improve the
7 academic achievement of all students and to improve
8 the capacity of all teachers to provide instruction in
9 the State through the use of education technology.

10 “(2) A description of the State’s goals for using
11 advanced technology to improve student achievement
12 aligned to challenging State academic content and
13 student academic achievement standards.

14 “(3) A description of how the State will take
15 steps (including through public and private partner-
16 ships) to ensure that all students and teachers in the
17 State, particularly those residing or teaching in dis-
18 tricts served by high-need local educational agencies,
19 will have increased access to educational technology.

20 “(4) A description of—

21 “(A) how the State will ensure ongoing in-
22 tegration of technology into instructional strate-
23 gies and school curricula in all schools in the
24 State, so that technology will be fully integrated
25 into those schools by December 31, 2006; and

1 “(B) the process and accountability meas-
2 ures the State will use for the evaluation of
3 such integration, including whether such
4 integration—

5 “(i) has increased the ability of teach-
6 ers to teach effectively; and

7 “(ii) has enabled students to meet
8 challenging State academic content and
9 student academic achievement standards.

10 “(5) A description of how the State will encour-
11 age the development and utilization of innovative
12 strategies for the delivery of specialized or rigorous
13 academic courses and curricula through the use of
14 technology and distance learning, particularly for
15 those areas of the State that would not otherwise
16 have access to such courses and curricula due to
17 geographical isolation or insufficient resources.

18 “(6) An assurance that financial assistance pro-
19 vided under this subpart shall supplement, not sup-
20 plant, State and local funds.

21 “(7) A description of how the State will ensure
22 that every teacher and principal within a school
23 funded under this subpart will be computer-literate
24 and proficient (as determined by the State) by De-
25 cember 31, 2006.

1 “(8) A description of how the State will ensure
2 that each grant under section 5212(a)(2)(B) to an
3 eligible local applicant is of sufficient duration, size,
4 scope, and quality to carry out the purposes of this
5 part effectively.

6 “(9) A description of how the State educational
7 agency will provide technical assistance to eligible
8 local applicants, and its capacity for providing such
9 assistance, including developing public and private
10 partnerships under this part.

11 “(c) DEEMED APPROVAL.—A State application sub-
12 mitted to the Secretary under this section shall be deemed
13 to be approved by the Secretary unless the Secretary
14 makes a written determination, prior to the expiration of
15 the 90-day period that begins on the date the Secretary
16 receives the complete application, that the application does
17 not reasonably meet the purposes of this subpart.

18 “(d) DISAPPROVAL.—The Secretary may issue a final
19 disapproval of a State’s application under this subpart
20 only after giving the State notice and an opportunity for
21 a hearing.

22 “(e) DISSEMINATION OF INFORMATION ON STATE
23 APPLICATIONS.—The Secretary shall make information on
24 State applications under this subpart widely available to
25 schools and the general public, including through dissemi-

1 nation on the Internet, in a timely and user-friendly man-
2 ner.

3 **“SEC. 5214. LOCAL APPLICATIONS.**

4 “(a) IN GENERAL.—An applicant seeking to receive
5 funds from a State under this subpart shall submit to the
6 State an application containing a new or updated long-
7 range local strategic educational technology plan con-
8 sistent with the objectives of the statewide education tech-
9 nology plan described in section 5213(a), and such other
10 information as the State may reasonably require, at such
11 time, and in such manner as the State may specify.

12 “(b) CONTENTS OF LOCAL APPLICATION.—Each
13 local application described in this section shall include the
14 following:

15 “(1) A description of how the applicant will use
16 Federal funds provided under this subpart to im-
17 prove the academic achievement of all students and
18 to improve the capacity of all teachers to provide in-
19 struction through the use of education technology.

20 Such a description may include how the applicant
21 will provide release time for teachers (which may in-
22 clude the provision of a substitute teacher).

23 “(2) A description of the applicant’s specific
24 goals for using advanced technology to improve stu-
25 dent achievement aligned to challenging State aca-

1 demic content and student academic achievement
2 standards.

3 “(3) A description of—

4 “(A) how the applicant will take steps to
5 ensure that all students and teachers in schools
6 served by the local educational agency (particu-
7 larly those in high-poverty and high-need
8 schools) have increased access to educational
9 technology; and

10 “(B) how such technology will be used to
11 improve the academic achievement for such stu-
12 dents.

13 “(4) A description of how the applicant will
14 promote—

15 “(A) the utilization of teaching strategies
16 and curricula, based on scientifically based re-
17 search, which effectively integrate technology
18 into instruction, leading to improvements in
19 student academic achievement as measured by
20 challenging State academic content and student
21 academic achievement standards; and

22 “(B) sustained and intensive, high-quality
23 professional development consistent with section
24 2033 (as applicable), based on scientifically
25 based research, which increases teacher and

1 principal capacity to create improved learning
2 environments through the integration of tech-
3 nology into instruction through proven strate-
4 gies and improved content as described in sub-
5 paragraph (A).

6 “(5) A description of how the applicant will in-
7 tegrate technology (including software and other
8 electronically delivered learning materials) across the
9 curriculum and a time line for such integration, in-
10 cluding a description of how the applicant will make
11 effective use of new and emerging technologies and
12 teaching practices that are linked to such emerging
13 technologies to provide challenging content and im-
14 proved classroom instruction.

15 “(6) A description of how the applicant will co-
16 ordinate education technology activities funded
17 under this subpart, including professional develop-
18 ment, with any such activities provided under other
19 Federal, State, and local programs, including those
20 authorized under title I, title II, title IV, and the In-
21 dividuals with Disabilities Education Act (20 U.S.C.
22 1400 et seq.) and the Carl D. Perkins Vocational
23 and Technical Education Act of 1998 (20 U.S.C.
24 2301 et seq.).

1 “(7) A description of the accountability meas-
2 ures and process the applicant will use for the eval-
3 uation of the extent to which funds provided under
4 this subpart were effective in integrating technology
5 into school curriculum, increasing the ability of
6 teachers to teach, and enabling students to meet
7 challenging State academic content and student aca-
8 demic achievement standards.

9 “(8) A description of how the applicant will en-
10 courage the development and utilization of innova-
11 tive strategies for the delivery of specialized or rig-
12 orous academic courses and curricula through the
13 use of technology and distance learning, particularly
14 for those areas that would not otherwise have access
15 to such courses and curricula due to geographical
16 isolation or insufficient resources.

17 “(9) A description of what steps the applicant
18 has taken, or will take, to comply with section
19 5205(a)(1).

20 “(10) If requested by the State—

21 “(A) a description of how the applicant will
22 use funds provided under this subpart in a
23 manner that is consistent with any statewide
24 education technology priorities that may be es-

1 tablished by the State consistent with this sub-
2 part; and

3 “(B) a description of how any technology
4 obtained with funds provided under this sub-
5 part will be integrated with funds provided pre-
6 viously under title III (as in effect on the day
7 preceding the date of enactment of the No
8 Child Left Behind Act of 2001), as appropriate.

9 **“SEC. 5215. STATE ACTIVITIES.**

10 “(a) IN GENERAL.—From funds made available
11 under section 5212(a)(1), a State shall carry out activities
12 and assist local efforts to carry out the purposes of this
13 subpart, which may include the following activities:

14 “(1) Developing, or assisting applicants in the
15 development and utilization of, innovative strategies
16 to deliver rigorous academic programs through the
17 use of technology and distance learning, and pro-
18 viding other technical assistance to such applicants
19 throughout the State, with a priority to high-need
20 local educational agencies.

21 “(2) Establishing or supporting public-private
22 initiatives, such as interest-free or reduced-cost
23 loans, for the acquisition of educational technology
24 for high-need local educational agencies and stu-
25 dents attending schools served by such agencies.

1 “(3) Assisting applicants in providing sustained
2 and intensive, high-quality professional development
3 based on scientifically based research in the integra-
4 tion of advanced technologies (including emerging
5 technologies) into curriculum and in using those
6 technologies to create new learning environments, in-
7 cluding training in the use of technology to—

8 “(A) access data and resources to develop
9 curricula and instructional materials;

10 “(B) enable teachers—

11 “(i) to use the Internet to commu-
12 nicate with parents, other teachers, prin-
13 cipals, and administrators; and

14 “(ii) to retrieve Internet-based learn-
15 ing resources; and

16 “(C) lead to improvements in classroom in-
17 struction in the core academic subject areas,
18 which effectively prepare students to meet chal-
19 lenging State academic content and student
20 academic achievement standards.

21 “(4) Assisting applicants in providing all stu-
22 dents (including students with disabilities and stu-
23 dents with limited English proficiency) and teachers
24 with access to educational technology.

1 “(5) Establishing or expanding access to tech-
2 nology in areas served by high-need local educational
3 agencies, with special emphasis on access provided
4 through technology centers in partnership with li-
5 braries and with the support of the private sector.

6 “(6) Developing enhanced performance meas-
7 urement systems to determine the effectiveness of
8 education technology programs funded under this
9 subpart, particularly in determining the extent to
10 which education technology funded under this sub-
11 part has been successfully integrated into teaching
12 strategies and school curriculum, has increased the
13 ability of teachers to teach, and has enabled stu-
14 dents to meet challenging State academic content
15 and student academic achievement standards.

16 “(7) Collaborating with other States on dis-
17 tance learning, including making advanced courses
18 available to students who would otherwise not have
19 access to such courses.

20 “(b) LIMITATION ON ADMINISTRATIVE COSTS.—Of
21 the 5 percent of the State’s allotment under section 5211
22 which may be used to carry out activities under this sec-
23 tion, not more than 40 percent may be used by the State
24 for administrative costs.

1 **“SEC. 5216. LOCAL ACTIVITIES.**

2 “(a) PROFESSIONAL DEVELOPMENT.—A recipient of
3 funds made available under section 5212(a)(2)(A) shall
4 use not less than 20 percent of such funds to provide sus-
5 tained and intensive, high-quality professional develop-
6 ment, consistent with section 2033 (as applicable), based
7 on scientifically based research in the integration of ad-
8 vanced technologies (including emerging technologies) into
9 curriculum and in using those technologies to create new
10 learning environments, including professional development
11 in the use of technology to—

12 “(1) access data and resources to develop cur-
13 ricula and instructional materials;

14 “(2) enable teachers—

15 “(i) to use the Internet to communicate
16 with parents, other teachers, principals, and ad-
17 ministrators; and

18 “(ii) to retrieve Internet-based learning re-
19 sources; and

20 “(3) lead to improvements in classroom instruc-
21 tion in the core academic subject areas, which effec-
22 tively prepare students to meet challenging State
23 academic content and student academic achievement
24 standards.

25 “(b) WAIVER.—Subsection (a) does not apply to a re-
26 cipient of funds under section 5212(a)(2)(A) that dem-

1 onstrates, to the satisfaction of the State, that such recipi-
2 ent already provides sustained and intensive, high-quality
3 professional development based on scientifically based re-
4 search in the integration of technology (including emerg-
5 ing technologies) into the curriculum.

6 “(c) OTHER ACTIVITIES.—In addition to the activi-
7 ties described in subsection (a), a recipient of funds dis-
8 tributed by a State under section 5212(a)(2)(A) shall use
9 such funds to carry out other activities consistent with this
10 subpart, which may include the following:

11 “(1) Adapting or expanding existing and new
12 applications of technology to enable teachers to in-
13 crease student academic achievement through the
14 use of teaching practices and advanced technologies
15 that are based on scientifically based research and
16 are designed to prepare students to meet challenging
17 State academic content and student academic
18 achievement standards, and for developing and uti-
19 lizing innovative strategies to deliver rigorous aca-
20 demic programs.

21 “(2) Expanding, acquiring, implementing, ap-
22 plying, and maintaining education technology as a
23 means to improve the academic achievement of all
24 students.

1 “(3) The establishment or expansion of initia-
2 tives, particularly those involving public-private part-
3 nerships, designed to increase access to technology
4 for students and teachers, with special emphasis on
5 the access of high-need local educational agencies to
6 technology.

7 “(4) Using technology to promote parent and
8 family involvement, and support communications be-
9 tween students, parents, and teachers.

10 “(5) Acquiring proven and effective curricula
11 that include integrated technology and are designed
12 to help students achieve challenging State academic
13 content and student academic achievement stand-
14 ards.

15 “(6) Using technology to collect, manage, and
16 analyze data to inform school improvement efforts.

17 “(7) Implementing enhanced performance
18 measurement systems to determine the effectiveness
19 of education technology programs funded under this
20 subpart, particularly in determining the extent to
21 which education technology funded under this sub-
22 part has been successfully integrated into teaching
23 strategies and school curriculum, has increased the
24 ability of teachers to teach, and has enabled stu-

1 dents to meet challenging State academic content
2 and student academic achievement standards.

3 “(8) Preparing one or more teachers in elemen-
4 tary and secondary schools as technology leaders
5 who are provided with the means to serve as experts
6 and train other teachers in the effective use of tech-
7 nology.

8 “(9) Establishing or expanding access to tech-
9 nology in areas served by high-need local educational
10 agencies, with special emphasis for access provided
11 through technology centers in partnership with li-
12 braries and with the support of the private sector.

13 **“Subpart 2—National Technology Activities**

14 **“SEC. 5221. NATIONAL ACTIVITIES.**

15 “(a) IN GENERAL.—Using funds made available
16 under section 5203(b)(2), the Secretary—

17 “(1) shall—

18 “(A) conduct an independent, long-term
19 study, utilizing scientifically based research
20 methods and control groups, on the effect of
21 educational technology on improving student
22 academic achievement;

23 “(B) include in the study an identification
24 of uses of educational technology (including how
25 teachers can integrate technology into the cur-

1 ricula) that have a measurable positive impact
2 on student achievement;

3 “(C) establish an independent review panel
4 to advise the Secretary on methodological and
5 other issues that arise in conducting this long-
6 term study; and

7 “(D) submit to the Congress interim re-
8 ports, when appropriate, and a final report, to
9 be submitted not later than 6 months before
10 the end of fiscal year 2006, on the findings of
11 the study;

12 “(2) may fund national technology initiatives
13 that are supported by scientifically based research
14 and utilize technology in education, through the
15 competitive award of grants or contracts, pursuant
16 to a peer review process, to States, local educational
17 agencies, eligible local entities, institutions of higher
18 education, public agencies, and private nonprofit or
19 for-profit agencies; and

20 “(3) may provide technical assistance (directly
21 or through the competitive award of grants or con-
22 tracts) to States, local educational agencies, and
23 other recipients of funds under this part in order to
24 assist such States, local educational agencies, and
25 other recipients to achieve the purposes of this part.

1 “(b) NATIONAL TECHNOLOGY INITIATIVES.—

2 “(1) USE OF FUNDS.—In funding national
3 technology initiatives under subsection (a)(2), the
4 Secretary—

5 “(A) shall place a priority on projects
6 that—

7 “(i) develop innovative models using
8 electronic networks or other forms of dis-
9 tance learning to provide challenging
10 courses that are otherwise not readily
11 available to students in a particular school
12 district, particularly in rural areas; or

13 “(ii) increase access to technology to
14 students served by high-need local edu-
15 cational agencies; and

16 “(B) shall, in order to identify effective
17 uses of educational technology that have a
18 measurable positive impact on student achieve-
19 ment and as specified in paragraph (3)—

20 “(i) develop tools and provide re-
21 sources and support, including technical
22 assistance, for recipients of funds under
23 subsection (a)(2) to effectively evaluate
24 their activities; and

1 “(ii) disseminate the evaluations made
2 under paragraph (2)(A)(ii).

3 “(2) REQUIREMENTS FOR RECIPIENTS OF
4 FUNDS.—

5 “(A) APPLICATION.—In order to receive a
6 grant or contract under subsection (a)(2), an
7 entity shall submit an application to the Sec-
8 retary (at such time and in such form as the
9 Secretary may require), and shall include in the
10 application—

11 “(i) a description of the project pro-
12 posed to be carried out with the grant or
13 contract and how it would carry out the
14 purposes of subsection (a)(2); and

15 “(ii) a detailed plan for an inde-
16 pendent evaluation, supported by scientif-
17 ically based research principles, of the
18 project to determine the impact on the aca-
19 demic achievement of students served
20 under such project, as measured by chal-
21 lenging State academic content and stu-
22 dent academic achievement standards.

23 “(B) NON-FEDERAL SHARE.—

24 “(i) IN GENERAL.—Subject to clauses
25 (ii) and (iii), the Secretary may require

1 any recipient of a grant or contract under
2 subsection (a)(2) to share in the cost of
3 the activities assisted under such grant or
4 contract, which may be in the form of cash
5 or in-kind contributions, fairly valued.

6 “(ii) INCREASE.—The Secretary may
7 increase the non-Federal share required of
8 a recipient of a grant or contract under
9 subsection (a)(2) after the first year such
10 recipient receives funds under such grant
11 or contract.

12 “(iii) MAXIMUM.—The non-Federal
13 share required under this subsection may
14 not exceed 50 percent of the cost of the ac-
15 tivities assisted under a grant or contract
16 under this subpart.

17 “(iv) NOTICE.—The Secretary shall
18 publish, in the Federal Register, the non-
19 Federal share required under this subpara-
20 graph.

21 “(3) EVALUATION AND DISSEMINATION.—The
22 Secretary shall make information on each project
23 funded with a grant or contract under subsection
24 (a)(2) widely available to schools and the general
25 public, including through dissemination on the Inter-

1 net, in a timely and user-friendly manner. This in-
2 formation shall, at a minimum, include—

3 “(A) upon the awarding of such a grant or
4 contract under subsection (a)(2), the identifica-
5 tion of the grant or contract recipient, the
6 amount of the grant or contract, the stated
7 goals of the grant or contract, the methods by
8 which the grant or contract will be evaluated in
9 meeting such stated goals, and the timeline for
10 meeting such goals;

11 “(B) not later than 3 months after the
12 completion of the first year of the project pe-
13 riod, information on the progress of the grant
14 or contract recipient in carrying out the grant
15 or contract, including a detailed description of
16 the use of the funds provided, the extent to
17 which the stated goals have been reached, and
18 the results (or progress of) the evaluation of the
19 project; and

20 “(C) not later than 3 months after the
21 completion of the second year of the project pe-
22 riod (and updated thereafter as appropriate), a
23 followup to the information described in sub-
24 paragraph (B).

1 **“Subpart 3—Ready to Learn, Ready to Teach**

2 **“SEC. 5231. READY TO LEARN TELEVISION.**

3 “(a) PROGRAM AUTHORIZED.—

4 “(1) IN GENERAL.—The Secretary shall award
5 grants to or enter into contracts or cooperative
6 agreements with eligible entities described in para-
7 graph (3) to—

8 “(A) develop, produce, and distribute edu-
9 cational and instructional video programming
10 for preschool and elementary school children
11 and their parents in order to facilitate student
12 academic achievement;

13 “(B) facilitate the development (directly or
14 through contracts with producers of children
15 and family educational television programming)
16 of educational programming for preschool and
17 elementary school children and accompanying
18 support materials and services that directly pro-
19 mote the effective use of such programming;

20 “(C) facilitate the development of pro-
21 gramming and digital content especially de-
22 signed for nationwide distribution over digital
23 broadcasting channels and the Internet, con-
24 taining Ready to Learn-based children’s pro-
25 gramming and resources for parents and care-
26 givers;

1 “(D) enable such entities to contract with
2 other entities (such as public telecommuni-
3 cations entities) so that programs under this
4 section are disseminated and distributed by the
5 most appropriate distribution technologies to
6 the widest possible audience appropriate to be
7 served by the programming; and

8 “(E) develop and disseminate training and
9 support materials, including interactive pro-
10 grams and programs adaptable to distance
11 learning technologies which are designed to—

12 “(i) promote school readiness; and

13 “(ii) promote the effective use of program-
14 ming developed under subparagraphs (B) and
15 (C) among parents, Head Start providers, Even
16 Start and providers of family literacy services,
17 child care providers, early childhood develop-
18 ment personnel, and elementary school teachers,
19 public libraries, and after school program per-
20 sonnel caring for preschool and elementary
21 school children.

22 “(2) AVAILABILITY.—In making grants, con-
23 tracts, or cooperative agreements under this sub-
24 section, the Secretary shall ensure that recipients in-
25 crease the effective use of the programming under

1 this section by making it widely available with sup-
2 port materials, as appropriate, to young children,
3 their parents, child care workers, Head Start pro-
4 viders, Even Start and providers of family literacy
5 services.

6 “(3) ELIGIBLE ENTITIES DESCRIBED.—In this
7 section, an ‘eligible entity’ means a nonprofit entity
8 (including a public telecommunications entity) which
9 is able—

10 “(A) to demonstrate a capacity for the de-
11 velopment and national distribution of edu-
12 cational and instructional television program-
13 ming of high quality which is accessible by a
14 large majority of disadvantaged preschool and
15 elementary school children; and

16 “(B) to demonstrate—

17 “(i) a capacity to contract with the
18 producers of children’s television program-
19 ming for the purpose of developing edu-
20 cational television programming of high
21 quality which is accessible by a large ma-
22 jority of disadvantaged preschool and ele-
23 mentary school children, and

24 “(ii) consistent with the entity’s mis-
25 sion and nonprofit nature, a capacity to

1 negotiate such contracts in a manner
2 which returns to the entity an appropriate
3 share of any ancillary income from sales of
4 any program-related products.

5 “(4) CAP ON ADMINISTRATIVE COSTS.—An en-
6 tity receiving a grant, contract, or cooperative agree-
7 ment from the Secretary under this subsection may
8 not use more than 5 percent of the amounts received
9 under the grant, contract, or cooperative agreement
10 for the expenses of administering the grant, con-
11 tract, or cooperative agreement.

12 “(5) COORDINATION OF ACTIVITIES.—An entity
13 receiving a grant, contract, or cooperative agreement
14 from the Secretary under this subsection shall work
15 with the Secretary and the Secretary of Health and
16 Human Services to—

17 “(A) maximize the utilization by preschool
18 and elementary school children of the program-
19 ming under this section and to make such pro-
20 gramming widely available to federally funded
21 programs serving such populations; and

22 “(B) coordinate with Federal programs
23 that have major training components for early
24 childhood development (including Head Start,
25 Even Start, family literacy services, and State

1 training activities funded under the Child Care
2 Development Block Grant Act of 1990 (42
3 U.S.C. 9858 et seq.) regarding the availability
4 and utilization of materials developed with
5 funds provided under this section to enhance
6 parent and child care provider skills in early
7 childhood development and education.

8 “(b) APPLICATIONS.—Any entity desiring a grant,
9 contract, or cooperative agreement under subsection (a)
10 shall submit an application to the Secretary at such time,
11 in such manner, and accompanied by such information as
12 the Secretary may reasonably require.

13 “(c) REPORT AND EVALUATION.—

14 “(1) ANNUAL REPORT BY GRANT RECIPIENTS
15 TO SECRETARY.—Each entity receiving funds under
16 this section shall prepare and submit to the Sec-
17 retary an annual report which contains such infor-
18 mation as the Secretary may require. At a min-
19 imum, the report shall describe the program activi-
20 ties undertaken with funds received under this sec-
21 tion, including information regarding—

22 “(A) the programming that has been devel-
23 oped directly or indirectly by the entity and the
24 target population of the programs developed;

1 “(B) the support and training materials
2 that have been developed to accompany the pro-
3 gramming and the method by which such mate-
4 rials are distributed to consumers and users of
5 the programming;

6 “(C) the means by which the programming
7 has been distributed, including the distance
8 learning technologies that have been utilized to
9 make programming available and the geo-
10 graphic distribution achieved through such
11 technologies; and

12 “(D) the initiatives undertaken by the enti-
13 ty to develop public-private partnerships to se-
14 cure non-Federal support for the development
15 and distribution and broadcast of educational
16 and instructional programming.

17 “(2) REPORT TO CONGRESS.—The Secretary
18 shall prepare and submit to the relevant committees
19 of Congress a biannual report on the activities fund-
20 ed and carried out under this section, and shall in-
21 clude in the report—

22 “(A) a summary of the programming de-
23 veloped using funds provided under this section;
24 and

1 “(B) a description of the training mate-
2 rials developed using funds provided under this
3 section, the manner in which outreach has been
4 conducted to inform parents and child care pro-
5 viders of the availability of such materials, and
6 the manner in which such materials have been
7 distributed.

8 “(d) FUNDING RULE.—Not less than 60 percent of
9 the amounts authorized to be appropriated under section
10 5233 for any fiscal year shall be used to carry out sub-
11 paragraphs (B) and (C) of subsection (a)(1).

12 **“SEC. 5232. READY TO TEACH.**

13 “(a) IN GENERAL.—The Secretary may carry out
14 any of the following activities:

15 “(1) Awarding grants to a nonprofit tele-
16 communications entity (or a partnership of such en-
17 tities) for the purpose of carrying out a national
18 telecommunications-based program to improve the
19 teaching of core academic subjects and to assist ele-
20 mentary and secondary school teachers in preparing
21 all students to achieve State academic content stand-
22 ards.

23 “(2) Awarding grants to or entering into con-
24 tracts or cooperative agreements with a local public
25 telecommunications entity to develop, produce, and

1 distribute educational and instructional video pro-
2 gramming which is designed for use by elementary
3 and secondary school students, created for or adapt-
4 able to State academic content standards, and capa-
5 ble of distribution through digital broadcasting and
6 school digital networks.

7 “(b) APPLICATIONS.—

8 “(1) IN GENERAL.—Any telecommunications
9 entity or partnership of such entities desiring a
10 grant under this section shall submit an application
11 to the Secretary.

12 “(2) SPECIFIC REQUIREMENTS FOR NATIONAL
13 TELECOMMUNICATIONS-BASED PROGRAM.—Each ap-
14 plication for a grant under subsection (a)(1) shall—

15 “(A) demonstrate that the applicant will
16 use the existing publicly funded telecommuni-
17 cations infrastructure, the Internet, and school
18 digital networks (where available) to deliver
19 video, voice, and data in an integrated service
20 to train teachers in the use of materials and
21 learning technologies for achieving State aca-
22 demic content standards;

23 “(B) assure that the program for which
24 assistance is sought will be conducted in co-
25 operation with States as appropriate, local edu-

1 cational agencies, and State or local nonprofit
2 public telecommunications entities;

3 “(C) assure that a significant portion of
4 the benefits available for elementary and sec-
5 ondary schools from the program for which as-
6 sistance is sought will be available to schools of
7 local educational agencies which have a high
8 percentage of children counted for the purpose
9 of part A of title I; and

10 “(D) contain such additional assurances as
11 the Secretary may reasonably require.

12 “(c) APPROVAL OF APPLICATIONS; NUMBER OF
13 DEMONSTRATION SITES.—In approving applications
14 under this section, the Secretary shall assure that—

15 “(1) the national telecommunications-based pro-
16 gram under subsection (a)(1) is conducted at ele-
17 mentary and secondary school sites in at least 15
18 States; and

19 “(2) grants under subsection (a)(2) are award-
20 ed on a competitive basis and for a period of 3 years
21 to entities which—

22 “(A) enter into multiyear collaborative ar-
23 rangements for content development with State
24 educational agencies, local educational agencies,

1 institutions of higher education, businesses, or
2 other agencies and organizations, and

3 “(B) contribute non-Federal matching
4 funds (including funds provided for transitions
5 to digital broadcasting as well as in-kind con-
6 tributions) to the activities assisted with the
7 grant in an amount not less than 100 percent
8 of the amount of the grant.

9 **“PART C—CHARACTER EDUCATION**

10 **“SEC. 5301. CHARACTER EDUCATION PROGRAM.**

11 “(a) PROGRAM AUTHORIZED.—

12 “(1) IN GENERAL.—The Secretary may make
13 grants to State educational agencies, local edu-
14 cational agencies, or consortia of such agencies for
15 the design and implementation of character edu-
16 cation programs that—

17 “(A) can be integrated into State academic
18 content standards for the core academic sub-
19 jects; and

20 “(B) can be carried out in conjunction
21 with other educational reform efforts.

22 “(2) DURATION.—Each grant under this sec-
23 tion shall be made for a period not to exceed 5
24 years, of which the grant recipient may not use more
25 than 1 year for planning and program design.

1 “(b) CONTRACTS UNDER PROGRAM.—

2 “(1) EVALUATION.—Each agency or consortium
3 receiving assistance under this section may contract
4 with outside sources, including institutions of higher
5 education and private and nonprofit organizations
6 (including religious organizations), for the purposes
7 of—

8 “(A) evaluating the program for which the
9 assistance is made available;

10 “(B) measuring the integration of such
11 program into the curriculum and teaching
12 methods of schools where the program is car-
13 ried out; and

14 “(C) measuring the success of such pro-
15 gram in fostering the elements of character se-
16 lected by the recipient under subsection (c)(1).

17 “(2) MATERIALS AND PROGRAM DEVELOP-
18 MENT.—Each agency or consortium receiving assist-
19 ance under this section may contract with outside
20 sources, including institutions of higher education
21 and private and nonprofit organizations (including
22 religious organizations), for assistance in—

23 “(A) developing secular curricula, mate-
24 rials, teacher training, and other activities re-
25 lated to character education; and

1 “(B) integrating secular character edu-
2 cation into the curriculum and teaching meth-
3 ods of schools where the program is carried out.

4 “(c) ELEMENTS OF CHARACTER.—

5 “(1) SELECTION.—

6 “(A) IN GENERAL.—Each agency or con-
7 sortium receiving assistance under this section
8 may select the elements of character that will
9 be taught under the program for which the as-
10 sistance is made available.

11 “(B) CONSIDERATION OF VIEWS.—In se-
12 lecting elements of character under paragraph
13 (1), the agency or consortium shall consider the
14 views of the parents or guardians of the stu-
15 dents to be taught under the program.

16 “(2) EXAMPLE ELEMENTS.—Elements of char-
17 acter selected under this subsection may include any
18 of the following:

19 “(A) Trustworthiness.

20 “(B) Respect.

21 “(C) Responsibility.

22 “(D) Fairness.

23 “(E) Caring.

24 “(F) Citizenship.

25 “(G) Giving.

1 “(d) APPLICATION.—

2 “(1) IN GENERAL.—Each agency or consortium
3 seeking assistance under this section shall submit an
4 application to the Secretary at such time and in
5 such manner as the Secretary may require.

6 “(2) REQUIRED INFORMATION.—Each applica-
7 tion for assistance under this section shall include
8 information that—

9 “(A) demonstrates that the program for
10 which the assistance is sought has clear goals
11 and objectives that are based on scientifically
12 based research;

13 “(B) describes the activities that will be
14 carried out with the assistance and how such
15 activities will meet the goals and objectives de-
16 scribed in paragraph (1); and

17 “(C) describes how the program for which
18 the assistance is sought will be linked to other
19 efforts to improve educational achievement,
20 including—

21 “(i) broader educational reforms that
22 are being instituted by the applicant or its
23 partners; and

24 “(ii) applicable State academic con-
25 tent standards for student achievement.

1 “(e) SELECTION OF RECIPIENTS.—

2 “(1) PEER REVIEW.—

3 “(A) IN GENERAL.—In selecting agencies
4 or consortia to receive assistance under this sec-
5 tion from among the applicants for such assist-
6 ance, the Secretary shall use a peer review
7 process that includes the participation of ex-
8 perts in the field of character education.

9 “(B) USE OF FUNDS.—The Secretary may
10 use funds appropriated under this section for
11 the cost of carrying out peer reviews under this
12 paragraph.

13 “(2) SELECTION CRITERIA.—Each selection
14 under paragraph (1) shall be made on the basis of
15 the quality of the application submitted, taking into
16 consideration such factors as—

17 “(A) the extent of parental, student, and
18 community involvement in the program; and

19 “(B) the likelihood that the goals of the
20 program will be realistically achieved.

21 “(3) EQUITABLE DISTRIBUTION.—In making
22 selections under this subsection, the Secretary shall
23 ensure, to the extent practicable under paragraph
24 (2), that the programs assisted under this section
25 are equitably distributed among the geographic re-

1 regions of the United States, and among urban, subur-
2 ban, and rural areas.

3 “(f) EVALUATIONS.—

4 “(1) IN GENERAL.—As a condition of receiving
5 assistance under this section, the Secretary shall re-
6 quire each agency or consortium receiving such as-
7 sistance to transmit to the Secretary, not later than
8 5 years after such receipt, a report containing an
9 evaluation of each program assisted.

10 “(2) ATTAINMENT OF GOALS AND OBJEC-
11 TIVES.—In conducting an evaluation referred to in
12 paragraph (1), each agency or consortium shall
13 evaluate the degree to which each program for which
14 assistance was made available attained the goals and
15 objectives for the program as described in the appli-
16 cation for assistance submitted under subsection (d).

17 “(3) DISSEMINATION.—The Secretary shall—

18 “(A) make each evaluation received under
19 this subsection publicly available; and

20 “(B) provide public notice (through such
21 means as the Internet, the media, and public
22 agencies) of the availability of each such evalua-
23 tion after it is received by the Secretary.

24 “(g) MATCHING FUNDS.—As a condition of receiving
25 assistance under this section, the Secretary may require

1 that each agency or consortium receiving such assistance
2 provide matching funds from non-Federal sources.

3 **“SEC. 5302. AUTHORIZATION OF APPROPRIATIONS.**

4 “There are authorized to be appropriated to carry out
5 this part \$50,000,000 for fiscal year 2002 and such sums
6 as may be necessary for each of fiscal years 2003 through
7 2006.

8 **“PART D—ELEMENTARY AND SECONDARY**
9 **SCHOOL COUNSELING PROGRAMS**

10 **“SEC. 5401. ELEMENTARY AND SECONDARY SCHOOL COUN-**
11 **SELING PROGRAMS.**

12 “(a) FINDINGS.—Congress finds as follows:

13 “(1) The Surgeon General reported in January
14 2001 that 1 in 10 children suffer from mental ill-
15 nesses severe enough to impair development and
16 fewer than 1 in 5 children get treatment for mental
17 illnesses.

18 “(2) The Surgeon General reported that the
19 burden of suffering by children with mental health
20 needs and their families has created a health crisis
21 in this country. Growing numbers of children are
22 suffering needlessly because their emotional, behav-
23 ioral, and developmental needs are not being met by
24 the very institutions and systems that were created
25 to take care of them.

1 “(3) As a result of the concern about the fail-
2 ure of the healthcare system to reach children and
3 adolescents with mental illnesses, there is currently
4 great interest in developing new models for the deliv-
5 ery of mental health and counseling services that
6 can reach underserved groups efficiently.

7 “(4) Schools are a sensible point of intervention
8 because of their central position in many children’s
9 lives and development, especially when families are
10 unable to assume a leading role.

11 “(5) School-based mental health and counseling
12 services allow for the identification of children in
13 need of treatment much earlier in their development.

14 “(6) Establishing mental health and counseling
15 services in schools provides access to underserved
16 youth with or at risk of emotional or behavioral
17 problems.

18 “(7) The Surgeon General’s 2000 report on
19 youth violence concludes that effective treatment can
20 divert a significant proportion of delinquent and vio-
21 lent youths from future violence and crime.

22 “(8) Mental health and counseling services can
23 play an important role in violence prevention on all
24 levels, including preventing problem behaviors from
25 developing; identifying and serving specific, at-risk

1 populations; and reducing the deleterious effects of
2 violence on victims and witnesses.

3 “(9) An evaluation of the model program for
4 the elementary school counseling demonstration pro-
5 gram established pursuant to this section prior to
6 the date of enactment of the Elementary and Sec-
7 ondary Counseling Improvement Act of 2001 found
8 that the number of referrals to the principal’s office
9 decreased by nearly half, the use of force, weapons,
10 and threatening of others also decreased, school sus-
11 pensions were reduced, and students felt safer.

12 “(10) The report produced by the Institute of
13 Medicine, ‘Schools and Health: Our Nation’s Invest-
14 ment’, recommended a student-to-school counselor
15 ratio of 250:1, student-to-school psychologist ratio of
16 1000:1, and a student-to-school social worker ratio
17 of 800:1. The United States average student-to-
18 counselor ratio is 551:1. Ratios for school psycholo-
19 gists and school social workers also exceed the rec-
20 ommended levels.

21 “(b) GRANTS AUTHORIZED.—

22 “(1) IN GENERAL.—The Secretary may use
23 funds provided under this section to award grants to
24 local educational agencies to enable such agencies to
25 establish or expand elementary and secondary school

1 counseling programs which meet the requirements of
2 subsection (c).

3 “(2) PRIORITY.—In awarding grants under this
4 section, the Secretary shall give special consideration
5 to applications describing programs which—

6 “(A) demonstrate the greatest need for
7 new or additional counseling services among
8 children in the schools served by the applicant,
9 in part, by providing information on current ra-
10 tios of students to school counselors, students
11 to school social workers, and students to school
12 psychologists;

13 “(B) propose the most promising and inno-
14 vative approaches for initiating or expanding
15 school counseling; and

16 “(C) show the greatest potential for rep-
17 lication and dissemination.

18 “(3) EQUITABLE DISTRIBUTION.—In awarding
19 grants under this section, the Secretary shall ensure
20 an equitable geographic distribution among the re-
21 gions of the United States and among urban, subur-
22 ban, and rural local educational agencies.

23 “(4) DURATION.—A grant under this section
24 shall be awarded for a period not to exceed 3 years.

1 “(5) MAXIMUM GRANT.—A grant awarded
2 under this program shall not exceed \$400,000 for
3 any fiscal year.

4 “(6) SUPPLEMENT.—Assistance made available
5 under this section shall be used to supplement, and
6 may not supplant, other Federal, State, or local
7 funds used for providing school-based counseling and
8 mental health services to students.

9 “(c) REQUIREMENTS FOR COUNSELING PRO-
10 GRAMS.—Each program funded under this section shall—

11 “(1) be comprehensive in addressing the coun-
12 seling and educational needs of all students;

13 “(2) use a developmental, preventive approach
14 to counseling;

15 “(3) increase the range, availability, quantity,
16 and quality of counseling services in the elementary
17 and secondary schools of the local educational agen-
18 cy;

19 “(4) expand counseling services through quali-
20 fied school counselors, school psychologists, school
21 social workers, and child and adolescent psychia-
22 trists;

23 “(5) use innovative approaches to increase chil-
24 dren’s understanding of peer and family relation-

1 ships, work and self, decisionmaking, or academic
2 and career planning, or to improve peer interaction;

3 “(6) provide counseling services in settings that
4 meet the range of needs of students;

5 “(7) include inservice training, including train-
6 ing for teachers in appropriate identification and
7 intervention techniques for disciplining and teaching
8 students at risk of violent behavior, by school coun-
9 selors, school psychologists, school social workers,
10 and child and adolescent psychiatrists;

11 “(8) involve parents of participating students in
12 the design, implementation, and evaluation of a
13 counseling program;

14 “(9) involve community groups, social service
15 agencies, or other public or private entities in col-
16 laborative efforts to enhance the program;

17 “(10) evaluate annually the effectiveness and
18 outcomes of the counseling services and activities as-
19 sisted under this section;

20 “(11) ensure a team approach to school coun-
21 seling in the elementary and secondary schools of
22 the local educational agency by working toward ra-
23 tios recommended by the American School Health
24 Association of one school counselor to 250 students,

1 one school social worker to 800 students, and one
2 school psychologist to 1,000 students; and

3 “(12) ensure that school counselors, school psy-
4 chologists, school social workers, or child and adoles-
5 cent psychiatrists paid from funds made available
6 under this section spend a majority of their time at
7 the school in activities directly related to the coun-
8 seling process.

9 “(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not
10 more than 3 percent of the amounts made available under
11 this section in any fiscal year may be used for administra-
12 tive costs to carry out this section.

13 “(e) DEFINITIONS.—For purposes of this section—

14 “(1) the term ‘school counselor’ means an indi-
15 vidual who has documented competence in coun-
16 seling children and adolescents in a school setting
17 and who—

18 “(A) possesses State licensure or certifi-
19 cation granted by an independent professional
20 regulatory authority;

21 “(B) in the absence of such State licensure
22 or certification, possesses national certification
23 in school counseling or a specialty of counseling
24 granted by an independent professional organi-
25 zation; or

1 “(C) holds a minimum of a master’s de-
2 gree in school counseling from a program ac-
3 credited by the Council for Accreditation of
4 Counseling and Related Educational Programs
5 or the equivalent;

6 “(2) the term ‘school psychologist’ means an in-
7 dividual who—

8 “(A) possesses a minimum of 60 graduate
9 semester hours in school psychology from an in-
10 stitution of higher education and has completed
11 1,200 clock hours in a supervised school psy-
12 chology internship, of which 600 hours shall be
13 in the school setting;

14 “(B) possesses State licensure or certifi-
15 cation in the State in which the individual
16 works; or

17 “(C) in the absence of such State licensure
18 or certification, possesses national certification
19 by the National School Psychology Certification
20 Board;

21 “(3) the term ‘school social worker’ means an
22 individual who—

23 “(A) holds a master’s degree in social work
24 from a program accredited by the Council on
25 Social Work Education; and

1 “(B) is licensed or certified by the State in
2 which services are provided; or

3 “(C) in the absence of such State licensure
4 or certification, possesses a national credential
5 or certification as a ‘school social work spe-
6 cialist’ granted by an independent professional
7 organization; and

8 “(4) the term ‘child and adolescent psychiatrist’
9 means an individual who—

10 “(A) possesses State medical licensure; and

11 “(B) has completed residency training pro-
12 grams in general and child and adolescent psy-
13 chiatry.

14 “(f) REPORT.—Not later than 1 year after assistance
15 is made available under this section, the Secretary shall
16 make publicly available the information from applicants
17 regarding the ratios of students to school counselors, stu-
18 dents to school social workers, and students to school psy-
19 chologists.

20 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to carry out this section
22 such sums as may be necessary for each of fiscal years
23 2002 through 2006.

1 **“PART E—MENTORING PROGRAMS**

2 **“SEC. 5501. DEFINITIONS.**

3 “In this part, the following definitions apply:

4 “(1) CHILD WITH GREATEST NEED.—The term
5 ‘child with greatest need’ means a child at risk of
6 educational failure, dropping out of school, or in-
7 volvement in criminal or delinquent activities, or
8 that has lack of strong positive role models.

9 “(2) MENTOR.—The term ‘mentor’ means an
10 individual who works with a child to provide a posi-
11 tive role model for the child, to establish a sup-
12 portive relationship with the child, and to provide
13 the child with academic assistance and exposure to
14 new experiences and examples of opportunity that
15 enhance the ability of the child to become a respon-
16 sible adult.

17 “(3) STATE.—The term ‘State’ means each of
18 the several States, the District of Columbia, the
19 Commonwealth of Puerto Rico, the Virgin Islands,
20 Guam, American Samoa, and the Commonwealth of
21 the Northern Mariana Islands.

22 **“SEC. 5502. PURPOSES.**

23 “The purposes of this part are to make assistance
24 available to promote mentoring programs for children with
25 greatest need—

1 “(1) to assist such children in receiving support
2 and guidance from a caring individual;

3 “(2) to improve the academic performance of
4 such children;

5 “(3) to improve interpersonal relationships be-
6 tween such children and their peers, teachers, other
7 adults, and family members;

8 “(4) to reduce the dropout rate of such chil-
9 dren; and

10 “(5) to reduce juvenile delinquency and involve-
11 ment in gangs by such children.

12 **“SEC. 5503. GRANT PROGRAM.**

13 “(a) IN GENERAL.—In accordance with this section,
14 the Secretary may make grants to eligible entities to assist
15 such entities in establishing and supporting mentoring
16 programs and activities that—

17 “(1) are designed to link children with greatest
18 need (particularly such children living in rural areas,
19 high crime areas, or troubled home environments, or
20 such children experiencing educational failure) with
21 responsible adults or students in secondary school,
22 who—

23 “(A) have received training and support in
24 mentoring;

1 “(B) have been screened using appropriate
2 reference checks, child and domestic abuse
3 record checks, and criminal background checks;
4 and

5 “(C) are interested in working with youth;
6 and

7 “(2) are intended to achieve one or more of the
8 following goals:

9 “(A) Provide general guidance to children
10 with greatest need.

11 “(B) Promote personal and social responsi-
12 bility among children with greatest need.

13 “(C) Increase participation by children
14 with greatest need in, and enhance their ability
15 to benefit from, elementary and secondary edu-
16 cation.

17 “(D) Discourage illegal use of drugs and
18 alcohol, violence, use of dangerous weapons,
19 promiscuous behavior, and other criminal,
20 harmful, or potentially harmful activity by chil-
21 dren with greatest need.

22 “(E) Encourage children with greatest
23 need to participate in community service and
24 community activities.

1 “(F) Encourage children with greatest
2 need to set goals for themselves or to plan for
3 their futures, including encouraging such chil-
4 dren to make graduation from secondary school
5 a goal and to make plans for postsecondary
6 education or training.

7 “(G) Discourage involvement of children
8 with greatest need in gangs.

9 “(b) ELIGIBLE ENTITIES.—Each of the following is
10 an entity eligible to receive a grant under subsection (a):

11 “(1) A local educational agency.

12 “(2) A nonprofit, community-based organiza-
13 tion.

14 “(3) A partnership between an agency referred
15 to in paragraph (1) and an organization referred to
16 in paragraph (2).

17 “(c) USE OF FUNDS.—

18 “(1) IN GENERAL.—Each entity receiving a
19 grant under this section shall use the grant funds
20 for activities that establish or implement a men-
21 toring program, including—

22 “(A) hiring of mentoring coordinators and
23 support staff;

1 “(B) providing for the professional devel-
2 opment of mentoring coordinators and support
3 staff;

4 “(C) recruitment, screening, and training
5 of mentors;

6 “(D) reimbursement of schools, if appro-
7 priate, for the use of school materials or sup-
8 plies in carrying out the program;

9 “(E) dissemination of outreach materials;

10 “(F) evaluation of the program using sci-
11 entifically based methods; and

12 “(G) such other activities as the Secretary
13 may reasonably prescribe by rule.

14 “(2) PROHIBITED USES.—Notwithstanding
15 paragraph (1), an entity receiving a grant under this
16 section may not use the grant funds—

17 “(A) to directly compensate mentors;

18 “(B) to obtain educational or other mate-
19 rials or equipment that would otherwise be used
20 in the ordinary course of the entity’s oper-
21 ations;

22 “(C) to support litigation of any kind; or

23 “(D) for any other purpose reasonably pro-
24 hibited by the Secretary by rule.

1 “(d) TERM OF GRANT.—Each grant made under this
2 section shall be available for expenditure for a period of
3 3 years.

4 “(e) APPLICATION.—Each eligible entity seeking a
5 grant under this section shall submit to the Secretary an
6 application that includes—

7 “(1) a description of the mentoring plan the ap-
8 plicant proposes to carry out with such grant;

9 “(2) information on the children expected to be
10 served by the mentoring program for which such
11 grant is sought;

12 “(3) a description of the mechanism that appli-
13 cant will use to match children with mentors based
14 on the needs of the children;

15 “(4) an assurance that no mentor will be as-
16 signed to mentor so many children that the assign-
17 ment would undermine either the mentor’s ability to
18 be an effective mentor or the mentor’s ability to es-
19 tablish a close relationship (a one-on-one relation-
20 ship, where practicable) with each mentored child;

21 “(5) an assurance that mentoring programs will
22 provide children with a variety of experiences and
23 support, including—

24 “(A) emotional support;

25 “(B) academic assistance; and

1 “(C) exposure to experiences that children
2 might not otherwise encounter on their own;

3 “(6) an assurance that mentoring programs will
4 be monitored to ensure that each child assigned a
5 mentor benefits from that assignment and that there
6 will be a provision for the assignment of a new men-
7 tor if the relationship between the original mentor is
8 not beneficial to the child;

9 “(7) information on the method by which men-
10 tors and children will be recruited to the mentor pro-
11 gram;

12 “(8) information on the method by which pro-
13 spective mentors will be screened;

14 “(9) information on the training that will be
15 provided to mentors; and

16 “(10) information on the system that the appli-
17 cant will use to manage and monitor information re-
18 lating to the program’s reference checks, child and
19 domestic abuse record checks, and criminal back-
20 ground checks and to its procedure for matching
21 children with mentors.

22 “(f) SELECTION.—

23 “(1) COMPETITIVE BASIS.—In accordance with
24 this subsection, the Secretary shall select grant re-

1 recipients from among qualified applicants on a com-
2 petitive basis.

3 “(2) PRIORITY.—In selecting grant recipients
4 under paragraph (1), the Secretary shall give pri-
5 ority to each applicant that—

6 “(A) serves children with greatest need liv-
7 ing in rural areas, high crime areas, or troubled
8 home environments, or who attend schools with
9 violence problems;

10 “(B) provides background screening of
11 mentors, training of mentors, and technical as-
12 sistance in carrying out mentoring programs;

13 “(C) proposes a mentoring program under
14 which each mentor will be assigned to not more
15 children than the mentor can serve effectively;
16 or

17 “(D) proposes a school-based mentoring
18 program.

19 “(3) OTHER CONSIDERATIONS.—In selecting
20 grant recipients under paragraph (1), the Secretary
21 shall also consider—

22 “(A) the degree to which the location of
23 the programs proposed by each applicant con-
24 tributes to a fair distribution of programs with
25 respect to urban and rural locations;

1 “(B) the quality of the mentoring pro-
2 grams proposed by each applicant, including—

3 “(i) the resources, if any, the appli-
4 cant will dedicate to providing children
5 with opportunities for job training or post-
6 secondary education;

7 “(ii) the degree to which parents,
8 teachers, community-based organizations,
9 and the local community have participated,
10 or will participate, in the design and imple-
11 mentation of the applicant’s mentoring
12 program;

13 “(iii) the degree to which the appli-
14 cant can ensure that mentors will develop
15 longstanding relationships with the chil-
16 dren they mentor;

17 “(iv) the degree to which the appli-
18 cant will serve children with greatest need
19 in the 4th, 5th, 6th, 7th, and 8th grades;
20 and

21 “(v) the degree to which the program
22 will continue to serve children from the 4th
23 grade through graduation from secondary
24 school; and

1 “(C) the capability of each applicant to ef-
2 fectively implement its mentoring program.

3 “(4) GRANT TO EACH STATE.—Notwithstanding
4 any other provision of this subsection, in selecting
5 grant recipients under paragraph (1), the Secretary
6 shall select not less than 1 grant recipient from each
7 State for which there is a qualified applicant.

8 “(g) MODEL SCREENING GUIDELINES.—

9 “(1) IN GENERAL.—Based on model screening
10 guidelines developed by the Office of Juvenile Pro-
11 grams of the Department of Justice, the Secretary
12 shall develop and distribute to program participants
13 specific model guidelines for the screening of men-
14 tors who seek to participate in programs to be as-
15 sisted under this part.

16 “(2) BACKGROUND CHECKS.—The guidelines
17 developed under this subsection shall include, at a
18 minimum, a requirement that potential mentors be
19 subject to reference checks, child and domestic abuse
20 record checks, and criminal background checks.

21 **“SEC. 5504. STUDY BY GENERAL ACCOUNTING OFFICE.**

22 “(a) IN GENERAL.—The Comptroller General of the
23 United States shall conduct a study to identify successful
24 school-based mentoring programs, and the elements, poli-

1 cies, or procedures of such programs that can be rep-
2 licated.

3 “(b) REPORT.—Not later than 3 years after the date
4 of enactment of the Mentoring for Success Act, the Comp-
5 troller General shall submit a report to the Secretary and
6 Congress containing the results of the study conducted
7 under this section.

8 “(c) USE OF INFORMATION.—The Secretary shall use
9 information contained in the report referred to in sub-
10 section (b)—

11 “(1) to improve the quality of existing men-
12 toring programs assisted under this part and other
13 mentoring programs assisted under this Act; and

14 “(2) to develop models for new programs to be
15 assisted or carried out under this Act.

16 **“SEC. 5505. AUTHORIZATION OF APPROPRIATIONS.**

17 “There are authorized to be appropriated to carry out
18 section 5503 \$50,000,000 for fiscal year 2002 and such
19 sums as may be necessary for each of fiscal years 2003
20 through 2006.”.

1 **TITLE VI—IMPACT AID**
2 **PROGRAM**

3 **SEC. 601. PAYMENTS UNDER SECTION 8002 WITH RESPECT**
4 **TO FISCAL YEARS IN WHICH INSUFFICIENT**
5 **FUNDS ARE APPROPRIATED.**

6 (a) FOUNDATION PAYMENTS FOR PRE-1995 RECIPI-
7 ENTS.—Section 8002(h)(1) (20 U.S.C. 7702(h)(1)) is
8 amended—

9 (1) in subparagraph (A), by striking “and was
10 eligible to receive a payment under section 2 of the
11 Act of September 30, 1950” and inserting “and that
12 filed, or has been determined pursuant to statute to
13 have filed a timely application, and met, or has been
14 determined pursuant to statute to meet, the eligi-
15 bility requirements of section 2(a)(1)(C) of the Act
16 of September 30, 1950”; and

17 (2) in subparagraph (B), by striking “(or if the
18 local educational agency was not eligible to receive a
19 payment under such section 2 for fiscal year 1994”
20 and inserting “(or if the local educational agency did
21 not meet, or has not been determined pursuant to
22 statute to meet, the eligibility requirements of sec-
23 tion 2(a)(1)(C) of the Act of September 30, 1950
24 for fiscal year 1994”.

1 (b) PAYMENTS FOR 1995 RECIPIENTS.—Section
2 8002(h)(2) (20 U.S.C. 7702(h)(2)) is amended—

3 (1) in subparagraph (A), by adding at the end
4 before the period “, or whose application for fiscal
5 year 1995 was determined pursuant to statute to be
6 timely filed for purposes of payments for subsequent
7 fiscal years”; and

8 (2) in subparagraph (B)(ii), by striking “for
9 each local educational agency that received a pay-
10 ment under this section for fiscal year 1995” and in-
11 sserting “for each local educational agency described
12 in subparagraph (A)”.

13 (c) REMAINING FUNDS.—Section 8002(h)(4)(B) (20
14 U.S.C. 7702(h)(4)(B)) is amended—

15 (1) by striking “(in the same manner as per-
16 centage shares are determined for local educational
17 agencies under paragraph (2)(B)(ii))” and inserting
18 “(by dividing the maximum amount that the agency
19 is eligible to receive under subsection (b) by the total
20 of the maximum amounts for all such agencies)”;
21 and

22 (2) by striking “, except that for the purpose of
23 calculating a local educational agency’s assessed
24 value of the Federal property” and inserting “, ex-
25 cept that, for purposes of calculating a local edu-

1 cational agency’s maximum amount under sub-
2 section (b)”.

3 (d) APPLICATION FOR PAYMENT.—Notwithstanding
4 any other provision of law, the Secretary shall treat as
5 timely filed an application under section 8002 (20 U.S.C.
6 7702) from Academy School District 20, Colorado, for a
7 payment for fiscal year 1999, and shall process that appli-
8 cation from funds appropriated for that section for fiscal
9 year 2001.

10 **SEC. 602. CALCULATION OF PAYMENT UNDER SECTION 8003**
11 **FOR SMALL LOCAL EDUCATIONAL AGENCIES.**

12 Section 8003(b)(3)(B)(iv) (20 U.S.C.
13 7703(b)(3)(B)(iv)) is amended by inserting after “of the
14 State in which the agency is located” the following: “or
15 less than the average per pupil expenditure of all the
16 States”.

17 **SEC. 603. ELIGIBILITY UNDER SECTION 8003 FOR CERTAIN**
18 **HEAVILY IMPACTED LOCAL EDUCATIONAL**
19 **AGENCIES.**

20 (a) ELIGIBILITY.—Section 8003(b)(2)(C) (20 U.S.C.
21 7703(b)(2)(C)) is amended—

22 (1) in clauses (i) and (ii) by inserting after
23 “Federal military installation” each place it appears
24 the following: “(or if the agency is a qualified local
25 educational agency as described in clause (iv))”; and

1 (2) by adding at the end the following:

2 “(iv) QUALIFIED LOCAL EDU-
3 CATIONAL AGENCY.—A qualified local edu-
4 cational agency described in this clause is
5 an agency that meets the following require-
6 ments:

7 “(I) The boundaries of the agen-
8 cy are the same as island property
9 designated by the Secretary of the In-
10 terior to be property that is held in
11 trust by the Federal Government.

12 “(II) The agency has no taxing
13 authority.

14 “(III) The agency received a pay-
15 ment under paragraph (1) for fiscal
16 year 2001.”.

17 (b) EFFECTIVE DATE.—The Secretary shall consider
18 an application for a payment under section 8003(b)(2) for
19 fiscal year 2002 from a qualified local educational agency
20 described in section 8003(b)(2)(C)(iv), as added by sub-
21 section (a), as meeting the requirements of section
22 8003(b)(2)(C)(iii), and shall provide a payment under sec-
23 tion 8003(b)(2) for fiscal year 2002, if the agency submits
24 to the Secretary an application for payment under such

1 section not later than 60 days after the date of the enact-
2 ment of this Act.

3 **SEC. 604. CONSTRUCTION.**

4 (a) SCHOOL FACILITY EMERGENCY AND MOD-
5 ERNIZATION GRANTS.—Section 8007(b) (20 U.S.C.
6 7707(b)) is amended to read as follows:

7 “(b) SCHOOL FACILITY EMERGENCY AND MOD-
8 ERNIZATION GRANTS AUTHORIZED.—

9 “(1) IN GENERAL.—From 60 percent of the
10 amount appropriated for each fiscal year under sec-
11 tion 8014(e), the Secretary—

12 “(A) shall award emergency grants in ac-
13 cordance with this subsection to eligible local
14 educational agencies to enable the agencies to
15 carry out emergency repairs of school facilities;
16 and

17 “(B) shall award modernization grants in
18 accordance with this subsection to eligible local
19 educational agencies to enable the agencies to
20 carry out the modernization of school facilities.

21 “(2) PRIORITY.—In approving applications
22 from local educational agencies for emergency grants
23 and modernization grants under this subsection, the
24 Secretary shall give priority to applications for emer-
25 gency grants and, among such applications for emer-

1 agency grants, shall give priority to those applications
2 of local educational agencies based on the severity of
3 the emergency.

4 “(3) ELIGIBILITY REQUIREMENTS.—

5 “(A) EMERGENCY GRANTS.—A local edu-
6 cational agency is eligible to receive an emer-
7 gency grant under this subsection only if—

8 “(i) the agency (or in the case of a
9 local educational agency that does not have
10 the authority to tax or issue bonds, the
11 agency’s fiscal agent)—

12 “(I) has no practical capacity to
13 issue bonds;

14 “(II) has minimal capacity to
15 issue bonds and is at 75 percent of
16 the agency’s limit of bonded indebted-
17 ness; or

18 “(III) does not meet the require-
19 ments of subclauses (I) and (II) but is
20 eligible to receive funds under section
21 8003(b)(2) for the fiscal year; and

22 “(ii) the agency is eligible to receive
23 assistance under subsection (a) for the fis-
24 cal year and has a school facility emer-
25 gency, as determined by the Secretary,

1 that poses a health or safety hazard to the
2 students and school personnel assigned to
3 the school facility.

4 “(B) MODERNIZATION GRANTS.—A local
5 educational agency is eligible to receive a mod-
6 ernization grant under this subsection only if—

7 “(i) the agency (or in the case of a
8 local educational agency that does not have
9 the authority to tax or issue bonds, the
10 agency’s fiscal agent) meets the require-
11 ments of subclause (I), (II), or (III) of
12 subparagraph (A)(i);

13 “(ii) the agency is eligible to receive
14 assistance under section 8002 for the fiscal
15 year and has an assessed value of real
16 property per student that may be taxed for
17 school purposes that is less than the aver-
18 age of the assessed value of real property
19 per student that may be taxed for school
20 purposes in the State in which the local
21 educational agency is located; and

22 “(iii) the agency has facility needs re-
23 sulting from actions of the Federal Gov-
24 ernment, such as enrollment increases due
25 to the expansion of Federal activities,

1 housing privatization, or the acquisition of
2 Federal property.

3 “(C) RULE OF CONSTRUCTION.—For pur-
4 poses of subparagraph (A)(i), a local edu-
5 cational agency—

6 “(i) has no practical capacity to issue
7 bonds if the total assessed value of real
8 property that may be taxed for school pur-
9 poses is less than \$25,000,000; and

10 “(ii) has minimal capacity to issue
11 bonds if the total assessed value of real
12 property that may be taxed for school pur-
13 poses is not less than \$25,000,000 but not
14 more than \$50,000,000.

15 “(4) AWARD CRITERIA.—In awarding emer-
16 gency grants and modernization grants under this
17 subsection, the Secretary shall consider the following
18 factors:

19 “(A) The ability of the local educational
20 agency to respond to the emergency, or to pay
21 for the modernization project, as the case may
22 be, as measured by—

23 “(i) the agency’s level of bonded in-
24 debtedness;

1 “(ii) the assessed value of real prop-
2 erty per student that may be taxed for
3 school purposes compared to the average of
4 the assessed value of real property per stu-
5 dent that may be taxed for school purposes
6 in the State in which the agency is located;

7 “(iii) the agency’s total tax rate for
8 school purposes (or, if applicable, for cap-
9 ital expenditures) compared to the average
10 total tax rate for school purposes (or the
11 average capital expenditure tax rate, if ap-
12 plicable) in the State in which the agency
13 is located; and

14 “(iv) funds that are available to the
15 agency, from any other source, including
16 section 8007(a), that may be used for cap-
17 ital expenditures.

18 “(B) The percentage of property in the
19 agency that is nontaxable due to the presence
20 of the Federal Government.

21 “(C) The number and percentages of chil-
22 dren described in subparagraphs (A), (B), (C),
23 and (D) of section 8003(a)(1) served in the
24 school facility with the emergency or served in

1 the school facility proposed for modernization,
2 as the case may be.

3 “(D) In the case of an emergency grant,
4 the severity of the emergency, as measured by
5 the threat that the condition of the school facil-
6 ity poses to the health, safety, and well-being of
7 students.

8 “(E) In the case of a modernization
9 grant—

10 “(i) the severity of the need for mod-
11 ernization, as measured by such factors
12 as—

13 “(I) overcrowding, as evidenced
14 by the use of portable classrooms; or

15 “(II) the agency’s inability to
16 maximize the use of technology or
17 offer a curriculum in accordance with
18 contemporary State standards due to
19 the physical limitations of the current
20 school facility; and

21 “(ii) the age of the school facility pro-
22 posed for modernization.

23 “(5) OTHER AWARD PROVISIONS.—

24 “(A) GENERAL PROVISIONS.—

1 “(i) LIMITATIONS ON AMOUNT OF
2 FUNDS.—

3 “(I) IN GENERAL.—The amount
4 of funds provided under an emergency
5 grant or a modernization grant
6 awarded under this subsection to a
7 local educational agency that meets
8 the requirements of subclause (II) or
9 (III) of paragraph (3)(A)(i)—

10 “(aa) shall not exceed 50
11 percent of the total cost of the
12 project to be assisted under this
13 subsection; and

14 “(bb) shall not exceed
15 \$3,000,000 during any 5-year pe-
16 riod.

17 “(II) IN-KIND CONTRIBUTIONS.—

18 A local educational agency may use
19 in-kind contributions to meet the
20 matching requirement of subclause
21 (I)(aa).

22 “(ii) PROHIBITIONS ON USE OF
23 FUNDS.—A local educational agency may
24 not use funds provided under an emer-

1 agency grant or modernization grant award-
2 ed under this subsection for—

3 “(I) a project for a school facility
4 for which the agency does not have
5 full title or other interest; or

6 “(II) stadiums or other facilities
7 primarily used for athletic contests,
8 exhibitions, or other events for which
9 admission is charged to the general
10 public.

11 “(iii) SUPPLEMENT NOT SUPPLANT.—

12 A local educational agency shall use funds
13 provided under an emergency grant or
14 modernization grant awarded under this
15 subsection only to supplement the amount
16 of funds that would, in the absence of the
17 Federal funds provided under the grant, be
18 made available from non-Federal sources
19 to carry out emergency repairs of school
20 facilities or to carry out the modernization
21 of school facilities, as the case may be, and
22 not to supplant such funds.

23 “(B) EMERGENCY GRANTS.—

24 “(i) PROHIBITION ON USE OF
25 FUNDS.—A local educational agency that is

1 awarded an emergency grant under this
2 subsection may not use amounts under the
3 grant for the complete or partial replace-
4 ment of an existing school facility unless
5 such replacement is less expensive or more
6 cost-effective to correct the identified emer-
7 gency.

8 “(ii) CARRY-OVER OF CERTAIN APPLI-
9 CATIONS.—In the case of a local edu-
10 cational agency that applies for an emer-
11 gency grant under this subsection for a fis-
12 cal year and does not receive the grant for
13 the fiscal year, the Secretary—

14 “(I) shall, upon the request of
15 the agency, treat the application as an
16 application for an emergency grant
17 under this subsection for the subse-
18 quent fiscal year in accordance with
19 the priority requirements of para-
20 graph (2); and

21 “(II) shall allow the agency to
22 amend or otherwise update the appli-
23 cation, as appropriate.

24 “(6) APPLICATION.—A local educational agency
25 that desires to receive an emergency grant or a mod-

1 ernization grant under this subsection shall submit
2 an application to the Secretary at such time, in such
3 manner, and accompanied by such information as
4 the Secretary may require. Each application shall
5 contain the following:

6 “(A) The information described in clauses
7 (i) through (iv) of paragraph (4)(A) and sub-
8 paragraphs (B) and (C) of paragraph (4).

9 “(B) In the case of an application for an
10 emergency grant—

11 “(i) a description of the school facility
12 deficiency that poses a health or safety
13 hazard to the occupants of the facility and
14 a description of how the deficiency will be
15 repaired; and

16 “(ii) a signed statement from an ap-
17 propriate local official certifying that a de-
18 ficiency in the school facility threatens the
19 health or safety of the occupants of the fa-
20 cility or that prevents the use of all or a
21 portion of the building.

22 “(C) In the case of an application for a
23 modernization grant—

24 “(i) an explanation of the need for the
25 school facility modernization project; and

1 “(ii) the date on which original con-
2 struction of the facility to be modernized
3 was completed.

4 “(D) A description of the project for which
5 a grant under this subsection would be used, in-
6 cluding a cost estimate for the project.

7 “(E) A description of the interest in, or
8 authority over, the school facility involved, such
9 as an ownership interest or a lease arrange-
10 ment.

11 “(F) Such other information and assur-
12 ances as the Secretary may reasonably require.

13 “(7) REPORT.—

14 “(A) IN GENERAL.—Not later than Janu-
15 ary 1 of each year, the Secretary shall prepare
16 and submit to the appropriate congressional
17 committees a report that contains a justifica-
18 tion for each grant awarded under this sub-
19 section for the prior fiscal year.

20 “(B) DEFINITION.—In this paragraph, the
21 term ‘appropriate congressional committees’
22 means—

23 “(i) the Committee on Appropriations
24 and the Committee on Education and the

1 Workforce of the House of Representa-
2 tives; and

3 “(ii) the Committee on Appropriations
4 and the Committee on Health, Education,
5 Labor and Pensions of the Senate.”.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
7 8014(e) (20 U.S.C. 7714(e)) is amended by striking “for
8 each of the three succeeding fiscal years” and inserting
9 “for fiscal year 2001, \$150,000,000 for fiscal year 2002,
10 and such sums as may be necessary for each of the four
11 succeeding fiscal years”.

12 **SEC. 605. STATE CONSIDERATION OF PAYMENTS IN PRO-**
13 **VIDING STATE AID.**

14 Section 8009(b)(1) (20 U.S.C. 7709(b)(1)) is amend-
15 ed by inserting after “section 8003(a)(2)(B)” the fol-
16 lowing: “and, with respect to a local educational agency
17 that receives a payment under section 8003(b)(2), the
18 amount in excess of the amount that the agency would
19 receive if the agency were deemed to be an agency eligible
20 to receive a payment under section 8003(b)(1) and not
21 section 8003(b)(2)”.

22 **SEC. 606. AUTHORIZATION OF APPROPRIATIONS.**

23 Section 8014 (20 U.S.C. 7714) is amended by strik-
24 ing “three succeeding fiscal years” each place it appears
25 and inserting “six succeeding fiscal years”.

1 **SEC. 607. REPEAL OF EXISTING TITLE VI; TRANSFER AND**
2 **REDESIGNATION OF PROGRAM.**

3 (a) REPEAL OF EXISTING TITLE VI.—Title VI (20
4 U.S.C. 7301 et seq.) is repealed.

5 (b) TRANSFER AND REDESIGNATION OF PROGRAM.—

6 (1) Title VIII (20 U.S.C. 7701 et seq.)—

7 (A) is transferred from the current placement
8 of the title and inserted after title V; and

9 (B) is redesignated as title VI.

10 (2) Title VI (as redesignated by paragraph (1)(B))
11 is amended—

12 (A) by redesignating sections 8001 through
13 8005 (20 U.S.C. 7701–7705) as sections 6001
14 through 6005, respectively; and

15 (B) by redesignating sections 8007 through
16 8014 (20 U.S.C. 7707–7714) as sections 6006
17 through 6013, respectively.

18 (c) CONFORMING AMENDMENTS.—(1) Title VI (as
19 redesignated by subsection (b)) is amended by striking
20 “8002”, “8003”, “8004”, “8005”, “8008”, “8009”,
21 “8011”, “8013”, and “8014” each place such terms ap-
22 pear and inserting “6002”, “6003”, “6004”, “6005”,
23 “6007”, “6008”, “6010”, “6012”, and “6013”, respec-
24 tively.

1 (2) Section 6005 (as redesignated by subsection (b))
2 is amended in the heading by striking “**8002 AND 8003**”
3 and inserting “**6002 AND 6003**”.

4 (3) Section 6009(c)(1) (as redesignated by subsection
5 (b)) is amended in the heading by striking “8003” and in-
6 serting “6003”.

7 (d) SAVINGS PROVISION.—Funds appropriated for
8 title VIII of the Elementary and Secondary Education Act
9 of 1965 (as in effect on the day before the date of the
10 enactment of this Act) shall be available for use under title
11 VI of such Act, as added by this section.

12 **SEC. 608. SENSE OF CONGRESS RELATING TO FULL FUND-**
13 **ING OF THE IMPACT AID PROGRAM.**

14 (a) FINDINGS.—Congress finds the following:

15 (1) More than 90 percent of resources for
16 school districts in the United States are raised from
17 State and local property taxes.

18 (2) School districts that are affected by the
19 presence of the Federal Government, such as Fed-
20 eral property that is not subject to taxation, must
21 still provide educational services to children who are
22 federally connected by such activities of the Federal
23 Government.

24 (3) To mitigate this loss of funding, Congress
25 has made “impact aid” payments to local edu-

1 cational agencies to reimburse the agencies for the
2 costs of educating federally connected children.

3 (4) From 1950 to 1969, Congress provided full
4 funding for the impact aid program to help defray
5 the costs of educating federally connected children.

6 (5) For fiscal year 2000, Congress provided
7 only 46 percent of the costs of educating federally
8 connected children.

9 (b) SENSE OF CONGRESS.—It is the sense of Con-
10 gress that—

11 (1) the House of Representatives, the Senate,
12 and the Administration should work together to pro-
13 vide full funding for the impact aid program in fu-
14 ture fiscal years in order to meet the needs of school
15 districts affected by a Federal presence; and

16 (2) the full funding of the impact aid program
17 will ensure that federally connected children will con-
18 tinue to receive a quality education.

19 **TITLE VII—ACCOUNTABILITY**

20 **SEC. 701. FLEXIBILITY AND ACCOUNTABILITY.**

21 Title VII is amended to read as follows:

1 **“TITLE VII—FLEXIBILITY AND**
2 **ACCOUNTABILITY**

3 **“PART A—STATE ACCOUNTABILITY FOR**
4 **IMPROVING ACADEMIC ACHIEVEMENT**

5 **“SEC. 7101. STATE FINANCIAL AWARDS.**

6 “(a) IN GENERAL.—Beginning in the 2002–2003
7 school year, the Secretary shall make in accordance with
8 this section financial awards, to be known as ‘Achievement
9 in Education Awards’, to States that have made signifi-
10 cant progress in improving educational achievement.

11 “(b) CRITERIA OF PROGRESS.—For the purposes of
12 subsection (a), the Secretary shall judge progress using
13 each of the following criteria, giving the greatest weight
14 to the criterion described in paragraph (1):

15 “(1) The progress of the State’s students from
16 economically disadvantaged families and students
17 from racial and ethnic minority groups—

18 “(A) on the assessments administered by
19 the State under section 1111; and

20 “(B) beginning in the 2003–2004 school
21 year, on assessments of 4th and 8th grade
22 reading and mathematics under—

23 “(i) the State assessments carried out
24 as part of the National Assessment of
25 Educational Progress under section 411 of

1 the National Education Statistics Act of
2 1994 (20 U.S.C. 9010); or

3 “(ii) an assessment selected by the
4 State that—

5 “(I) is administered annually;

6 “(II) yields high quality data
7 that are valid and reliable;

8 “(III) meets widely recognized
9 professional and technical standards,
10 including specific and rigorous test se-
11 curity procedures;

12 “(IV) is developed by an entity
13 independent from each State and local
14 government agency in the State in a
15 manner that protects against any con-
16 flict of interest;

17 “(V) has no test questions that
18 are identical to the test questions used
19 by the assessment used to meet the
20 State assessment requirements under
21 section 1111;

22 “(VI) provides results in such a
23 form that they may be expressed in
24 terms of achievement levels that are
25 consistent with the achievement levels

1 (basic, proficient, and advanced) set
2 forth in section 1111;

3 “(VII) provides results in such a
4 form that they may be disaggregated,
5 at a minimum, according to income
6 level and major racial and ethnic
7 group; and

8 “(VIII) is administered to all stu-
9 dents or to a representative sample of
10 students in the 4th and 8th grades
11 statewide, with a sample size that is
12 sufficiently large to produce statis-
13 tically significant estimates of state-
14 wide student achievement.

15 “(2) The overall improvement in the achieve-
16 ment of all of the State’s students, as measured
17 by—

18 “(A) the assessments administered by the
19 State under section 1111; and

20 “(B) beginning in the 2003–2004 school
21 year, the assessments described in paragraph
22 (1)(B).

23 “(3) The progress of the State in improving the
24 English proficiency of students who enter school
25 with limited English proficiency.

1 “(c) OTHER CONSIDERATIONS.—In judging a State’s
2 progress under subsection (a), the Secretary may also
3 consider—

4 “(1) the progress of the State in increasing the
5 percentage of students who graduate from secondary
6 schools; and

7 “(2) the progress of the State in increasing the
8 percentage of students who take advanced
9 coursework (such as Advanced Placement or Inter-
10 national Baccalaureate courses) and who pass the
11 exams associated with such coursework.

12 “(d) AMOUNT.—The Secretary shall determine the
13 amount of an award under subsection (a) based on—

14 “(1) the school-age population of the State; and

15 “(2) the degree of progress shown by a State
16 with respect to the criteria set forth in subsections
17 (b) and (c).

18 “(e) USE OF FUNDS.—

19 “(1) IN GENERAL.—A State receiving a finan-
20 cial award under this section shall use the proceeds
21 of such award only to make financial awards to pub-
22 lic elementary and secondary schools in the State
23 that have made the most significant progress with
24 respect to the criteria described in subsection (b).

1 “(2) USE BY SCHOOLS.—In consultation with
2 the school’s teachers, the principal of each elemen-
3 tary or secondary school that receives a financial
4 award from a State under this section shall use the
5 proceeds of such award at the school for any edu-
6 cational purpose permitted under State law.

7 “(3) RESPONSIBLE STATE AGENCY.—The State
8 educational agency for each State shall be the agen-
9 cy responsible for making awards under this sub-
10 section.

11 “(f) PEER REVIEW.—In selecting States for awards
12 under subsection (a), the Secretary shall use a peer-review
13 process.

14 “(g) COSTS OF INDEPENDENT ASSESSMENTS.—

15 “(1) IN GENERAL.—Subject to paragraph (2),
16 the Secretary shall make grants to States to offset
17 the costs of administering assessments administered
18 by the States to meet the requirements of
19 (b)(1)(B)(ii).

20 “(2) LIMITATIONS.—Grants made by the Sec-
21 retary in any year to a State under paragraph (1)—

22 “(A) may be awarded only to offset the
23 costs of a single administration of an assess-
24 ment described in such paragraph in the State
25 for that year; and

1 “(B) may not exceed the costs of admin-
2 istering in the State for that year the State as-
3 sessments that would be carried out under the
4 National Assessment of Educational Progress
5 described in subsection (b)(1)(B).

6 “(3) ALLOCATION.—The Secretary may deter-
7 mine the appropriate methodology of allocating
8 grants to States under this subsection.

9 **“SEC. 7102. STATE SANCTIONS.**

10 “(a) FAILURE TO MAKE PROGRESS.—

11 “(1) LOSS OF ADMINISTRATIVE FUNDS.—The
12 Secretary shall reduce, by 30 percent, the amount of
13 funding that a State may reserve for State adminis-
14 tration under the State formula grant programs au-
15 thorized by this Act if the Secretary determines that,
16 for 2 consecutive years—

17 “(A) the State’s students from economi-
18 cally disadvantaged families and students from
19 racial and ethnic minority groups failed to
20 make adequate yearly progress on the assess-
21 ments administered by the State under section
22 1111; and

23 “(B) the State’s students from economi-
24 cally disadvantaged families and students from
25 racial and ethnic minority groups failed to

1 make measurable progress in reading and
2 mathematics, as measured by the 4th and 8th
3 grade assessments described in subsection
4 (b)(1)(B).

5 “(2) FURTHER REDUCTIONS.—In each of the first 2
6 years after the years described in paragraph (1), the Sec-
7 retary may increase the reduction described in such para-
8 graph by any amount not more than a total of an addi-
9 tional 45 percent.

10 “(b) OTHER FAILURES.—In addition to any action
11 taken under subsection (a)(1) or (a)(2), the Secretary
12 shall reduce, by 20 percent, the amount of funding that
13 a State may reserve for State administration under the
14 State formula grant programs authorized by this Act if
15 the Secretary determines that, for 2 consecutive years, the
16 State failed to make adequate yearly progress—

17 “(1) with respect to the achievement of children
18 with limited English proficiency under section
19 1111(b)(2)(C)(iii)(II)(dd); or

20 “(2) with respect to the acquisition of English
21 language proficiency by children with limited
22 English proficiency under section
23 1111(b)(2)(C)(iii)(III).

24 “(c) USE OF FUNDS FOR IMPROVEMENT.—

1 “(1) IN GENERAL.—The Secretary shall require
2 that any funds reduced under this section be allo-
3 cated by the State to local educational agencies in
4 the State for school improvement purposes described
5 in section 1116.

6 “(2) TREATMENT OF FUNDS.—Funds described
7 in paragraph (1) shall not count toward the amounts
8 that are required to be reserved by a State for
9 school improvement under section 1003.

10 **“SEC. 7103. DEVELOPMENT OF STATE STANDARDS AND AS-**
11 **SESSMENTS.**

12 “(a) IN GENERAL.—The Secretary shall make finan-
13 cial awards to States to enable the States—

14 “(1) to pay the costs of the development of the
15 additional State assessments and standards required
16 by section 1111(b), including the costs of working in
17 voluntary partnerships with other States, at the sole
18 discretion of each such State, in developing such as-
19 sessments and standards if a State chooses to do so;
20 and

21 “(2) if a State has developed the assessments
22 and standards referred to in paragraph (1), to ad-
23 minister such assessments or to carry out other ac-
24 tivities described in this title and other activities re-
25 lated to ensuring accountability for results in the

1 State's schools and local educational agencies, such
2 as—

3 “(A) developing academic content and
4 achievement standards and aligned assessments
5 in other subjects not required by section 1111;

6 “(B) developing assessments of English
7 language proficiency necessary to comply with
8 section 1111(b)(7);

9 “(C) assuring the continued validity and
10 reliability of State assessments;

11 “(D) refining State assessments to ensure
12 their continued alignment with the State's aca-
13 demic content standards and to improve the
14 alignment of curricula and instruction mate-
15 rials;

16 “(E) providing for multiple measures to in-
17 crease the reliability and validity of student and
18 school classifications;

19 “(F) strengthening the capacity of local
20 educational agencies and schools to provide all
21 students the opportunity to increase educational
22 achievement;

23 “(G) expanding the range of accommoda-
24 tions available to students with limited English
25 proficiency and students with disabilities to im-

1 prove the rates of inclusion of such students;
2 and

3 “(H) improving the dissemination of infor-
4 mation on student achievement and school per-
5 formance to parents and the community.

6 “(b) BONUSES.—The Secretary shall make a one-
7 time bonus payment to each State that completes the de-
8 velopment of the assessments described in subsection (a)
9 ahead of the deadline set forth in section 1111.

10 **“SEC. 7104. FUNDING.**

11 “(a) AUTHORIZATION OF APPROPRIATIONS.—

12 “(1) AWARDS AND BONUS PAYMENTS.—For the
13 purposes of making awards under section 7101 and
14 bonus payments under section 7103(b), there are
15 authorized to be appropriated \$40,000,000 for fiscal
16 year 2002 and such sums as may be necessary for
17 each of fiscal years 2003 through 2006.

18 “(2) GRANTS FOR INDEPENDENT ASSESS-
19 MENTS; ADMINISTRATION OF STATE ASSESSMENTS
20 UNDER NAEP.—For the purposes of making grants
21 to offset the costs of independent assessments under
22 section 7101(g) and for the purposes of admin-
23 istering the State assessments carried out under the
24 National Assessment of Educational Progress re-
25 ferred to in section 7101(b)(1)(B)(i), there are au-

1 thorized to be appropriated to the Secretary
2 \$69,000,000 for fiscal year 2002 and such sums as
3 may be necessary for each of fiscal years 2003
4 through 2006.

5 “(3) DEVELOPMENT AND ADMINISTRATION OF
6 STATE STANDARDS AND ASSESSMENTS.—For the
7 purposes of carrying out subsection 7103(a), there
8 are authorized to be appropriated \$400,000,000 for
9 fiscal year 2002 and such sums as may be necessary
10 for each of the fiscal years 2003 through 2005.

11 “(b) ALLOCATION OF APPROPRIATED FUNDS.—
12 From each of the amounts appropriated under subsection
13 (a), the Secretary shall allocate to the States—

14 “(1) 50 percent based on the relative number of
15 children aged 5 to 17 in each State; and

16 “(2) 50 percent allocated equally among the
17 States.

18 **“PART B—FUNDING FLEXIBILITY FOR STATE AND**
19 **LOCAL EDUCATIONAL AGENCIES**

20 **“SEC. 7201. SHORT TITLE.**

21 “‘This part may be cited as the ‘State and Local
22 Transferability Act’.

23 **“SEC. 7202. PURPOSE.**

24 “‘The purpose of this part is to allow States and local
25 educational agencies the flexibility—

1 “(1) to target Federal funds to Federal pro-
2 grams that most effectively address the unique needs
3 of States and localities; and

4 “(2) to transfer Federal funds allocated to
5 other activities to allocations for activities authorized
6 under title I programs.

7 **“SEC. 7203. TRANSFERABILITY OF FUNDS.**

8 “(a) TRANSFERS BY STATES.—

9 “(1) IN GENERAL.—In accordance with this
10 part, a State may transfer up 50 percent of the non-
11 administrative State funds allocated to the State for
12 use for State-level activities under each of the fol-
13 lowing provisions to one or more of the State’s allo-
14 cations under any other of such provisions:

15 “(A) Part A of Title II.

16 “(B) Subpart 1 of part A of title IV.

17 “(C) Part A or B of title V.

18 “(2) SUPPLEMENTAL FUNDS FOR TITLE I.—In
19 accordance with this part, a State may transfer any
20 funds allocated to the State under a provision listed
21 in paragraph (1) to its allocation under title I.

22 “(b) TRANSFERS BY LOCAL EDUCATIONAL AGEN-
23 CIES.—

24 “(1) AUTHORITY TO TRANSFER FUNDS.—

1 “(A) IN GENERAL.—In accordance with
2 this part, a local educational agency (except a
3 local educational agency identified for improve-
4 ment under section 1116(e)(2) or subject to
5 corrective action under section 1116(e)(9)) may
6 transfer not more than 50 percent of the funds
7 allocated to it under each of the provisions list-
8 ed in paragraph (2) for a fiscal year to one or
9 more of its allocations for such fiscal year
10 under any other provision listed in paragraph
11 (2).

12 “(B) AGENCIES IDENTIFIED FOR IM-
13 PROVEMENT.—A local educational agency iden-
14 tified for improvement under section 1116(e)(2)
15 may transfer in accordance with this part not
16 more than 30 percent of the funds allocated to
17 it under each of the provisions listed in para-
18 graph (2)—

19 “(i) to its allocation for school im-
20 provement under section 1003;

21 “(ii) to any other allocation if such
22 transferred funds are used only for local
23 educational agency improvement activities
24 consistent with section 1116(d).

1 “(C) SUPPLEMENTAL FUNDS FOR TITLE
2 I.—In accordance with this part, a local edu-
3 cational agency may transfer funds allocated to
4 such agency under a provision listed in para-
5 graph (2) to its allocation under title I.

6 “(2) APPLICABLE PROVISIONS.—A local edu-
7 cational agency may transfer funds under subpara-
8 graph (A) or (B) from allocations made under each
9 of the following provisions:

10 “(A) Title II.

11 “(B) Subpart 1 of part A of title IV.

12 “(C) Subpart 1 of part A of title V or sec-
13 tion 5212(a)(2)(A).

14 “(c) NO TRANSFER OF TITLE I FUNDS.—A State or
15 a local educational agency may not transfer under this
16 part to any other program any funds allocated to it under
17 title I.

18 “(d) MODIFICATION OF PLANS AND APPLICATIONS;
19 NOTIFICATION.—

20 “(1) STATE TRANSFERS.—Each State that
21 makes a transfer of funds under this section shall—

22 “(A) modify to account for such transfer
23 each State plan, or application submitted by the
24 State, to which such funds relate;

1 “(B) not later than 30 days after the date
2 of such transfer, submit a copy of such modi-
3 fied plan or application to the Secretary; and

4 “(C) not later than 30 days before the ef-
5 fective date of such transfer, notify the Sec-
6 retary of such transfer.

7 “(2) LOCAL TRANSFERS.—Each local edu-
8 cational agency that makes a transfer under this
9 section shall—

10 “(A) modify to account for such transfer
11 each local plan, or application submitted by the
12 agency, to which such funds relate;

13 “(B) not later than 30 days after the date
14 of such transfer, submit a copy of such modi-
15 fied plan or application to the State; and

16 “(C) not later than 30 days before the ef-
17 fective date of such transfer, notify the State of
18 such transfer.

19 “(e) APPLICABLE RULES.—

20 “(1) IN GENERAL.—Except as otherwise pro-
21 vided in this part, funds transferred under this sec-
22 tion are subject to each of the rules and require-
23 ments applicable to the funds allocated by the Sec-
24 retary under the provision to which the transferred
25 funds are transferred.

1 “(2) CONSULTATION.—Each State educational
2 agency or local educational agency that transfers
3 funds under this section shall conduct consultations
4 in accordance with section 8503(e), if such transfer
5 transfers funds from a program that provides for
6 the participation of students, teachers, or other edu-
7 cational personnel, from private schools.

8 **“PART C—LOCAL FLEXIBILITY DEMONSTRATION**

9 **“SEC. 7301. SHORT TITLE.**

10 “‘This part may be cited as the ‘Local Flexibility
11 Demonstration Act’.

12 **“SEC. 7302. PURPOSE.**

13 “‘The purpose of this part is to create options for local
14 educational agencies—

15 “(1) to improve the academic achievement of all
16 students, and to focus the resources of the Federal
17 Government upon such achievement;

18 “(2) to improve teacher quality and subject
19 matter mastery, especially in mathematics, reading,
20 and science;

21 “(3) to empower parents and schools to effec-
22 tively address the needs of their children and stu-
23 dents;

1 “(4) to give local educational agencies maximum freedom in determining how to boost academic
2 achievement and implement education reforms;

3 “(5) to eliminate Federal barriers to implementing effective local education programs;

4 “(6) to hold local educational agencies accountable for boosting the academic achievement of all
5 students, especially disadvantaged children; and

6 “(7) to narrow achievement gaps between the
7 lowest and highest performing groups of students so
8 that no child is left behind.

9 **“SEC. 7303. AGREEMENTS TO PROVIDE LOCAL FLEXIBILITY.**

10 “(a) AUTHORITY.—Except as otherwise provided in
11 this part, the Secretary shall enter into performance
12 agreements—

13 “(1) with local educational agencies that meet
14 their State’s definition of adequate yearly progress,
15 that submit approvable performance agreement proposals, and that are selected under paragraph (2);
16 and

17 “(2) under which the agencies may consolidate
18 and use funds as described in section 7304.

19 “(b) SELECTION OF LOCAL EDUCATIONAL AGEN-
20 CIES.—

1 “(1) IN GENERAL.—Subject to paragraph (2),
2 the Secretary shall enter into performance agree-
3 ments under this part with not more than 100 local
4 educational agencies. Each such local educational
5 agency shall be selected from among those local edu-
6 cational agencies that—

7 “(A) submit a proposed performance
8 agreement to the Secretary and demonstrate, to
9 the satisfaction of the Secretary, that the
10 agreement—

11 “(i) has substantial promise of meet-
12 ing the requirements of this part; and

13 “(ii) describes a plan to combine and
14 use funds (as authorized under section
15 7304) under the agreement to meet the
16 State’s definition of adequate yearly
17 progress;

18 “(B) provide information in the proposed
19 performance agreement regarding how the local
20 educational agency has notified the State of the
21 local educational agency’s intent to submit a
22 proposed performance agreement; and

23 “(C) have consulted and involved parents
24 and educators in the development of the pro-
25 posed performance agreement.

1 “(2) GEOGRAPHIC DISTRIBUTION.—

2 “(A) IN GENERAL.—

3 “(i) INITIAL AGREEMENTS.—During
4 the period of time that expires 3 years
5 after the date of enactment of the No
6 Child Left Behind Act of 2001, the Sec-
7 retary may enter into not more than 2 per-
8 formance agreements under this part with
9 local educational agencies in each State.

10 “(ii) SUBSEQUENT AGREEMENTS.—
11 After the expiration of the 3-year period
12 beginning on the date of enactment of the
13 No Child Left Behind Act of 2001, the
14 Secretary may enter into performance
15 agreements under this part with any num-
16 ber of local educational agencies in each
17 State until the total number of such agree-
18 ments equals 100.

19 “(B) URBAN AND RURAL AREAS.—If more
20 than 2 local educational agencies in a State
21 submit approvable performance agreements
22 under this part, the Secretary shall select local
23 educational agencies for performance agree-
24 ments under this part in a manner that ensures

1 an equitable distribution among such agencies
2 serving urban and rural areas.

3 “(c) REQUIRED TERMS OF PERFORMANCE AGREE-
4 MENT.—Each performance agreement entered into with
5 the Secretary under this part shall have each of the fol-
6 lowing terms:

7 “(1) TERM.— The performance agreement shall
8 be for a term of 5 years.

9 “(2) APPLICATION OF PROGRAM REQUIRE-
10 MENTS.—The performance agreement shall provide
11 that no requirements of any program described in
12 section 7304(b) and included by the local edu-
13 cational agency in the scope of the agreement shall
14 apply to the agency, except as otherwise provided in
15 this part.

16 “(3) LIST OF PROGRAMS.—The performance
17 agreement shall list which of the programs described
18 in section 7304(b) are included in the scope of the
19 performance agreement.

20 “(4) USE OF FUNDS TO IMPROVE STUDENT
21 ACHIEVEMENT.— The performance agreement shall
22 contain a 5-year plan describing how the local edu-
23 cational agency intends to combine and use the
24 funds from programs included in the scope of the
25 performance agreement to advance the education

1 priorities of the State and the local educational
2 agency, meet the general purposes of the included
3 programs, improve student achievement, and narrow
4 achievement gaps.

5 “(5) LOCAL INPUT.—The performance agree-
6 ment shall contain an assurance that the local edu-
7 cational agency will provide parents, teachers, and
8 schools with notice and an opportunity to comment
9 on the proposed terms of the performance agreement
10 in accordance with State law.

11 “(6) FISCAL RESPONSIBILITIES.—The perform-
12 ance agreement shall contain an assurance that the
13 local educational agency will use fiscal control and
14 fund accounting procedures that will ensure proper
15 disbursement of, and accounting for, Federal funds
16 consolidated and used under the performance agree-
17 ment.

18 “(7) CIVIL RIGHTS.—The performance agree-
19 ment shall contain an assurance that the local edu-
20 cational agency will meet the requirements of appli-
21 cable Federal civil rights laws in carrying out the
22 agreement and in consolidating and using the funds
23 under the agreement.

24 “(8) PRIVATE SCHOOL PARTICIPATION.—The
25 performance agreement shall contain an assurance

1 that the local educational agency agrees that in con-
2 solidating and using funds under the performance
3 agreement—

4 “(A) the local educational agency will pro-
5 vide for the equitable participation of students
6 and professional staff in private schools; and

7 “(B) that sections 8504, 8505, and 8506
8 shall apply to all services and assistance pro-
9 vided with such funds in the same manner as
10 such sections apply to services and assistance
11 provided in accordance with section 8503.

12 “(9) ANNUAL REPORTS.—The performance
13 agreement shall contain an assurance that the local
14 educational agency agrees that not later than 1 year
15 after the date on which the Secretary enters into the
16 performance agreement, and annually thereafter
17 during the term of the performance agreement, the
18 local educational agency shall disseminate widely to
19 parents and the general public, transmit to its State
20 educational agency and the Secretary, distribute to
21 print and broadcast media, and post on the Internet,
22 a report that includes a detailed description of how
23 the local educational agency used the funds consoli-
24 dated under the agreement to improve student aca-
25 demic achievement and reduce achievement gaps.

1 “(c) APPROVAL.—Not later than 60 days after the
2 receipt of a proposed performance agreement submitted
3 by a local educational agency under this part, the Sec-
4 retary shall approve the performance agreement or provide
5 the local educational agency with a written determination
6 that such agreement fails to satisfy the requirements of
7 this part.

8 “(d) AMENDMENT TO PERFORMANCE AGREE-
9 MENT.—

10 “(1) IN GENERAL.—In each of the following
11 circumstances, the Secretary shall agree to amend a
12 performance agreement entered into with a local
13 educational agency under this part:

14 “(A) REDUCTION IN SCOPE OF PERFORM-
15 ANCE AGREEMENT.—Not later than 1 year
16 after entering into the performance agreement,
17 a State seeks to amend the agreement to re-
18 move from the scope any program described in
19 section 7304(b).

20 “(B) EXPANSION OF SCOPE OF PERFORM-
21 ANCE AGREEMENT.—Not later than 1 year
22 after entering into the performance agreement,
23 a State seeks to amend the agreement to in-
24 clude in its scope any additional program de-
25 scribed in section 7304(b) or any additional

1 achievement indicators for which the State will
2 be held accountable.

3 “(2) APPROVAL OF AMENDMENT.—

4 “(1) IN GENERAL.—Not later than 60
5 days after the receipt of a proposed amendment
6 to the performance agreement submitted by a
7 local educational agency, the Secretary shall ap-
8 prove the amendment or provide the agency
9 with a written determination that the amend-
10 ment fails to satisfy the requirements of this
11 part.

12 “(B) TREATMENT AS APPROVED.—Each
13 amendment for which the Secretary fails to
14 take the action required in subparagraph (A) in
15 the time period described in such subparagraph
16 shall be considered to be approved.

17 “(3) TREATMENT OF PROGRAM FUNDS WITH-
18 DRAWN FROM AGREEMENT.—Beginning on the effec-
19 tive date of an amendment executed under para-
20 graph (1)(A), each program requirement of each
21 program removed from the scope of a performance
22 agreement shall apply to the local educational agen-
23 cy’s use of funds made available under the program.

24 **“SEC. 7304. CONSOLIDATION AND USE OF FUNDS.**

25 “(a) IN GENERAL.—

1 “(1) **AUTHORITY.**—Under a performance agree-
2 ment entered into under this part, a local edu-
3 cational agency may consolidate, subject to sub-
4 section (c), Federal funds made available to the
5 agency under the provisions listed in subsection (b)
6 and use such funds for any educational purpose per-
7 mitted under this Act.

8 “(2) **PROGRAM REQUIREMENTS.**—Except as
9 otherwise provided in this part, a local educational
10 agency may use funds under paragraph (1) notwith-
11 standing the program requirements of the program
12 under which the funds were made available to the
13 State.

14 “(b) **ELIGIBLE PROGRAMS.**—Funds made available
15 under programs under each of the following provisions of
16 this Act may be consolidated and used under subsection
17 (a):

18 “(1) Title II.

19 “(2) Part A of title IV.

20 “(3) Subpart 1 of part A of title V.

21 “(4) Part B of title V.

22 **“SEC. 7305. LIMITATIONS ON ADMINISTRATIVE EXPENDI-**
23 **TURES.**

24 “Each local educational agency that has entered into
25 a performance agreement with the Secretary under this

1 part may use for administrative purposes not more than
2 4 percent of the total amount of funds allocated to the
3 agency under the programs included in the scope of the
4 performance agreement.

5 **“SEC. 7306. PERFORMANCE REVIEW AND PENALTIES.**

6 “(a) MIDTERM REVIEW.—The Secretary may not
7 enter into a performance agreement under this part unless
8 the agreement includes a provision permitting the Sec-
9 retary, after notice and an opportunity for a hearing, to
10 terminate the agreement if, during the term of the agree-
11 ment, the local educational agency that is party to the
12 agreement fails to make adequate yearly progress for 3
13 consecutive years.

14 “(b) FINAL REVIEW.—If, at the end of the 5-year
15 term of a performance agreement entered into under this
16 part, a local educational agency that is party to the agree-
17 ment has not met the achievement goals contained in the
18 performance agreement, the Secretary may not renew the
19 agreement under section 7307 and, beginning on the date
20 on which such term ends, the local educational agency
21 shall be required to comply with each of the program re-
22 quirements in effect on such date for each program in-
23 cluded in the performance agreement.

1 **“SEC. 7307. RENEWAL OF PERFORMANCE AGREEMENT.**

2 “(a) IN GENERAL.—Except as provided in section
3 7306(b) and in accordance with this section, the Secretary
4 shall renew for 1 additional 5-year term a performance
5 agreement entered into under this part if the State that
6 is party to the agreement has met or has substantially
7 met, by the end of the original term of the agreement,
8 the achievement goals contained in the agreement.

9 “(b) NOTIFICATION.—The Secretary may not renew
10 a performance agreement under this part unless, not less
11 than 6 months before the end of the original term of the
12 agreement, the local educational agency seeking the re-
13 newal notifies the Secretary of its intention to renew.

14 “(c) EFFECTIVE DATE.—A renewal under this sec-
15 tion shall be effective at the end of the original term of
16 the agreement or on the date on which the local edu-
17 cational agency seeking renewal provides to the Secretary
18 all data required under the agreement, whichever is later.

19 **“SEC. 7308. REPORTS.**

20 “(a) TRANSMITTAL TO CONGRESS.—Not later than
21 60 days after the Secretary receives a report described in
22 section 7303(c)(9), the Secretary shall make the report
23 available to the Committee on Education and the Work-
24 force of the House of Representatives and the Committee
25 on Health, Education, Labor and Pensions of the Senate.

1 “(b) LIMITATION.—A State in which a local edu-
2 cational agency that is party to a performance agreement
3 entered into under this part is located may not require
4 such local educational agency to provide any application
5 information with respect to the programs included within
6 the scope of such performance agreement other than that
7 information that is required to be included in the report
8 described in section 7303(c)(9).

9 **“SEC. 7309. DEFINITIONS.**

10 “**In this part, the following definitions apply:**

11 “(1) ADEQUATE YEARLY PROGRESS.—The term
12 ‘adequate yearly progress’ means the adequate year-
13 ly progress determined by the State in which a local
14 educational agency is located pursuant to section
15 1111(b)(2)(C).

16 “(2) ALL STUDENTS.—The term ‘all students’
17 means all students attending public schools or char-
18 ter schools that are participating in the State’s ac-
19 countability and assessment system.”.

20 **TITLE VIII—GENERAL**
21 **PROVISIONS**

22 **SEC. 801. GENERAL PROVISIONS.**

23 The Elementary and Secondary Education Act of
24 1965, as amended by this Act, is further amended by add-
25 ing at the end of title VII the following:

1 **“TITLE VIII—GENERAL**
2 **PROVISIONS**

3 **“PART A—DEFINITIONS**

4 **“SEC. 8101. DEFINITIONS.**

5 “Except as otherwise provided, for the purposes of
6 this Act, the following terms have the following meanings:

7 “(1) Average daily attendance—

8 “(A) Except as provided otherwise by
9 State law or this paragraph, the term ‘average
10 daily attendance’ means—

11 “(i) the aggregate number of days of
12 attendance of all students during a school
13 year; divided by

14 “(ii) the number of days school is in
15 session during such school year.

16 “(B) The Secretary shall permit the con-
17 version of average daily membership (or other
18 similar data) to average daily attendance for
19 local educational agencies in States that provide
20 State aid to local educational agencies on the
21 basis of average daily membership or such other
22 data.

23 “(C) If the local educational agency in
24 which a child resides makes a tuition or other
25 payment for the free public education of the

1 child in a school located in another school dis-
2 trict, the Secretary shall, for purposes of this
3 Act—

4 “(i) consider the child to be in attend-
5 ance at a school of the agency making such
6 payment; and

7 “(ii) not consider the child to be in at-
8 tendance at a school of the agency receiv-
9 ing such payment.

10 “(D) If a local educational agency makes a
11 tuition payment to a private school or to a pub-
12 lic school of another local educational agency
13 for a child with disabilities, as defined in para-
14 graph (5), the Secretary shall, for the purposes
15 of this Act, consider such child to be in attend-
16 ance at a school of the agency making such
17 payment.

18 “(2) AVERAGE PER-PUPIL EXPENDITURE.—The
19 term ‘average per-pupil expenditure’ means, in the
20 case of a State or of the United States—

21 “(A) without regard to the source of
22 funds—

23 “(i) the aggregate current expendi-
24 tures, during the third fiscal year pre-
25 ceding the fiscal year for which the deter-

1 mination is made (or, if satisfactory data
2 for that year are not available, during the
3 most recent preceding fiscal year for which
4 satisfactory data are available) of all local
5 educational agencies in the State or, in the
6 case of the United States for all States
7 (which, for the purpose of this paragraph,
8 means the 50 States and the District of
9 Columbia); plus

10 “(ii) any direct current expenditures
11 by the State for the operation of such
12 agencies; divided by

13 “(B) the aggregate number of children in
14 average daily attendance to whom such agencies
15 provided free public education during such pre-
16 ceding year.

17 “(3) BEGINNING TEACHER.—The term ‘begin-
18 ning teacher’ means an educator in a public school
19 who has been teaching less than a total of 3 com-
20 plete school years.

21 “(4) CHILD.—The term ‘child’ means any per-
22 son within the age limits for which the State pro-
23 vides free public education.

24 “(5) CHILD WITH DISABILITY.—The term ‘child
25 with a disability’ means a child—

1 “(A) with mental retardation, hearing im-
2 pairments (including deafness), speech or lan-
3 guage impairments, visual impairments (includ-
4 ing blindness), serious emotional disturbance
5 (hereinafter referred to as ‘emotional disturb-
6 ance’), orthopedic impairments, autism, trau-
7 matic brain injury, other health impairments, or
8 specific learning disabilities; and

9 “(B) who, by reason thereof, needs special
10 education and related services.

11 “(6) COMMUNITY-BASED ORGANIZATION.—The
12 term ‘community-based organization’ means a public
13 or private nonprofit organization of demonstrated ef-
14 fectiveness that—

15 “(A) is representative of a community or
16 significant segments of a community; and

17 “(B) provides educational or related serv-
18 ices to individuals in the community.

19 “(7) CONSOLIDATED LOCAL APPLICATION.—
20 The term ‘consolidated local application’ means an
21 application submitted by a local educational agency
22 pursuant to section 14305.

23 “(8) CONSOLIDATED LOCAL PLAN.—The term
24 ‘consolidated local plan’ means a plan submitted by

1 a local educational agency pursuant to section
2 14305.

3 “(9) CONSOLIDATED STATE APPLICATION.—
4 The term ‘consolidated State application’ means an
5 application submitted by a State educational agency
6 pursuant to section 14302.

7 “(10) CONSOLIDATED STATE PLAN.—The term
8 ‘consolidated State plan’ means a plan submitted by
9 a State educational agency pursuant to section
10 14302.

11 “(11) COUNTY.—The term ‘county’ means one
12 of the divisions of a State used by the Secretary of
13 Commerce in compiling and reporting data regard-
14 ing counties.

15 “(12) COVERED PROGRAM.—The term ‘covered
16 program’ means each of the programs authorized
17 by—

18 “(A) part A of title I;

19 “(B) part B of title I;

20 “(C) part C of title I;

21 “(D) part D of title I;

22 “(E) part F of title I;

23 “(F) part G of title I;

24 “(G) part A of title II;

25 “(H) part A of title III;

1 “(I) part A of title V;

2 “(J) part B of title V; and

3 “(K) part A of title IV:

4 “(13) CURRENT EXPENDITURES.—The term
5 ‘current expenditures’ means expenditures for free
6 public education—

7 “(A) including expenditures for adminis-
8 tration, instruction, attendance, pupil transpor-
9 tation services, operation and maintenance of
10 plant, fixed charges, and net expenditures to
11 cover deficits for food services and student body
12 activities; but

13 “(B) not including expenditures for com-
14 munity services, capital outlay, and debt serv-
15 ice, or any expenditures made from funds re-
16 ceived under title I and part A of title IV.

17 “(14) DEPARTMENT.—The term ‘Department’
18 means the Department of Education.

19 “(15) EDUCATIONAL SERVICE AGENCY.—The
20 term ‘educational service agency’ means a regional
21 public multiservice agency authorized by State stat-
22 ute to develop, manage, and provide services or pro-
23 grams to local educational agencies.

24 “(16) EFFECTIVE SCHOOLS PROGRAM.—The
25 term ‘effective schools program’ means a school-

1 based program that may encompass preschool
2 through secondary school levels and that has the ob-
3 jectives of—

4 “(A) promoting school-level planning, in-
5 structional improvement, and staff development;

6 “(B) increasing the academic achievement
7 levels of all children and particularly education-
8 ally disadvantaged children; and

9 “(C) achieving as ongoing conditions in the
10 school the following factors identified through
11 scientifically based research as distinguishing
12 effective from ineffective schools:

13 “(i) Strong and effective administra-
14 tive and instructional leadership that cre-
15 ates consensus on instructional goals and
16 organizational capacity for instructional
17 problem solving.

18 “(ii) Emphasis on the acquisition of
19 basic and advanced academic skills.

20 “(iii) A safe and orderly school envi-
21 ronment that allows teachers and pupils to
22 focus their energies on academic achieve-
23 ment.

1 “(iv) Continuous review of students
2 and programs to evaluate the effects of in-
3 struction.

4 “(17) ELEMENTARY SCHOOL.—The term ‘ele-
5 mentary school’ means a nonprofit institutional day
6 or residential school, including a public elementary
7 charter school, that provides elementary education,
8 as determined under State law.

9 “(18) ESSENTIAL COMPONENTS OF READING
10 INSTRUCTION.—The term ‘essential components of
11 reading instruction’ means explicit and systematic
12 instruction in—

13 “(A) phonemic awareness;

14 “(B) phonics;

15 “(C) vocabulary development;

16 “(D) reading fluency; and

17 “(E) reading comprehension strategies.

18 “(19) FAMILY LITERACY SERVICES.—The term
19 ‘family literacy services’ means services provided to
20 participants on a voluntary basis that are of suffi-
21 cient intensity in terms of hours, and of sufficient
22 duration, to make sustainable changes in a family,
23 and that integrate all of the following activities:

24 “(A) Interactive literacy activities between
25 parents and their children.

1 “(B) Training for parents regarding how
2 to be the primary teacher for their children and
3 full partners in the education of their children.

4 “(C) Parent literacy training that leads to
5 economic self-sufficiency.

6 “(D) An age-appropriate education to pre-
7 pare children for success in school and life ex-
8 periences.

9 “(20) FREE PUBLIC EDUCATION.—The term
10 ‘free public education’ means education that is
11 provided—

12 “(A) at public expense, under public super-
13 vision and direction, and without tuition charge;
14 and

15 “(B) as elementary or secondary school
16 education as determined under applicable State
17 law, except that such term does not include any
18 education provided beyond grade 12.

19 “(21) FULLY QUALIFIED.—The term ‘fully
20 qualified’—

21 “(A) when used with respect to a public el-
22 ementary or secondary school teacher means
23 that the teacher has obtained State certification
24 as a teacher (including certification obtained
25 through alternative routes to certification) or

1 passed the State teacher licensing exam and
2 holds a license to teach in such State, except
3 that when used with respect to any teacher
4 teaching in a public charter school, means that
5 the teacher meets the requirements set forth in
6 the State’s public charter school law; and

7 “(B) when used with respect to—

8 “(i) an elementary school teacher,
9 means that the teacher holds a bachelor’s
10 degree and demonstrates knowledge and
11 teaching skills in reading, writing, mathe-
12 matics, science, and other areas of the ele-
13 mentary school curriculum; and

14 “(ii) a middle or secondary school
15 teacher, means that the teacher holds a
16 bachelor’s degree and demonstrates a high
17 level of competency in all subject areas in
18 which he or she teaches through—

19 “(I) a passing level of perform-
20 ance on a rigorous State or local aca-
21 demic subject areas test; or

22 “(II) completion of an academic
23 major in each of the subject areas in
24 which he or she provides instruction.

1 “(22) GIFTED AND TALENTED.—The term
2 ‘gifted and talented’, when used with respect to stu-
3 dents, children or youth, means students, children or
4 youth who give evidence of high performance capa-
5 bility in areas such as intellectual, creative, artistic,
6 or leadership capacity, or in specific academic fields,
7 and who require services or activities not ordinarily
8 provided by the school in order to fully develop such
9 capabilities.

10 “(23) INSTITUTION OF HIGHER EDUCATION.—
11 The term ‘institution of higher education’ has the
12 meaning given that term in section 101 of the High-
13 er Education Act of 1965.

14 “(24) LIMITED ENGLISH PROFICIENT STU-
15 DENT.—The term ‘limited English proficient stu-
16 dent’ means an individual aged 5 through 17 en-
17 rolled in an elementary school or secondary school—

18 “(A) who—

19 “(i) was not born in the United States
20 or whose native language is a language
21 other than English;

22 “(ii)(I) is a Native American or Alas-
23 ka Native, or a native resident of the out-
24 lying areas; and

1 “(II) comes from an environment
2 where a language other than English has
3 had a significant impact on such individ-
4 ual’s level of English language proficiency;
5 or

6 “(iii) is migratory, whose native lan-
7 guage is a language other than English,
8 and who comes from an environment where
9 a language other than English is domi-
10 nant; and

11 “(B) who has sufficient difficulty speaking,
12 reading, writing, or understanding the English
13 language, and whose difficulties may deny the
14 individual—

15 “(i) the ability to meet the State’s
16 proficient level of performance on State as-
17 sessments described in section 1111(b)(4)
18 in core academic subjects; or

19 “(ii) the opportunity to participate
20 fully in society.

21 “(25) LOCAL EDUCATIONAL AGENCY.—(A) The
22 term ‘local educational agency’ means a public board
23 of education or other public authority legally con-
24 stituted within a State for either administrative con-
25 trol or direction of, or to perform a service function

1 for, public elementary or secondary schools in a city,
2 county, township, school district, or other political
3 subdivision of a State, or for such combination of
4 school districts or counties as are recognized in a
5 State as an administrative agency for its public ele-
6 mentary or secondary schools.

7 “(B) The term includes any other public insti-
8 tution or agency having administrative control and
9 direction of a public elementary or secondary school.

10 “(C) The term includes an elementary or sec-
11 ondary school funded by the Bureau of Indian Af-
12 fairs but only to the extent that such inclusion
13 makes such school eligible for programs for which
14 specific eligibility is not provided to such school in
15 another provision of law and such school does not
16 have a student population that is smaller than the
17 student population of the local educational agency
18 receiving assistance under this Act with the smallest
19 student population, except that such school shall not
20 be subject to the jurisdiction of any State edu-
21 cational agency other than the Bureau of Indian Af-
22 fairs.

23 “(D) The term includes educational service
24 agencies and consortia of such agencies.

1 “(26) MENTORING.—The term ‘mentoring’
2 means a program in which an adult works with a
3 child or youth on a 1-to-1 basis, establishing a sup-
4 portive relationship, providing academic assistance,
5 and introducing the child or youth to new experi-
6 ences that enhance the child or youth’s ability to
7 excel in school and become a responsible citizen.

8 “(27) NATIVE AMERICAN AND NATIVE AMER-
9 ICAN LANGUAGE.—The terms ‘Native American’ and
10 ‘Native American language’ shall have the same
11 meaning given such terms in section 103 of the Na-
12 tive American Languages Act of 1990.

13 “(28) OTHER STAFF.—The term ‘other staff’
14 means pupil services personnel, librarians, career
15 guidance and counseling personnel, education aides,
16 and other instructional and administrative per-
17 sonnel.

18 “(29) OUTLYING AREA.—The term ‘outlying
19 area’ means the United States Virgin Islands,
20 Guam, American Samoa, and the Commonwealth of
21 the Northern Mariana Islands, and through fiscal
22 year 2003 and for the purpose of any discretionary
23 grant program, includes the freely associated states
24 of the Republic of the Marshall Islands, the Fed-

1 erated States of Micronesia, and the Republic of
2 Palau.

3 “(30) PARENT.—The term ‘parent’ includes a
4 legal guardian, or other person standing in loco
5 parentis (such as a grandparent or stepparent with
6 whom the child lives, or a person who is legally re-
7 sponsible for the child’s welfare).

8 “(31) PUPIL SERVICES PERSONNEL; PUPIL
9 SERVICES.—(A) The term ‘pupil services personnel’
10 means school counselors, school social workers,
11 school psychologists, and other qualified professional
12 personnel involved in providing assessment, diag-
13 nosis, counseling, educational, therapeutic, and other
14 necessary services (including related services as such
15 term is defined in section 602(22) of the Individuals
16 with Disabilities Education Act) as part of a com-
17 prehensive program to meet student needs.

18 “(B) The term ‘pupil services’ means the serv-
19 ices provided by pupil services personnel.

20 “(32) READING.—The term ‘reading’ means a
21 complex system of deriving meaning from print that
22 requires all of the following:

23 “(A) Skills and knowledge to understand
24 how phonemes, or speech sounds are connected
25 in print.

1 “(B) Ability to decode unfamiliar words.

2 “(C) Ability to read fluently.

3 “(D) Sufficient background information
4 and vocabulary to foster reading comprehen-
5 sions.

6 “(E) Development of appropriate active
7 strategies to construct meaning from print.

8 “(F) Development and maintenance of a
9 motivation to read.

10 “(33) RIGOROUS DIAGNOSTIC READING AND
11 SCREENING ASSESSMENT TOOLS.—The term ‘rig-
12 orous diagnostic reading and screening assessment
13 tools’ means a diagnostic reading assessment that—

14 “(A) is valid, reliable, and grounded on sci-
15 entifically based reading research;

16 “(B) measures progress in developing pho-
17 nemic awareness and phonics skills, vocabulary,
18 reading fluency, and reading comprehension;

19 “(C) identifies students who may be at risk
20 for reading failure or who are having difficulty
21 reading; and

22 “(D) are used to improve instruction.

23 “(34) SCIENTIFICALLY BASED RESEARCH.—
24 The term ‘scientifically based research’—

1 “(A) means the application of rigorous,
2 systematic, and objective procedures to obtain
3 valid knowledge relevant to education activities
4 and programs; and

5 “(B) shall include research that—

6 “(i) employs systematic, empirical
7 methods that draw on observation or ex-
8 periment;

9 “(ii) involves rigorous data analyses
10 that are adequate to test the stated
11 hypotheses and justify the general conclu-
12 sions drawn;

13 “(iii) relies on measurements or obser-
14 vational methods that provide valid data
15 across evaluators and observers and across
16 multiple measurements and observations;

17 “(iv) is evaluated using randomized
18 experiments in which individuals, entities,
19 programs, or activities are randomly as-
20 signed to different variations (including a
21 control condition) to compare the relative
22 effects of the variations; and

23 “(v) has been accepted by a peer-re-
24 viewed journal or approved by a panel of

1 independent experts through a comparably
2 rigorous, objective, and scientific review.

3 “(35) SECONDARY SCHOOL.—The term ‘sec-
4 ondary school’ means a nonprofit institutional day or
5 residential school, including a public secondary char-
6 ter school, that provides secondary education, as de-
7 termined under State law, except that such term
8 does not include any education beyond grade 12.

9 “(36) SECRETARY.—The term ‘Secretary’
10 means the Secretary of Education.

11 “(37) STATE.—The term ‘State’ means each of
12 the 50 States, the District of Columbia, the Com-
13 monwealth of Puerto Rico, and each of the outlying
14 areas.

15 “(38) STATE EDUCATIONAL AGENCY.—The
16 term ‘State educational agency’ means the agency
17 primarily responsible for the State supervision of
18 public elementary and secondary schools.

19 “(39) TECHNOLOGY.—The term ‘technology’
20 means the latest state-of-the-art technology products
21 and services.

22 **“SEC. 8102. APPLICABILITY OF TITLE.**

23 “Parts B, C, D, and E of this title do not apply to
24 title VI of this Act.

1 **“SEC. 8103. APPLICABILITY TO BUREAU OF INDIAN AFFAIRS**
2 **OPERATED SCHOOLS.**

3 “For purposes of any competitive program under this
4 Act, a consortia of schools operated by the Bureau of In-
5 dian Affairs, a school operated under a contract or grant
6 with the Bureau of Indian Affairs in consortia with an-
7 other contract or grant school or tribal or community or-
8 ganization, or a Bureau of Indian Affairs school in con-
9 sortia with an institution of higher education, a contract
10 or grant school and tribal or community organization shall
11 be given the same consideration as a local educational
12 agency.

13 **“PART B—FLEXIBILITY IN THE USE OF**
14 **ADMINISTRATIVE AND OTHER FUNDS**

15 **“SEC. 8201. CONSOLIDATION OF STATE ADMINISTRATIVE**
16 **FUNDS FOR ELEMENTARY AND SECONDARY**
17 **EDUCATION PROGRAMS.**

18 “(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

19 “(1) IN GENERAL.—A State educational agency
20 may consolidate the amounts specifically made avail-
21 able to such agency for State administration under
22 one or more of the programs under paragraph (2)
23 if such State educational agency can demonstrate
24 that the majority of such agency’s resources are de-
25 rived from non-Federal sources.

1 “(2) APPLICABILITY.—This section applies to
2 any program under this Act under which funds are
3 authorized to be used for administration, and such
4 other programs as the Secretary may designate.

5 “(b) USE OF FUNDS.—

6 “(1) IN GENERAL.—A State educational agency
7 shall use the amount available under this section for
8 the administration of the programs included in the
9 consolidation under subsection (a).

10 “(2) ADDITIONAL USES.—A State educational
11 agency may also use funds available under this sec-
12 tion for administrative activities designed to enhance
13 the effective and coordinated use of funds under pro-
14 grams included in the consolidation under subsection
15 (a), such as—

16 “(A) the coordination of such programs
17 with other Federal and non-Federal programs;

18 “(B) the establishment and operation of
19 peer-review mechanisms under this Act;

20 “(C) the administration of this title;

21 “(D) the dissemination of information re-
22 garding model programs and practices;

23 “(E) technical assistance under any pro-
24 gram under this Act;

1 “(F) State level activities designed to carry
2 out this title;

3 “(G) training personnel engaged in audit
4 and other monitoring activities; and

5 “(H) implementation of the Cooperative
6 Audit Resolution and Oversight Initiative of the
7 Department of Education.

8 “(c) RECORDS.—A State educational agency that
9 consolidates administrative funds under this section shall
10 not be required to keep separate records, by individual
11 program, to account for costs relating to the administra-
12 tion of programs included in the consolidation under sub-
13 section (a).

14 “(d) REVIEW.—To determine the effectiveness of
15 State administration under this section, the Secretary may
16 periodically review the performance of State educational
17 agencies in using consolidated administrative funds under
18 this section and take such steps as the Secretary finds
19 appropriate to ensure the effectiveness of such administra-
20 tion.

21 “(e) UNUSED ADMINISTRATIVE FUNDS.—If a State
22 educational agency does not use all of the funds available
23 to such agency under this section for administration, such
24 agency may use such funds during the applicable period

1 of availability as funds available under one or more pro-
2 grams included in the consolidation under subsection (a).

3 **“SEC. 8202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.**

4 “A State educational agency that also serves as a
5 local educational agency, in such agency’s applications or
6 plans under this Act, shall describe how such agency will
7 eliminate duplication in the conduct of administrative
8 functions.

9 **“SEC. 8203. CONSOLIDATION OF FUNDS FOR LOCAL ADMIN-
10 ISTRATION.**

11 “(a) GENERAL AUTHORITY.—In accordance with
12 regulations of the Secretary and for any fiscal year, a local
13 educational agency, with the approval of its State edu-
14 cational agency, may consolidate and use for the adminis-
15 tration of one or more programs under this Act (or such
16 other programs as the Secretary shall designate) not more
17 than the percentage, established in each such program, of
18 the total available for the local educational agency under
19 such programs.

20 “(b) STATE PROCEDURES.—Within one-year from
21 the date of enactment of the No Child Left Behind Act
22 of 2001, a State educational agency shall, in collaboration
23 with local educational agencies in the State, establish pro-
24 cedures for responding to requests from local educational
25 agencies to consolidate administrative funds under sub-

1 section (a) and for establishing limitations on the amount
2 of funds under such programs that may be used for ad-
3 ministration on a consolidated basis.

4 “(c) CONDITIONS.—A local educational agency that
5 consolidates administrative funds under this section for
6 any fiscal year shall not use any other funds under the
7 programs included in the consolidation for administration
8 for that fiscal year.

9 “(d) USES OF ADMINISTRATIVE FUNDS.—A local
10 educational agency that consolidates administrative funds
11 under this section may use such consolidated funds for
12 the administration of such programs and for uses, at the
13 school district and school levels, comparable to those de-
14 scribed in section 8201(b)(2).

15 “(e) RECORDS.—A local educational agency that con-
16 solidates administrative funds under this section shall not
17 be required to keep separate records, by individual pro-
18 gram, to account for costs relating to the administration
19 of such programs included in the consolidation.

20 **“SEC. 8204. CONSOLIDATED SET-ASIDE FOR DEPARTMENT**
21 **OF THE INTERIOR FUNDS.**

22 “(a) GENERAL AUTHORITY.—

23 “(1) TRANSFER.—The Secretary shall transfer
24 to the Department of the Interior, as a consolidated
25 amount for covered programs, the Indian education

1 programs under subpart 1 of part B of title III, and
2 the education for homeless children and youth pro-
3 gram under subtitle B of title VII of the Stewart B.
4 McKinney Homeless Assistance Act, the amounts al-
5 lotted to the Department of the Interior under those
6 programs.

7 “(2) AGREEMENT.—(A) The Secretary and the
8 Secretary of the Interior shall enter into an agree-
9 ment, consistent with the requirements of the pro-
10 grams specified in paragraph (1), for the distribu-
11 tion and use of those program funds under terms
12 that the Secretary determines best meet the pur-
13 poses of those programs.

14 “(B) The agreement shall—

15 “(i) set forth the plans of the Secretary of
16 the Interior for the use of the amount trans-
17 ferred and the performance measures to assess
18 program effectiveness, including measurable
19 goals and objectives; and

20 “(ii) be developed in consultation with In-
21 dian tribes.

22 “(b) ADMINISTRATION.—The Department of the In-
23 terior may use not more than 1.5 percent of the funds
24 consolidated under this section for such department’s

1 costs related to the administration of the funds trans-
2 ferred under this section.

3 **“PART C—COORDINATION OF PROGRAMS; CON-**
4 **SOLIDATED STATE AND LOCAL PLANS AND**
5 **APPLICATIONS**

6 **“SEC. 8301. PURPOSE.**

7 “The purposes of this part are to improve teaching
8 and learning through greater coordination between pro-
9 grams and to provide greater flexibility to State and local
10 authorities by allowing the consolidation of State and local
11 plans, applications, and reporting.

12 **“SEC. 8302. OPTIONAL CONSOLIDATED STATE PLANS OR**
13 **APPLICATIONS.**

14 “(a) GENERAL AUTHORITY.—

15 “(1) SIMPLIFICATION.—In order to simplify ap-
16 plication requirements and reduce the burden for
17 States under this Act, the Secretary, in accordance
18 with subsection (b), shall establish procedures and
19 criteria under which a State educational agency, in
20 consultation with the State’s Governor, may submit
21 a consolidated State plan or a consolidated State ap-
22 plication meeting the requirements of this section
23 for—

24 “(A) any programs under this Act in which
25 the State participates; and

1 “(B) such other programs as the Secretary
2 may designate.

3 “(2) CONSOLIDATED APPLICATIONS AND
4 PLANS.—A State educational agency, in consultation
5 with the State’s Governor, that submits a consoli-
6 dated State plan or a consolidated State application
7 under this section shall not be required to submit a
8 separate State plan or application for a program in-
9 cluded in the consolidated State plan or application.

10 “(b) COLLABORATION.—

11 “(1) IN GENERAL.—In establishing criteria and
12 procedures under this section, the Secretary shall
13 collaborate with Governors, State educational agen-
14 cies and, as appropriate, with other State agencies,
15 local educational agencies, public and private non-
16 profit agencies, organizations, and institutions, pri-
17 vate schools, and representatives of parents, stu-
18 dents, and teachers.

19 “(2) CONTENTS.—Through the collaborative
20 process described in paragraph (1), the Secretary
21 shall establish, for each program under the Act to
22 which this section applies, the descriptions, informa-
23 tion, assurances, and other material required to be
24 included in a consolidated State plan or consolidated
25 State application.

1 ances, applicable to each program for which such plan or
2 application is submitted, that provides that—

3 “(1) each such program will be administered in
4 accordance with all applicable statutes, regulations,
5 program plans, and applications;

6 “(2)(A) the control of funds provided under
7 each such program and title to property acquired
8 with program funds will be in a public agency, in a
9 nonprofit private agency, institution, or organiza-
10 tion, or in an Indian tribe if the law authorizing the
11 program provides for assistance to such entities; and

12 “(B) the public agency, nonprofit private agen-
13 cy, institution, or organization, or Indian tribe will
14 administer such funds and property to the extent re-
15 quired by the authorizing law;

16 “(3) the State will adopt and use proper meth-
17 ods of administering each such program, including—

18 “(A) the enforcement of any obligations
19 imposed by law on agencies, institutions, orga-
20 nizations, and other recipients responsible for
21 carrying out each program;

22 “(B) the correction of deficiencies in pro-
23 gram operations that are identified through au-
24 dits, monitoring, or evaluation; and

1 “(C) the adoption of written procedures for
2 the receipt and resolution of complaints alleging
3 violations of law in the administration of such
4 programs;

5 “(4) the State will cooperate in carrying out
6 any evaluation of each such program conducted by
7 or for the Secretary or other Federal officials;

8 “(5) the State will use such fiscal control and
9 fund accounting procedures as will ensure proper
10 disbursement of, and accounting for, Federal funds
11 paid to the State under each such program;

12 “(6) the State will—

13 “(A) make reports to the Secretary as may
14 be necessary to enable the Secretary to perform
15 the Secretary’s duties under each such pro-
16 gram; and

17 “(B) maintain such records, provide such
18 information to the Secretary, and afford access
19 to the records as the Secretary may find nec-
20 essary to carry out the Secretary’s duties; and

21 “(7) before the plan or application was sub-
22 mitted to the Secretary, the State has afforded a
23 reasonable opportunity for public comment on the
24 plan or application and has considered such com-
25 ment.

1 “(b) GEPA PROVISION.—Section 441 of the General
2 Education Provisions Act shall not apply to programs
3 under this Act.

4 **“SEC. 8305. CONSOLIDATED LOCAL PLANS OR APPLICA-**
5 **TIONS.**

6 “(a) GENERAL AUTHORITY.—A local educational
7 agency receiving funds under more than one program
8 under this Act may submit plans or applications to the
9 State educational agency under such programs on a con-
10 solidated basis. The State educational agency shall make
11 any consolidated local plans and applications available to
12 the Governor.

13 “(b) REQUIRED CONSOLIDATED PLANS OR APPLICA-
14 TIONS.—A State that has an approved consolidated State
15 plan or application under section 8302 may require local
16 educational agencies in the State receiving funds under
17 more than one program included in the consolidated State
18 plan or consolidated State application to submit consoli-
19 dated local plans or applications under such programs, but
20 may not require such agencies to submit separate plans.

21 “(c) COLLABORATION.—A State educational agency,
22 in consultation with the Governor, shall collaborate with
23 local educational agencies in the State in establishing pro-
24 cedures for the submission of the consolidated State plans
25 or consolidated State applications under this section.

1 “(d) NECESSARY MATERIALS.—The State shall re-
2 quire only descriptions, information, assurances, and other
3 material that are absolutely necessary for the consider-
4 ation of the local educational agency plan or application.

5 **“SEC. 8306. OTHER GENERAL ASSURANCES.**

6 “(a) ASSURANCES.—Any applicant other than a
7 State that submits a plan or application under this Act,
8 shall have on file with the State a single set of assurances,
9 applicable to each program for which a plan or application
10 is submitted, that provides that—

11 “(1) each such program will be administered in
12 accordance with all applicable statutes, regulations,
13 program plans, and applications;

14 “(2)(A) the control of funds provided under
15 each such program and title to property acquired
16 with program funds will be in a public agency or in
17 a nonprofit private agency, institution, organization,
18 or Indian tribe, if the law authorizing the program
19 provides for assistance to such entities; and

20 “(B) the public agency, nonprofit private agen-
21 cy, institution, or organization, or Indian tribe will
22 administer such funds and property to the extent re-
23 quired by the authorizing statutes;

1 “(3) the applicant will adopt and use proper
2 methods of administering each such program,
3 including—

4 “(A) the enforcement of any obligations
5 imposed by law on agencies, institutions, orga-
6 nizations, and other recipients responsible for
7 carrying out each program; and

8 “(B) the correction of deficiencies in pro-
9 gram operations that are identified through au-
10 dits, monitoring, or evaluation;

11 “(4) the applicant will cooperate in carrying out
12 any evaluation of each such program conducted by
13 or for the State educational agency, the Secretary or
14 other Federal officials;

15 “(5) the applicant will use such fiscal control
16 and fund accounting procedures as will ensure prop-
17 er disbursement of, and accounting for, Federal
18 funds paid to such applicant under each such pro-
19 gram;

20 “(6) the applicant will—

21 “(A) make reports to the Governor and
22 State educational agency and the Secretary as
23 may be necessary to enable such agency and the
24 Secretary to perform their duties under each
25 such program; and

1 “(B) maintain such records, provide such
2 information, and afford access to the records as
3 the Governor and State educational agency or
4 the Secretary may find necessary to carry out
5 the State’s or the Secretary’s duties; and

6 “(7) before the application was submitted, the
7 applicant afforded a reasonable opportunity for pub-
8 lic comment on the application and has considered
9 such comment.

10 “(b) GEPA PROVISION.—Section 442 of the General
11 Education Provisions Act shall not apply to programs
12 under this Act.

13 **“PART D—WAIVERS**

14 **“SEC. 8401. WAIVERS OF STATUTORY AND REGULATORY RE-** 15 **QUIREMENTS.**

16 “(a) IN GENERAL.—Except as provided in subsection
17 (c), the Secretary may waive any statutory or regulatory
18 requirement of this Act or the Carl D. Perkins Vocational
19 and Technical Education Act of 1998 for a State edu-
20 cational agency, local educational agency, Indian tribe, or
21 school through a local educational agency, that—

22 “(1) receives funds under a program authorized
23 by this Act; and

24 “(2) requests a waiver under subsection (b).

25 “(b) REQUEST FOR WAIVER.—

1 “(1) IN GENERAL.—A State educational agen-
2 cy, local educational agency, or Indian tribe which
3 desires a waiver shall submit a waiver application to
4 the Secretary that—

5 “(A) indicates each Federal program af-
6 fected and each statutory or regulatory require-
7 ment requested to be waived;

8 “(B) describes the purpose and overall ex-
9 pected results of waiving each such require-
10 ment;

11 “(C) describes, for each school year, spe-
12 cific, measurable, educational goals for the
13 State educational agency and for each local
14 educational agency, Indian tribe, or school that
15 would be affected by the waiver; and

16 “(D) explains why the waiver will assist
17 the State educational agency and each affected
18 local educational agency, Indian tribe, or school
19 in reaching such goals.

20 “(2) ADDITIONAL INFORMATION.—Such
21 requests—

22 “(A) may provide for waivers of require-
23 ments applicable to State educational agencies,
24 local educational agencies, Indian tribes, and
25 schools; and

1 “(B) shall be developed and submitted—

2 “(i)(I) by local educational agencies
3 (on behalf of such agencies and schools) to
4 State educational agencies; and

5 “(II) by State educational agencies
6 (on behalf of, and based upon the requests
7 of, local educational agencies) to the Sec-
8 retary; or

9 “(ii) by Indian tribes (on behalf of
10 schools operated by such tribes) to the Sec-
11 retary.

12 “(3) GENERAL REQUIREMENTS.—

13 “(A) In the case of a waiver request sub-
14 mitted by a State educational agency acting in
15 its own behalf, the State educational agency
16 shall—

17 “(i) provide all interested local edu-
18 cational agencies in the State with notice
19 and a reasonable opportunity to comment
20 on the request;

21 “(ii) submit the comments to the Sec-
22 retary; and

23 “(iii) provide notice and information
24 to the public regarding the waiver request
25 in the manner that the applying agency

1 customarily provides similar notices and
2 information to the public.

3 “(B) In the case of a waiver request sub-
4 mitted by a local educational agency that re-
5 ceives funds under this Act—

6 “(i) such request shall be reviewed by
7 the State educational agency and be ac-
8 companied by the comments, if any, of
9 such State educational agency; and

10 “(ii) notice and information regarding
11 the waiver request shall be provided to the
12 public by the agency requesting the waiver
13 in the manner that such agency custom-
14 arily provides similar notices and informa-
15 tion to the public.

16 “(c) RESTRICTIONS.—The Secretary shall not waive
17 under this section any statutory or regulatory require-
18 ments relating to—

19 “(1) the allocation or distribution of funds to
20 States, local educational agencies, or other recipients
21 of funds under this Act;

22 “(2) maintenance of effort;

23 “(3) comparability of services;

24 “(4) use of Federal funds to supplement, not
25 supplant, non-Federal funds;

1 “(5) equitable participation of private school
2 students and teachers;

3 “(6) parental participation and involvement;

4 “(7) applicable civil rights requirements;

5 “(8) the requirement for a charter school under
6 part B of title IV; or

7 “(9) the prohibitions regarding—

8 “(A) State aid in section 8502;

9 “(B) use of funds for religious worship or
10 instruction in section 8507; and

11 “(C) activities in section 8513.

12 “(d) DURATION AND EXTENSION OF WAIVER.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), the duration of a waiver approved by the
15 Secretary under this section may be for a period not
16 to exceed 5 years.

17 “(2) EXTENSION.—The Secretary may extend
18 the period described in paragraph (1) if the Sec-
19 retary determines that—

20 “(A) the waiver has been effective in ena-
21 bling the State or affected recipients to carry
22 out the activities for which the waiver was re-
23 quested and the waiver has contributed to im-
24 proved student performance; and

1 “(B) such extension is in the public inter-
2 est.

3 “(e) REPORTS.—

4 “(1) LOCAL WAIVER.—A local educational agen-
5 cy that receives a waiver under this section shall at
6 the end of the second year for which a waiver is re-
7 ceived under this section, and each subsequent year,
8 submit a report to the State educational agency
9 that—

10 “(A) describes the uses of such waiver by
11 such agency or by schools;

12 “(B) describes how schools continued to
13 provide assistance to the same populations
14 served by the programs for which waivers are
15 requested; and

16 “(C) evaluates the progress of such agency
17 and of schools in improving the quality of in-
18 struction or the academic performance of stu-
19 dents.

20 “(2) STATE WAIVER.—A State educational
21 agency that receives reports required under para-
22 graph (1) shall annually submit a report to the Sec-
23 retary that is based on such reports and contains
24 such information as the Secretary may require.

1 “(3) INDIAN TRIBE WAIVER.—An Indian tribe
2 that receives a waiver under this section shall annu-
3 ally submit a report to the Secretary that—

4 “(A) describes the uses of such waiver by
5 schools operated by such tribe; and

6 “(B) evaluates the progress of such schools
7 in improving the quality of instruction or the
8 academic performance of students.

9 “(4) REPORT TO CONGRESS.—Beginning in fis-
10 cal year 2002 and each subsequent year, the Sec-
11 retary shall submit to the Committee on Education
12 and the Workforce of the House of Representatives
13 and the Committee on Health, Education, Labor
14 and Pensions of the Senate a report—

15 “(A) summarizing the uses of waivers by
16 State educational agencies, local educational
17 agencies, Indian tribes, and schools; and

18 “(B) describing whether such waivers—

19 “(i) increased the quality of instruc-
20 tion to students; or

21 “(ii) improved the academic perform-
22 ance of students.

23 “(f) TERMINATION OF WAIVERS.—The Secretary
24 shall terminate a waiver under this section if the Secretary
25 determines, after notice and an opportunity for a hearing,

1 that the performance of the State or other recipient af-
2 fected by the waiver has been inadequate to justify a con-
3 tinuation of the waiver or if the waiver is no longer nec-
4 essary to achieve its original purposes.

5 “(g) PUBLICATION.—A notice of the Secretary’s deci-
6 sion to grant each waiver under subsection (a) shall be
7 published in the Federal Register and the Secretary shall
8 provide for the dissemination of such notice to State edu-
9 cational agencies, interested parties, including educators,
10 parents, students, advocacy and civil rights organizations,
11 and the public.

12 **“PART E—UNIFORM PROVISIONS**

13 **“SEC. 8501. MAINTENANCE OF EFFORT.**

14 “(a) IN GENERAL.—A local educational agency may
15 receive funds under a covered program for any fiscal year
16 only if the State educational agency finds that either the
17 combined fiscal effort per student or the aggregate ex-
18 penditures of such agency and the State with respect to
19 the provision of free public education by such agency for
20 the preceding fiscal year was not less than 90 percent of
21 such combined fiscal effort or aggregate expenditures for
22 the second preceding fiscal year.

23 “(b) REDUCTION IN CASE OF FAILURE TO MEET.—

24 “(1) IN GENERAL.—The State educational
25 agency shall reduce the amount of the allocation of

1 funds under a covered program in any fiscal year in
2 the exact proportion to which a local educational
3 agency fails to meet the requirement of subsection
4 (a) of this section by falling below 90 percent of
5 both the combined fiscal effort per student and ag-
6 gregate expenditures (using the measure most favor-
7 able to such local agency).

8 “(2) SPECIAL RULE.—No such lesser amount
9 shall be used for computing the effort required
10 under subsection (a) of this section for subsequent
11 years.

12 “(c) WAIVER.—The Secretary may waive the require-
13 ments of this section if the Secretary determines that such
14 a waiver would be equitable due to—

15 “(1) exceptional or uncontrollable circumstances
16 such as a natural disaster; or

17 “(2) a precipitous decline in the financial re-
18 sources of the local educational agency.

19 **“SEC. 8502. PROHIBITION REGARDING STATE AID.**

20 “A State shall not take into consideration payments
21 under this Act (other than under title VI) in determining
22 the eligibility of any local educational agency in such State
23 for State aid, or the amount of State aid, with respect
24 to free public education of children.

1 **“SEC. 8503. PARTICIPATION BY PRIVATE SCHOOL CHIL-**
2 **DREN AND TEACHERS.**

3 “(a) PRIVATE SCHOOL PARTICIPATION.—

4 “(1) IN GENERAL.—Except as otherwise pro-
5 vided in this Act, to the extent consistent with the
6 number of eligible children in areas served by a
7 State educational agency, local educational agency,
8 educational service agency, consortium of such agen-
9 cies, or another entity receiving financial assistance
10 under a program specified in subsection (b), who are
11 enrolled in private elementary and secondary schools
12 in areas served by such agency, consortium or entity,
13 such agency, consortium or entity shall, after timely
14 and meaningful consultation with appropriate pri-
15 vate school officials, provide such children and their
16 teachers or other educational personnel, on an equi-
17 table basis, special educational services or other ben-
18 efits that address their needs under such program.

19 “(2) SECULAR, NEUTRAL, AND NONIDEOLOG-
20 ICAL SERVICES OR BENEFITS.—Educational services
21 or other benefits, including materials and equipment,
22 provided under this section, shall be secular, neutral,
23 and nonideological.

24 “(3) SPECIAL RULE.—Educational services and
25 other benefits provided under this section for such
26 private school children, teachers, and other edu-

1 cational personnel shall be equitable in comparison
2 to services and other benefits for public school chil-
3 dren, teachers, and other educational personnel par-
4 ticipating in such program and shall be provided in
5 a timely manner.

6 “(4) EXPENDITURES.—Expenditures for edu-
7 cational services and other benefits provided under
8 this section to eligible private school children, their
9 teachers, and other educational personnel serving
10 such children shall be equal, taking into account the
11 number and educational needs of the children to be
12 served, to the expenditures for participating public
13 school children.

14 “(5) PROVISION OF SERVICES.—Such agency,
15 consortium or entity described in subsection (a)(1)
16 of this section may provide such services directly or
17 through contracts with public and private agencies,
18 organizations, and institutions.

19 “(b) APPLICABILITY.—

20 “(1) IN GENERAL.—This section applies to pro-
21 grams under—

22 “(A) part B, subpart 1 of title I;

23 “(B) part C of title I;

24 “(C) part A of title II;

25 “(D) part A of title III;

1 “(E) part A of title V; and

2 “(F) part B of title V.

3 “(2) DEFINITION.—For the purposes of this
4 section, the term ‘eligible children’ means children
5 eligible for services under a program described in
6 paragraph (1).

7 “(c) CONSULTATION.—

8 “(1) IN GENERAL.—To ensure timely and
9 meaningful consultation, a State educational agency,
10 local educational agency, educational service agency,
11 consortium of such agencies or entity shall consult
12 with appropriate private school officials during the
13 design and development of the programs under this
14 Act, on issues such as—

15 “(A) how the children’s needs will be iden-
16 tified;

17 “(B) what services will be offered;

18 “(C) how, where, and by whom the services
19 will be provided;

20 “(D) how the services will be assessed and
21 how the results of the assessment will be used
22 to improve such services;

23 “(E) the size and scope of the equitable
24 services to be provided to the eligible private
25 school children, teachers, and other educational

1 personnel and the amount of funds available for
2 such services; and

3 “(F) how and when the agency, consor-
4 tium, or entity will make decisions about the
5 delivery of services, including a thorough con-
6 sideration and analysis of the views of the pri-
7 vate school officials on the provision of contract
8 services through potential third party providers.

9 “(2) DISAGREEMENT.—If the agency, consor-
10 tium or entity disagrees with the views of the private
11 school officials on the provision of services through
12 a contract, the agency, consortium, or entity shall
13 provide in writing to such private school officials an
14 analysis of the reasons why the local educational
15 agency has chosen not to use a contractor.

16 “(3) TIMING.—Such consultation shall occur
17 before the agency, consortium, or entity makes any
18 decision that affects the opportunities of eligible pri-
19 vate school children, teachers, and other educational
20 personnel to participate in programs under this Act,
21 and shall continue throughout the implementation
22 and assessment of activities under this section.

23 “(4) DISCUSSION REQUIRED.—Such consulta-
24 tion shall include a discussion of service delivery
25 mechanisms that the agency, consortium, or entity

1 could use to provide equitable services to eligible pri-
2 vate school children, teachers, administrators, and
3 other staff.

4 “(d) PUBLIC CONTROL OF FUNDS.—

5 “(1) IN GENERAL.—The control of funds used
6 to provide services under this section, and title to
7 materials, equipment, and property purchased with
8 such funds, shall be in a public agency for the uses
9 and purposes provided in this Act, and a public
10 agency shall administer such funds and property.

11 “(2) PROVISION OF SERVICES.—

12 “(A) The provision of services under this
13 section shall be provided—

14 “(i) by employees of a public agency;

15 or

16 “(ii) through contract by such public
17 agency with an individual, association,
18 agency, organization, or other entity.

19 “(B) In the provision of such services, such
20 employee, person, association, agency, organiza-
21 tion or other entity shall be independent of such
22 private school and of any religious organization,
23 and such employment or contract shall be under
24 the control and supervision of such public agen-
25 cy.

1 “(C) Funds used to provide services under
2 this section shall not be commingled with non-
3 Federal funds.

4 **“SEC. 8504. STANDARDS FOR BY-PASS.**

5 “If, by reason of any provision of law, a State edu-
6 cational agency, local educational agency, educational
7 service agency, consortium, or other entity of such agen-
8 cies, is prohibited from providing for the participation in
9 programs of children enrolled in, or teachers or other edu-
10 cational personnel from, private elementary and secondary
11 schools, on an equitable basis, or if the Secretary deter-
12 mines that such agency consortium or entity has substan-
13 tially failed or is unwilling to provide for such participa-
14 tion, as required by section 8503, the Secretary shall—

15 “(1) waive the requirements of that section for
16 such agency, consortium, or entity;

17 “(2) arrange for the provision of equitable serv-
18 ices to such children, teachers, or other educational
19 personnel through arrangements that shall be sub-
20 ject to the requirements of this section and of sec-
21 tions 8503, 8505, and 8506; and

22 “(3) in making the determination, consider one
23 or more factors, including the quality, size, scope, lo-
24 cation of the program and the opportunity of private

1 school children, teachers, and other educational per-
2 sonnel to participate.

3 **“SEC. 8505. COMPLAINT PROCESS FOR PARTICIPATION OF**
4 **PRIVATE SCHOOL CHILDREN.**

5 “(a) PROCEDURES FOR COMPLAINTS.—The Sec-
6 retary shall develop and implement written procedures for
7 receiving, investigating, and resolving complaints from
8 parents, teachers, or other individuals and organizations
9 concerning violations of section 8503 by a State edu-
10 cational agency, local educational agency, educational
11 service agency, consortium of such agencies or entity.
12 Such individual or organization shall submit such com-
13 plaint to the State educational agency for a written resolu-
14 tion by the State educational agency within a reasonable
15 period of time.

16 “(b) APPEALS TO SECRETARY.—Such resolution may
17 be appealed by an interested party to the Secretary not
18 later than 30 days after the State educational agency re-
19 solves the complaint or fails to resolve the complaint with-
20 in a reasonable period of time. Such appeal shall be ac-
21 companied by a copy of the State educational agency’s res-
22 olution, and a complete statement of the reasons sup-
23 porting the appeal. The Secretary shall investigate and re-
24 solve each such appeal not later than 120 days after re-
25 ceipt of the appeal.

1 **“SEC. 8506. BY-PASS DETERMINATION PROCESS.**

2 “(a) REVIEW.—

3 “(1) IN GENERAL.—

4 “(A) The Secretary shall not take any final
5 action under section 8504 until the State edu-
6 cational agency, local educational agency, edu-
7 cational service agency, consortium of such
8 agencies or entity affected by such action has
9 had an opportunity, for not less than 45 days
10 after receiving written notice thereof, to submit
11 written objections and to appear before the Sec-
12 retary to show cause why that action should not
13 be taken.

14 “(B) Pending final resolution of any inves-
15 tigation or complaint that could result in a de-
16 termination under this section, the Secretary
17 may withhold from the allocation of the affected
18 State or local educational agency the amount
19 estimated by the Secretary to be necessary to
20 pay the cost of those services.

21 “(2) PETITION FOR REVIEW.—

22 “(A) If such affected agency consortium or
23 entity is dissatisfied with the Secretary’s final
24 action after a proceeding under paragraph (1),
25 such agency consortium or entity may, within
26 60 days after notice of such action, file with the

1 United States court of appeals for the circuit in
2 which such State is located a petition for review
3 of that action.

4 “(B) A copy of the petition shall be forth-
5 with transmitted by the clerk of the court to the
6 Secretary.

7 “(C) The Secretary upon receipt of the
8 copy of the petition shall file in the court the
9 record of the proceedings on which the Sec-
10 retary based this action, as provided in section
11 2112 of title 28, United States Code.

12 “(3) FINDINGS OF FACT.—

13 “(A) The findings of fact by the Secretary,
14 if supported by substantial evidence, shall be
15 conclusive, but the court, for good cause shown,
16 may remand the case to the Secretary to take
17 further evidence and the Secretary may then
18 make new or modified findings of fact and may
19 modify the Secretary’s previous action, and
20 shall file in the court the record of the further
21 proceedings.

22 “(B) Such new or modified findings of fact
23 shall likewise be conclusive if supported by sub-
24 stantial evidence.

25 “(4) JURISDICTION.—

1 “(A) Upon the filing of such petition, the
2 court shall have jurisdiction to affirm the action
3 of the Secretary or to set such action aside, in
4 whole or in part.

5 “(B) The judgment of the court shall be
6 subject to review by the Supreme Court of the
7 United States upon certiorari or certification as
8 provided in section 1254 of title 28, United
9 States Code.

10 “(b) DETERMINATION.—Any determination by the
11 Secretary under this section shall continue in effect until
12 the Secretary determines, in consultation with such agen-
13 cy, consortium or entity and representatives of the af-
14 fected private school children, teachers, or other edu-
15 cational personnel that there will no longer be any failure
16 or inability on the part of such agency or consortium to
17 meet the applicable requirements of section 8503 or any
18 other provision of this Act.

19 “(c) PAYMENT FROM STATE ALLOTMENT.—When
20 the Secretary arranges for services pursuant to this sec-
21 tion, the Secretary shall, after consultation with the ap-
22 propriate public and private school officials, pay the cost
23 of such services, including the administrative costs of ar-
24 ranging for those services, from the appropriate allocation
25 or allocations under this Act.

1 “(d) PRIOR DETERMINATION.—Any by-pass deter-
2 mination by the Secretary under this Act as in effect on
3 the day preceding the date of enactment of the No Child
4 Left Behind Act of 2001 shall remain in effect to the ex-
5 tent the Secretary determines that such determination is
6 consistent with the purpose of this section.

7 **“SEC. 8507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS**
8 **WORSHIP OR INSTRUCTION.**

9 “Nothing contained in this Act shall be construed to
10 authorize the making of any payment under this Act for
11 religious worship or instruction.

12 **“SEC. 8508. APPLICABILITY.**

13 “Nothing in this Act shall be construed to affect
14 home schools, whether or not a home school is treated as
15 a home school or a private school under State law (con-
16 sistent with section 8509), nor shall any home schooled
17 student be required to participate in any assessment ref-
18 erenced in this Act.

19 **“SEC. 8509. PRIVATE SCHOOLS.**

20 “Nothing in this Act shall be construed to affect any
21 private school that does not receive funds or services under
22 this Act nor shall any student who attends a private school
23 that does not receive funds or services under this Act be
24 required to participate in any assessment referenced in
25 this Act.

1 **“SEC. 8510. PRIVACY OF ASSESSMENT RESULTS.**

2 “Any results from individual assessments referenced
3 in this Act which become part of the education records
4 of the student shall have the protections as provided in
5 section 444 of the General Education Provisions Act.

6 **“SEC. 8511. GENERAL PROVISION REGARDING NON-**
7 **RECIPIENT NONPUBLIC SCHOOLS.**

8 “Nothing in this Act, or any other Act administered
9 by the Department, shall be construed to permit, allow,
10 encourage, or authorize any Federal control over any as-
11 pect of any private, religious, or home school, whether or
12 not a home school is treated as a private school or home
13 school under State law. This section shall not be construed
14 to bar private, religious, or home schools from participa-
15 tion in programs or services under this Act.

16 **“SEC. 8512. SCHOOL PRAYER.**

17 “As a condition for receipt of funds under this Act,
18 a local educational agency shall certify in writing to the
19 Secretary that no policy of the agency prevents or other-
20 wise denies participation in constitutionally protected
21 prayer in public schools.

22 **“SEC. 8513. GENERAL PROHIBITIONS.**

23 “(a) PROHIBITION.—None of the funds authorized
24 under this Act shall be used—

25 “(1) to develop or distribute materials, or oper-
26 ate programs or courses of instruction directed at

1 youth that are designed to promote or encourage,
2 sexual activity, whether homosexual or heterosexual;

3 “(2) to distribute or to aid in the distribution
4 by any organization of legally obscene materials to
5 minors on school grounds;

6 “(3) to provide sex education or HIV preven-
7 tion education in schools unless such instruction is
8 age appropriate and emphasizes the health benefits
9 of abstinence; or

10 “(4) to operate a program of contraceptive dis-
11 tribution in schools.

12 “(b) LOCAL CONTROL.—Nothing in this section shall
13 be construed to—

14 “(1) authorize an officer or employee of the
15 Federal Government to direct, review, or control a
16 State, local educational agency, or schools’ instruc-
17 tional content, curriculum, and related activities;

18 “(2) limit the application of the General Edu-
19 cation Provisions Act (20 U.S.C.A. 1221 et seq.);

20 “(3) require the distribution of scientifically or
21 medically false or inaccurate materials or to prohibit
22 the distribution of scientifically or medically true or
23 accurate materials; or

24 “(4) create any legally enforceable right.

1 **“SEC. 8514. PROHIBITION ON FEDERAL MANDATES, DIREC-**
2 **TION, AND CONTROL.**

3 “(a) GENERAL PROHIBITION.—Officers and employ-
4 ees of the Federal Government are prohibited from man-
5 dating, directing, or controlling a State, local educational
6 agency, or school’s curriculum, program of instruction, or
7 allocation of State or local resources, or mandating a State
8 or any subdivision thereof to spend any funds or incur
9 any costs not paid for under this Act.

10 “(b) PROHIBITION OF FEDERAL MANDATES, DIREC-
11 TION, OR CONTROL.—Nothing in this Act shall be con-
12 strued to authorize an officer or employee of the Federal
13 Government to mandate, direct, or control a State, local
14 educational agency, or school’s specific instructional con-
15 tent or academic achievement standards and assessments,
16 curriculum, or program of instruction as a condition of
17 eligibility to receive funds under this Act.

18 “(c) EQUALIZED SPENDING.—Nothing in this Act
19 shall be construed to mandate equalized spending per
20 pupil for a State, local educational agency, or school.

21 “(d) BUILDING STANDARDS.—Nothing in this Act
22 shall be construed to mandate national school building
23 standards for a State, local agency, or school.

24 **“SEC. 8515. RULEMAKING.**

25 “The Secretary shall issue regulations under this Act
26 only to the extent that such regulations are necessary to

1 ensure that there is compliance with the specific require-
2 ments and assurances required by this Act.

3 **“SEC. 8516. REPORT ON DEPARTMENT AUDITS.**

4 “The Secretary shall report to the Congress not later
5 than 180 days after the date of enactment of the No Child
6 Left Behind Act of 2001 regarding how the Secretary
7 shall ensure that audits conducted by Department employ-
8 ees of activities assisted under this Act comply with
9 changes to this Act made by the No Child Left Behind
10 Act of 2001, particularly with respect to permitting chil-
11 dren with similar educational needs to be served in the
12 same educational settings, where appropriate.

13 **“SEC. 8517. STUDY OF TESTING.**

14 “(a) IN GENERAL.—The Secretary shall provide for
15 a study of the effects of testing on students in elementary
16 and secondary schools. Such study may include—

17 “(1) overall improvement or decline in what
18 students are learning based on independent meas-
19 ures;

20 “(2) changes in course offerings, teaching prac-
21 tices, course content, and instructional material;

22 “(3) changes in rates of teacher and adminis-
23 trator turnover;

24 “(4) changes in dropout, grade retention and
25 graduation rates for students;

1 ment standards approved or certified by the Federal Gov-
2 ernment, in order to receive assistance under this Act.

3 “(b) CONSTRUCTION.—Nothing in this section shall
4 be construed to affect requirements under title I of this
5 Act.

6 **“SEC. 8519. PROHIBITION ON ENDORSEMENT OF CUR-**
7 **RICULUM.**

8 “Notwithstanding any other prohibition of Federal
9 law, no funds provided to the Department of Education
10 or to any applicable program may be used by the Depart-
11 ment to endorse, approve, or sanction any curriculum de-
12 signed to be used in an elementary or secondary school.

13 **“SEC. 8520. RULE OF CONSTRUCTION ON PERSONALLY**
14 **IDENTIFIABLE INFORMATION.**

15 “Nothing in this Act shall be construed to permit the
16 development of a national database of personally identifi-
17 able information on individuals involved in studies or in
18 data collection efforts under this Act.

19 **“SEC. 8521. ARMED SERVICES RECRUITING.**

20 “Any secondary school that receives Federal funds
21 under this Act shall permit regular United States Armed
22 Services recruitment activities on school grounds, in a
23 manner reasonably accessible to all students of such
24 school.

1 **“SEC. 8522. SEVERABILITY.**

2 “If any provision of this Act is held invalid, the re-
3 mainder of this Act shall be unaffected thereby.

4 **“SEC. 8523. ENCOURAGE EDUCATION SAVINGS.**

5 “To the extent practicable, the Secretary shall pro-
6 mote education savings accounts in States that have quali-
7 fied State tuition programs (as defined in section 529 of
8 the Internal Revenue Code of 1986).

9 **“SEC. 8524. SENSE OF CONGRESS; REQUIREMENT REGARD-**
10 **ING NOTICE; USE OF AMERICAN-MADE STEEL.**

11 “(a) PURCHASE OF AMERICAN-MADE EQUIPMENT
12 AND PRODUCTS.—In the case of any equipment or prod-
13 ucts that may be authorized to be purchased with financial
14 assistance provided under this Act, it is the sense of the
15 Congress that entities receiving such assistance should, in
16 expending the assistance, purchase only American-made
17 equipment and products.

18 “(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In
19 providing financial assistance under this Act, the head of
20 each Federal agency shall provide to each recipient of the
21 assistance a notice describing the statement made in sub-
22 section (a) by the Congress.

23 “(c) USE OF AMERICAN-MADE STEEL.—A school
24 system receiving financial assistance under this Act for
25 construction shall use American-made steel for such con-

1 instruction and shall comply with the requirements of the
2 Buy American Act.

3 **“PART F—SENSE OF CONGRESS**

4 **“SEC. 8601. PAPERWORK REDUCTION.**

5 “(a) FINDINGS.—The Congress finds that—

6 “(1) instruction and other classroom activities
7 provide the greatest opportunity for students, espe-
8 cially at-risk and disadvantaged students, to attain
9 high standards and achieve academic success;

10 “(2) one of the greatest obstacles to estab-
11 lishing an effective, classroom-centered education
12 system is the cost of paperwork compliance;

13 “(3) paperwork places a burden on teachers
14 and administrators who must complete Federal and
15 State forms to apply for Federal funds and absorbs
16 time and money which otherwise would be spent on
17 students;

18 “(4) the Education at a Crossroads Report re-
19 leased in 1998 by the Education Subcommittee on
20 Oversight and Investigations states that require-
21 ments by the Department of Education result in
22 more than 48,600,000 hours of paperwork per year;
23 and

24 “(5) paperwork distracts from the mission of
25 schools, encumbers teachers, and administrators

1 with nonacademic responsibilities, and competes with
2 teaching and classroom activities which promote
3 learning and achievement.

4 “(b) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that Federal and State educational agencies should
6 reduce the paperwork requirements placed on schools,
7 teachers, principles, and other administrators.

8 **“SEC. 8602. PROHIBITION ON MANDATORY NATIONAL CER-**
9 **TIFICATION OF TEACHERS AND PARA-**
10 **PROFESSIONALS.**

11 “(a) PROHIBITION ON MANDATORY TESTING OR
12 CERTIFICATION.—Notwithstanding any other provision of
13 law, the Secretary is prohibited from using Federal funds
14 to plan, develop, implement, or administer any mandatory
15 national teacher or paraprofessional test or certification.

16 “(b) PROHIBITION ON WITHHOLDING FUNDS.—The
17 Secretary is prohibited from withholding funds from any
18 State or local educational agency if such State or local
19 educational agency fails to adopt a specific method of
20 teacher or paraprofessional certification.

21 **“SEC. 8603. PROHIBITION ON FEDERALLY SPONSORED**
22 **TESTING.**

23 “Notwithstanding any other provision of Federal law,
24 no funds provided under this Act to the Secretary or to
25 the recipient of any award may be used to develop, pilot

1 test, field test, implement, administer, or distribute any
2 federally sponsored national test in reading, mathematics,
3 or any other subject, unless specifically and explicitly au-
4 thorized by law.

5 **“SEC. 8604. SENSE OF CONGRESS REGARDING MEMORIALS.**

6 “It is the sense of Congress that—

7 “(1) the saying of a prayer, the reading of a
8 scripture, or the performance of religious music, as
9 part of a memorial service that is held on the cam-
10 pus of a public elementary or secondary school in
11 order to honor the memory of any person slain on
12 that campus is not objectionable under this Act; and

13 “(2) the design and construction of any memo-
14 rial which includes religious symbols, motifs, or
15 sayings that is placed on the campus of a public ele-
16 mentary or secondary school in order to honor the
17 memory of any person slain on that campus is not
18 objectionable under this Act.

19 **“SEC. 8605. EFFECTIVE USE OF FEDERAL ELEMENTARY**
20 **AND SECONDARY EDUCATION FUNDS.**

21 “It is the sense of the Congress that the Secretary,
22 State educational agencies, and local educational agencies
23 should work together to ensure that not less than 95 per-
24 cent of all funds appropriated to carry out elementary and
25 secondary education programs under this Act is spent di-

1 rectly to improve the academic achievement of the Na-
2 tion's children in their classrooms.

3 **“PART G—EVALUATIONS**

4 **“SEC. 8651. EVALUATIONS.**

5 “(a) RESERVATION OF FUNDS.—Except as provided
6 in subsections (b) and (c), the Secretary may reserve not
7 more than 0.5 percent of the amount appropriated to
8 carry out each categorical program and demonstration
9 project authorized under this Act—

10 “(1) to conduct—

11 “(A) comprehensive evaluations of the pro-
12 gram or project; and

13 “(B) studies of the effectiveness of the pro-
14 grams or project and its administrative impact
15 on schools and local educational agencies;

16 “(2) to evaluate the aggregate short- and long-
17 term effects and cost efficiencies across Federal pro-
18 grams assisted or authorized under this Act and re-
19 lated Federal preschool, elementary and secondary
20 programs under any other Federal law; and

21 “(3) to increase the usefulness of evaluations of
22 grant recipients in order to ensure the continuous
23 progress of the program or project by improving the
24 quality, timeliness, efficiency, and utilization of in-

1 (A) by striking “section 13101(a)” and in-
2 serting “section 8701(a)”; and

3 (B) in paragraph (7), by striking “section
4 13201” and inserting “section 8751”.

5 (2) MAINTENANCE OF SERVICE.—Section
6 8703(b) (as redesignated by subsection (b)) is
7 amended—

8 (A) in paragraph (1), by striking “section
9 13102” and inserting “section 8702”; and

10 (B) in paragraph (2)—

11 (i) by striking “section 13201” and
12 inserting “section 8751”; and

13 (ii) by striking “section 13401” and
14 inserting “section 8851”.

15 (3) TRANSITION.—Section 8704(b)(1) (as re-
16 redesignated by subsection (b)) is amended by striking
17 “section 13105” and inserting “section 8705”.

18 **SEC. 803. NATIONAL DIFFUSION NETWORK.**

19 (a) IN GENERAL.—Part B of title XIII (20 U.S.C.
20 8651 et seq.)—

21 (1) is transferred to the end of title VIII, as
22 amended by section 802; and

23 (2) is redesignated as part I.

1 (b) REDESIGNATION OF SECTIONS.—Sections 13201
2 and 13202 are redesignated as sections 8751 and 8752,
3 respectively.

4 (c) CONFORMING AMENDMENT.—Section 8751 (as
5 redesignated by subsection (b)) is amended—

6 (1) in subsection (e)(3), by striking “under part
7 C” through the end thereof and inserting “under
8 part F; and”;

9 (2) in subsection (f)(4), by striking “section
10 13401” and inserting “section 8851”.

11 **SEC. 804. EISENHOWER REGIONAL MATHEMATICS AND**
12 **SCIENCE EDUCATION CONSORTIA.**

13 (a) IN GENERAL.—Part C of title XIII (20 U.S.C.
14 8671 et seq.)—

15 (1) is transferred to the end of title VIII, as
16 amended by section 803; and

17 (2) is redesignated as part J.

18 (b) REDESIGNATION OF SECTIONS.—Sections 13301
19 through 13308 are redesignated as sections 8801 through
20 8808, respectively.

21 (c) CONFORMING AMENDMENTS.—

22 (1) GRANT AUTHORIZATION.—Section
23 8801(a)(3) (as redesignated by subsection (b)) is
24 amended by striking “section 13308” and inserting
25 “section 8808”.

1 (2) USE OF FUNDS.—Section 8802 (as redesignig-
2 nated by subsection (b)) is amended—

3 (A) by striking “section 13304” and in-
4 serting “section 8804”;

5 (B) in paragraph (2), by striking
6 “13301(a)(1)” and inserting “8801(a)(1)”; and

7 (C) in paragraph (3), by striking
8 “13301(a)(1)” and inserting “8801(a)(1)”.

9 (3) PAYMENTS.—Section 8805 (as redesignated
10 by subsection (b)) is amended in each of subsections
11 (a) and (c) by striking “section 13303” and insert-
12 ing “section 8803”.

13 (4) EVALUATION.—Section 8806(a) (as redesignig-
14 nated by subsection (b)) is amended by striking
15 “section 14701” and inserting “section 8651”.

16 (5) DEFINITIONS.—Section 8807(4) (as redesi-
17 gnated by subsection (b)) is amended by striking
18 “section 13301” and inserting “section 8801”.

19 **SEC. 805. TECHNOLOGY-BASED TECHNICAL ASSISTANCE.**

20 (a) IN GENERAL.—Part D of title XIII (20 U.S.C.
21 8701)—

22 (1) is transferred to the end of title VIII, as
23 amended by section 804; and

24 (2) is redesignated as part K.

1 (b) REDESIGNATION OF SECTION.—Section 13401 is
2 redesignated as section 8851.

3 **SEC. 806. REGIONAL TECHNICAL SUPPORT AND PROFES-**
4 **SIONAL DEVELOPMENT.**

5 (a) IN GENERAL.—Subpart 3 of part A of title III
6 (20 U.S.C. 6861 et seq.)—

7 (1) is transferred to the end of title VIII, as
8 amended by section 805; and

9 (2) is redesignated as part L.

10 (b) REDESIGNATION OF SECTION.—Section 3141 is
11 redesignated as section 8901.

12 (c) CONFORMING AMENDMENT.—Section 8901 (as
13 redesignated by subsection (b)) is amended by striking
14 “part C of title XIII” and inserting “part J”.

15 **TITLE IX—MISCELLANEOUS**
16 **PROVISIONS**

17 **PART A—AMENDMENTS TO OTHER ACTS**

18 **Subpart 1—National Education Statistics Act**

19 **SEC. 901. AMENDMENT TO NESA.**

20 Section 411 of the National Education Statistics Act
21 of 1994 (20 U.S.C. 9010) is amended—

22 (1) by amending subsection (b)(2) to read as
23 follows:

24 “(2) STATE ASSESSMENTS.—(A) The Commis-
25 sioner, in carrying out the National Assessment—

1 “(i) may conduct State assessments of stu-
2 dent achievement in grades 4, 8, and 12; and

3 “(ii) shall conduct annual State assess-
4 ments of student achievement in reading and
5 mathematics in grades 4 and 8 in order for
6 States to carry out section 1111(c)(2) of the
7 Elementary and Secondary Education Act of
8 1965.

9 “(B)(i) Except as provided in clause (ii), a par-
10 ticipating State shall review and give permission for
11 the release of results from any test of its students
12 administered as a part of a State assessment prior
13 to the release of the data. Refusal by a State to re-
14 lease its data shall not restrict the release of data
15 from other States that have approved the release of
16 that data.

17 “(ii) A State participating in the annual State
18 assessments of its students in reading and mathe-
19 matics in grades 4 and 8 shall be deemed to have
20 given its permission to release its data if it has an
21 approved plan under section 1111 of the Elementary
22 and Secondary Education Act of 1965.”; and

23 (2) by amending subsection (d) to read as fol-
24 lows:

25 “(d) PARTICIPATION.—

1 “(1) NATIONAL AND REGIONAL PARTICIPA-
2 TION.—Participation in the national and regional as-
3 sessments by State and local educational agencies
4 shall be voluntary.

5 “(2) STATE PARTICIPATION.—Participation in
6 assessments made on a State basis shall be vol-
7 untary.”.

8 **Subpart 2—Homeless Education**

9 **SEC. 911. SHORT TITLE.**

10 This subpart may be cited as the “McKinney-Vento
11 Homeless Education Assistance Improvements Act of
12 2001”.

13 **SEC. 912. FINDINGS.**

14 Congress makes the following findings:

15 (1) An estimated 1,000,000 children in the
16 United States will experience homelessness in 2001.

17 (2) Homelessness has a devastating impact on
18 the educational opportunities of children and youth.
19 Homeless children go hungry at more than twice the
20 rate of other children, have four times the rate of
21 delayed development, and are twice as likely to re-
22 peat a grade.

23 (3) Despite steady progress in school enroll-
24 ment and attendance resulting from the passage in
25 1987 of the Stewart B. McKinney Homeless Assist-

1 ance Act (42 U.S.C. 11301 et seq.), homeless stu-
2 dents still face numerous barriers to education, in-
3 cluding residency, guardianship and registration re-
4 quirements, delays in the transfer of school records,
5 and inadequate transportation service.

6 (4) School is one of the few secure factors in
7 the lives of homeless children and youth, providing
8 stability, structure, and accomplishment during a
9 time of great upheaval.

10 (5) Homeless children and youth require edu-
11 cational stability and the opportunity to maintain
12 regular and consistent attendance in school, so that
13 they acquire the skills necessary to escape poverty
14 and lead productive, healthy lives as adults.

15 (6) In the 14 years since the passage of the
16 Stewart B. McKinney Homeless Assistance Act (42
17 U.S.C. 11301 et seq.), educators and service pro-
18 viders have learned much about policies and prac-
19 tices which help remove the barriers described.

20 **SEC. 913. PURPOSE.**

21 The purpose of this subpart is to strengthen subtitle
22 B of title VII of Public Law 100–77 (42 U.S.C. 11431
23 et seq.) by amending it—

1 (1) to include innovative practices, proven to be
2 effective in helping homeless children and youth en-
3 roll, attend, and succeed in school; and

4 (2) to help ensure that all children and youth
5 impacted by the loss of fixed, regular, and adequate
6 housing receive a quality education and secure their
7 chance for a brighter future.

8 **SEC. 914. EDUCATION FOR HOMELESS CHILDREN AND**
9 **YOUTH.**

10 Subtitle B of title VII of Public Law 100–77 (42
11 U.S.C. 11431 et seq.) is amended to read as follows:

12 **“Subtitle B—Education for**
13 **Homeless Children and Youth**

14 **“SEC. 721. STATEMENT OF POLICY.**

15 “It is the policy of the Congress that—

16 “(1) each State educational agency ensure that
17 each child of a homeless individual and each home-
18 less youth has equal access to the same free, public
19 education, including a public preschool education, as
20 provided to other children and youth;

21 “(2) in any State that has a compulsory resi-
22 dency requirement as a component of the State’s
23 compulsory school attendance laws or other laws,
24 regulations, practices, or policies that may act as a
25 barrier to the enrollment, attendance, or success in

1 school of homeless children and youth, the State re-
2 view and undertake steps to revise such laws, regula-
3 tions, practices, or policies to ensure that homeless
4 children and youth are afforded the same free, pub-
5 lic education as provided to other children and
6 youth;

7 “(3) homelessness alone is not sufficient reason
8 to separate students from the mainstream school en-
9 vironment; and

10 “(4) homeless children and youth must have ac-
11 cess to the education and other services that such
12 children and youth need to ensure that such children
13 and youth have an opportunity to meet the same
14 challenging State student academic achievement
15 standards to which all students are held.

16 **“SEC. 722. GRANTS FOR STATE AND LOCAL ACTIVITIES FOR**
17 **THE EDUCATION OF HOMELESS CHILDREN**
18 **AND YOUTH.**

19 “(a) GENERAL AUTHORITY.—The Secretary is au-
20 thorized to make grants to States in accordance with the
21 provisions of this section to enable such States to carry
22 out the activities described in subsections (d), (e), (f), and
23 (g).

24 “(b) APPLICATION.—No State may receive a grant
25 under this section unless the State educational agency

1 submits an application to the Secretary at such time, in
2 such manner, and containing or accompanied by such in-
3 formation as the Secretary may reasonably require.

4 “(c) ALLOCATION AND RESERVATIONS.—

5 “(1) IN GENERAL.—Subject to paragraph (2)
6 and section 724(d), from the amounts appropriated
7 for each fiscal year under section 726, the Secretary
8 is authorized to allot to each State an amount that
9 bears the same ratio to the amount appropriated for
10 such year under section 726 as the amount allocated
11 under section 1122 of the Elementary and Sec-
12 ondary Education Act of 1965 to the State for that
13 year bears to the total amount allocated under sec-
14 tion 1122 of such Act to all States for that year, ex-
15 cept that no State shall receive less than \$125,000
16 or $\frac{1}{2}$ of 1 percent of the amount appropriated under
17 section 726, whichever is greater.

18 “(2) RESERVATION.—(A) The Secretary is au-
19 thorized to reserve 0.1 percent of the amount appro-
20 priated for each fiscal year under section 726 to be
21 allocated by the Secretary among the United States
22 Virgin Islands, Guam, American Samoa, and the
23 Commonwealth of the Northern Mariana Islands, ac-
24 cording to their respective need for assistance under
25 this subtitle, as determined by the Secretary.

1 “(B)(i) The Secretary shall transfer 1 percent
2 of the amount appropriated for each fiscal year
3 under section 726 to the Department of the Interior
4 for programs for Indian students served by schools
5 funded by the Secretary of the Interior, as deter-
6 mined under the Indian Self-Determination and
7 Education Assistance Act (25 U.S.C. 450 et seq.),
8 that are consistent with the purposes of this Act.

9 “(ii) The Secretary and the Secretary of the In-
10 terior shall enter into an agreement, consistent with
11 the requirements of this part, for the distribution
12 and use of the funds described in clause (i) under
13 terms that the Secretary determines best meet the
14 purposes of the programs described in such clause.
15 Such agreement shall set forth the plans of the Sec-
16 retary of the Interior for the use of the amounts
17 transferred, including appropriate goals, objectives,
18 and milestones.

19 “(3) STATE DEFINED.—As used in this sub-
20 section, the term ‘State’ shall not include the United
21 States Virgin Islands, Guam, American Samoa, and
22 the Commonwealth of the Northern Mariana Is-
23 lands.

24 “(d) ACTIVITIES.—Grants under this section shall be
25 used—

1 “(1) to carry out the policies set forth in sec-
2 tion 721 in the State;

3 “(2) to provide activities for, and services to,
4 homeless children, including preschool-aged homeless
5 children, and youth that enable such children and
6 youth to enroll in, attend, and succeed in school, or,
7 if appropriate, in preschool programs;

8 “(3) to establish or designate an Office of Coor-
9 dinator of Education of Homeless Children and
10 Youth in the State educational agency in accordance
11 with subsection (f);

12 “(4) to prepare and carry out the State plan
13 described in subsection (g); and

14 “(5) to develop and implement professional de-
15 velopment programs for school personnel to heighten
16 their awareness of, and capacity to respond to, spe-
17 cific problems in the education of homeless children
18 and youth.

19 “(e) STATE AND LOCAL GRANTS.—

20 “(1) MINIMUM DISBURSEMENTS BY STATES.—

21 From the sums made available each year to carry
22 out this subtitle, the State educational agency shall
23 distribute not less than 75 percent in grants to local
24 educational agencies for the purposes of carrying out
25 section 723, except that States funded at the min-

1 imum level set forth in subsection (c)(1) shall dis-
2 tribute not less than 50 percent in grants to local
3 educational agencies for the purposes of carrying out
4 section 723.

5 “(2) USE BY STATE EDUCATIONAL AGENCY.—
6 A State educational agency may use funds made
7 available for State use under this subtitle to conduct
8 activities under subsection (f) directly or through
9 grants.

10 “(3) PROHIBITION ON SEGREGATING HOMELESS
11 STUDENTS.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B) and section 723(a)(2)(B)(ii),
14 in providing a free public education to a home-
15 less child or youth, no State receiving funds
16 under this subtitle shall segregate such child or
17 youth, either in a separate school or in a sepa-
18 rate program within a school, based solely on
19 such child’s or youth’s status as homeless.

20 “(B) EXCEPTION.—A State that operates
21 a separate school for homeless children as of
22 the day preceding the date of enactment of the
23 McKinney-Vento Homeless Education Assist-
24 ance Improvements Act of 2001—

1 “(i) shall remain eligible to receive,
2 and to distribute to local educational agen-
3 cies, funds under this subtitle for such
4 school; and

5 “(ii) shall not distribute to local edu-
6 cational agencies in the State any funds
7 received under this subtitle for use by any
8 such schools not in operation as of such
9 date of enactment.

10 “(f) FUNCTIONS OF THE OFFICE OF COORDI-
11 NATOR.—The Coordinator of Education of Homeless Chil-
12 dren and Youth established in each State shall—

13 “(1) gather, to the extent possible, reliable,
14 valid, and comprehensive information on the nature
15 and extent of the problems homeless children and
16 youth have in gaining access to public preschool pro-
17 grams and to public elementary and secondary
18 schools, the difficulties in identifying the special
19 needs of such children and youth, any progress made
20 by the State educational agency and local edu-
21 cational agencies in the State in addressing such
22 problems and difficulties, and the success of the pro-
23 gram under this subtitle in assisting homeless chil-
24 dren and youth to enroll in, attend, and succeed in,
25 school;

1 “(2) develop and carry out the State plan de-
2 scribed in subsection (g);

3 “(3) collect and transmit to the Secretary infor-
4 mation gathered pursuant to paragraphs (1) and (2)
5 at such time and in such manner as the Secretary
6 may require;

7 “(4) facilitate coordination between the State
8 educational agency, the State social services agency,
9 and other agencies providing services to homeless
10 children and youth, including homeless children, in-
11 cluding preschool-aged homeless children, and youth,
12 and families of such children and youth;

13 “(5) in order to improve the provision of com-
14 prehensive education and related services to home-
15 less children and youth and their families, coordinate
16 and collaborate with—

17 “(A) educators, including child develop-
18 ment and preschool program personnel;

19 “(B) State and local providers of services
20 to homeless and runaway children and youth
21 and homeless families (including domestic vio-
22 lence agencies, shelter operators, transitional
23 housing facilities, runaway and homeless youth
24 centers, and transitional living programs for
25 homeless youth);

1 “(C) local educational agency liaisons for
2 homeless children and youth; and

3 “(D) State and local community organiza-
4 tions and groups representing homeless children
5 and youth and their families; and

6 “(6) provide technical assistance to local edu-
7 cational agencies, in coordination with local liaisons
8 designated under subsection (g)(1)(J)(ii), to ensure
9 that local educational agencies comply with the re-
10 quirements of paragraphs (3) through (7) of sub-
11 section (g).

12 “(g) STATE PLAN.—

13 “(1) IN GENERAL.—Each State shall submit to
14 the Secretary a plan to provide for the education of
15 homeless children and youth within the State, which
16 plan shall—

17 “(A) describe how such children and youth
18 are or will be given the opportunity to meet the
19 same challenging State student academic
20 achievement standards all students are expected
21 to meet;

22 “(B) describe the procedures the State
23 educational agency will use to identify such chil-
24 dren and youth in the State and to assess their
25 special needs;

1 “(C) describe procedures for the prompt
2 resolution of disputes regarding the educational
3 placement of homeless children and youth;

4 “(D) describe programs for school per-
5 sonnel (including principals, attendance officers,
6 teachers, enrollment personnel, and pupil serv-
7 ices personnel) to heighten the awareness of
8 such personnel of the specific needs of runaway
9 and homeless youth;

10 “(E) describe procedures that ensure that
11 homeless children and youth who meet the rel-
12 evant eligibility criteria are able to participate
13 in Federal, State, or local food programs;

14 “(F) describe procedures that ensure
15 that—

16 “(i) homeless children have equal ac-
17 cess to the same public preschool pro-
18 grams, administered by the State agency,
19 as provided to other children;

20 “(ii) homeless youth and youth sepa-
21 rated from the public schools are identified
22 and accorded equal access to appropriate
23 secondary education and support services;
24 and

1 “(iii) homeless children and youth
2 who meet the relevant eligibility criteria
3 are able to participate in Federal, State, or
4 local before- and after-school care pro-
5 grams;

6 “(G) address problems set forth in the re-
7 port provided to the Secretary under subsection
8 (f)(3);

9 “(H) address other problems with respect
10 to the education of homeless children and
11 youth, including problems caused by enrollment
12 delays that are caused by—

13 “(i) immunization and medical records
14 requirements;

15 “(ii) residency requirements;

16 “(iii) lack of birth certificates, school
17 records, or other documentation;

18 “(iv) guardianship issues; or

19 “(v) uniform or dress code require-
20 ments;

21 “(I) demonstrate that the State edu-
22 cational agency and local educational agencies
23 in the State have developed, and shall review
24 and revise, policies to remove barriers to the en-

1 rollment and retention of homeless children and
2 youth in schools in the State; and

3 “(J) contain assurances that—

4 “(i) except as provided in subsection
5 (e)(3)(B), State and local educational
6 agencies will adopt policies and practices to
7 ensure that homeless children and youth
8 are not segregated solely on the basis of
9 their status as homeless;

10 “(ii) local educational agencies will
11 designate an appropriate staff person, who
12 may also be a coordinator for other Fed-
13 eral programs, as a liaison for homeless
14 children and youth, to carry out the duties
15 described in paragraph (6)(A); and

16 “(iii) the State and its local edu-
17 cational agencies will adopt policies and
18 practices to ensure that transportation is
19 provided, at the request of the parent or
20 guardian (or in the case of an unaccom-
21 panied youth, the liaison) to and from the
22 school of origin, as determined in para-
23 graph (3)(A), in accordance with the fol-
24 lowing, as applicable:

1 “(I) If the homeless child or
2 youth continues to live in the area
3 served by the local educational agency
4 in which the school of origin is lo-
5 cated, the child’s or youth’s transpor-
6 tation to and from the school of origin
7 shall be provided or arranged by the
8 local educational agency in which the
9 school of origin is located.

10 “(II) If the homeless child’s or
11 youth’s living arrangements in the
12 area served by the local educational
13 agency of origin terminate and the
14 child or youth, though continuing his
15 or her education in the school of ori-
16 gin, begins living in the area served
17 by another local educational agency,
18 the local educational agency of origin
19 and the local educational agency in
20 which the homeless child or youth is
21 living shall agree upon a method to
22 apportion the responsibility and costs
23 for providing the child with transpor-
24 tation to and from the school or ori-
25 gin. If the local educational agencies

1 are unable to agree upon such meth-
2 od, the responsibility and costs for
3 transportation shall be shared equally.

4 “(2) COMPLIANCE.—

5 “(A) IN GENERAL.—Each plan adopted
6 under this subsection shall also describe how
7 the State will ensure that local educational
8 agencies in the State will comply with the re-
9 quirements of paragraphs (3) through (7).

10 “(B) COORDINATION.—Such plan shall in-
11 dicate what technical assistance the State will
12 furnish to local educational agencies and how
13 compliance efforts will be coordinated with the
14 local liaisons established under this subchapter.

15 “(3) LOCAL EDUCATIONAL AGENCY REQUIRE-
16 MENTS.—

17 “(A) IN GENERAL.—The local educational
18 agency serving each child or youth to be as-
19 sisted under this subtitle shall, according to the
20 child’s or youth’s best interest, either—

21 “(i) continue the child’s or youth’s
22 education in the school of origin for the
23 duration of homelessness—

24 “(I) in any case in which a fam-
25 ily becomes homeless between aca-

1 demic years or during the academic
2 year; or

3 “(II) for the remainder of the
4 academic year, if the child becomes
5 permanently housed during the aca-
6 demic year; or

7 “(ii) enroll the child or youth in any
8 public school that nonhomeless students
9 who live in the attendance area in which
10 the child or youth is actually living are eli-
11 gible to attend.

12 “(B) BEST INTEREST.—In determining the
13 best interest of the child or youth under sub-
14 paragraph (A), the local educational agency
15 shall—

16 “(i) to the extent feasible, keep a
17 homeless child or youth in the school of or-
18 igin, except when doing so is contrary to
19 the wishes of the child’s or youth’s parent
20 or guardian;

21 “(ii) provide a written explanation, in-
22 cluding a statement regarding the right to
23 appeal under subparagraph (E), to the
24 homeless child’s or youth’s parent or
25 guardian if the local educational agency

1 sends such child or youth to a school other
2 than the school of origin or a school re-
3 quested by the parent or guardian; and

4 “(iii) in the case of an unaccompanied
5 youth, ensure that the homeless liaison
6 designated under paragraph (1)(J)(2) as-
7 sists in placement or enrollment decisions
8 under this subparagraph and provides no-
9 tice to such youth of the right to appeal
10 under subparagraph (E).

11 “(C) ENROLLMENT.—(i) The school se-
12 lected in accordance with this paragraph shall
13 immediately enroll pursuant to section 725(3)
14 the homeless child or youth, even if the child or
15 youth is unable to produce records normally re-
16 quired for enrollment, such as previous aca-
17 demic records, medical records, proof of resi-
18 dency, or other documentation.

19 “(ii) The enrolling school shall immediately
20 contact the school last attended by the child or
21 youth to obtain relevant academic and other
22 records.

23 “(iii) If the child or youth needs to obtain
24 immunizations or immunization or medical
25 records, the enrolling school shall immediately

1 refer the parent or guardian of the child or
2 youth to the liaison who shall assist in obtain-
3 ing necessary immunizations or immunization
4 or medical records in accordance with subpara-
5 graph (E).

6 “(D) RECORDS.—Any record ordinarily
7 kept by the school, including immunization or
8 medical records, academic records, birth certifi-
9 cates, guardianship records, and evaluations for
10 special services or programs, of each homeless
11 child or youth shall be maintained—

12 “(i) so that the records are available,
13 in a timely fashion, when a child or youth
14 enters a new school or school district; and

15 “(ii) in a manner consistent with sec-
16 tion 444 of the General Education Provi-
17 sions Act (20 U.S.C. 1232g).

18 “(E) ENROLLMENT DISPUTES.—If a dis-
19 pute arises over school selection or enrollment
20 in a school—

21 “(i) the child or youth shall be imme-
22 diately admitted to the school in which en-
23 rollment is sought, pending resolution of
24 the dispute;

1 “(ii) the parent or guardian of the
2 child or youth shall be provided with a
3 written explanation of the school’s decision
4 regarding school selection or enrollment,
5 including the rights of the parent, guard-
6 ian, or youth to appeal the decision;

7 “(iii) the child, youth, parent, or
8 guardian shall be referred to the local liai-
9 son designated under paragraph (1)(J)(ii),
10 who shall carry out the dispute resolution
11 process as described in paragraph (1)(A)
12 as expeditiously as possible after receiving
13 notice of the dispute; and

14 “(iv) in the case of an unaccompanied
15 youth, the homeless liaison shall ensure
16 that the youth is immediately enrolled in
17 school pending resolution of the dispute.

18 “(F) PLACEMENT CHOICE.—The choice re-
19 garding placement shall be made regardless of
20 whether the child or youth lives with the home-
21 less parents or has been temporarily placed
22 elsewhere.

23 “(G) SCHOOL OF ORIGIN DEFINED.—In
24 this paragraph, the term ‘school of origin’
25 means the school that the child or youth at-

1 tended when permanently housed or the school
2 in which the child or youth was last enrolled.

3 “(H) CONTACT INFORMATION.—Nothing
4 in this subtitle shall prohibit a local educational
5 agency from requiring a parent or guardian of
6 a homeless child to submit contact information
7 required by the local educational agency of a
8 parent or guardian of a nonhomeless child.

9 “(4) COMPARABLE SERVICES.—Each homeless
10 child or youth to be assisted under this subtitle shall
11 be provided services comparable to services offered
12 to other students in the school selected under para-
13 graph (3), including—

14 “(A) transportation services;

15 “(B) educational services for which the
16 child or youth meets the eligibility criteria, such
17 as services provided under title I of the Elemen-
18 tary and Secondary Education Act of 1965 or
19 similar State or local programs, educational
20 programs for children with disabilities, and edu-
21 cational programs for students with limited-
22 English proficiency;

23 “(C) programs in vocational and technical
24 education;

1 “(D) programs for gifted and talented stu-
2 dents; and

3 “(E) school nutrition programs.

4 “(5) COORDINATION.—

5 “(A) IN GENERAL.—Each local educational
6 agency serving homeless children and youth
7 that receives assistance under this subtitle shall
8 coordinate—

9 “(i) the provision of services under
10 this subtitle with local social services agen-
11 cies and other agencies or programs pro-
12 viding services to homeless children and
13 youth and their families, including services
14 and programs funded under the Runaway
15 and Homeless Youth Act (42 U.S.C. 5701
16 et seq.); and

17 “(ii) with other local educational
18 agencies on interdistrict issues, such as
19 transportation or transfer of school
20 records.

21 “(B) HOUSING ASSISTANCE.—If applica-
22 ble, each State and local educational agency
23 that receives assistance under this subtitle shall
24 coordinate with State and local housing agen-
25 cies responsible for developing the comprehen-

1 sive housing affordability strategy described in
2 section 105 of the Cranston-Gonzales National
3 Affordable Housing Act (42 U.S.C. 12705) to
4 minimize educational disruption for children
5 and youth who become homeless.

6 “(C) COORDINATION PURPOSE.—The co-
7 ordination required under subparagraphs (A)
8 and (B) shall be designed to—

9 “(i) ensure that homeless children and
10 youth have access and reasonable prox-
11 imity to available education and related
12 support services; and

13 “(ii) raise the awareness of school
14 personnel and service providers of the ef-
15 fects of short-term stays in a shelter and
16 other challenges associated with homeless-
17 ness.

18 “(6) LIAISON.—

19 “(A) DUTIES.—Each local liaison for
20 homeless children and youth, designated under
21 paragraph (1)(J)(ii), shall ensure that—

22 “(i) homeless children and youth are
23 identified by school personnel and through
24 coordination activities with other entities
25 and agencies;

1 “(ii) homeless children and youth en-
2 roll in, and have an equal opportunity to
3 succeed in, schools of that agency;

4 “(iii) homeless families, children, and
5 youth receive educational services for
6 which such families, children, and youth
7 are eligible, including Head Start and
8 Even Start programs and preschool pro-
9 grams administered by the local edu-
10 cational agency, and referrals to health
11 care services, dental services, mental health
12 services, and other appropriate services;

13 “(iv) the parents or guardians of
14 homeless children and youth are informed
15 of the education and related opportunities
16 available to their children and are provided
17 with meaningful opportunities to partici-
18 pate in the education of their children;

19 “(v) public notice of the educational
20 rights of homeless children and youth is
21 disseminated where such children and
22 youth receive services under this Act, such
23 as schools, family shelters, and soup kitch-
24 ens;

1 “(vi) enrollment disputes are mediated
2 in accordance with subsection (g)(3)(E);
3 and

4 “(vii) the parent or guardian of a
5 homeless child or youth, and any unaccom-
6 panied youth, is fully informed of all trans-
7 portation services, including transportation
8 to the school of origin, as described in
9 paragraph (1)(J)(ii), and is assisted in ac-
10 cessing transportation to the school se-
11 lected in accordance with paragraph
12 (3)(A).

13 “(B) NOTICE.—State coordinators whose
14 duties are described under subsection (d) and
15 local educational agencies shall inform school
16 personnel, service providers, and advocates
17 working with homeless families of the duties of
18 the liaisons.

19 “(C) LOCAL AND STATE COORDINATION.—
20 Local educational agency liaisons for homeless
21 children and youth shall, as a part of their du-
22 ties, coordinate and collaborate with State coor-
23 dinators and community and school personnel
24 responsible for the provision of education and
25 related services to homeless children and youth.

1 “(7) REVIEW AND REVISIONS.—

2 “(A) IN GENERAL.—Each State edu-
3 cational agency and local educational agency
4 that receives assistance under this subtitle,
5 shall review and revise any policies that may act
6 as barriers to the enrollment of homeless chil-
7 dren and youth in schools selected in accord-
8 ance with paragraph (3).

9 “(B) CONSIDERATION.—In reviewing and
10 revising such policies, consideration shall be
11 given to issues concerning transportation, im-
12 munization, residency, birth certificates, school
13 records and other documentation, and guard-
14 ianship.

15 “(C) SPECIAL ATTENTION.—Special atten-
16 tion shall be given to ensuring the enrollment
17 and attendance of homeless children and youth
18 who are not currently attending school.

19 **“SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE**
20 **EDUCATION OF HOMELESS CHILDREN AND**
21 **YOUTH.**

22 “(a) GENERAL AUTHORITY.—

23 “(1) IN GENERAL.—The State educational
24 agency shall, in accordance with section 722(e) and
25 from amounts made available to such agency under

1 section 726, make grants to local educational agen-
2 cies for the purpose of facilitating the enrollment,
3 attendance, and success in school of homeless chil-
4 dren and youth.

5 “(2) SERVICES.—

6 “(A) IN GENERAL.—Services under para-
7 graph (1)—

8 “(i) may be provided through pro-
9 grams on school grounds or at other facili-
10 ties;

11 “(ii) shall, to the maximum extent
12 practicable, be provided through existing
13 programs and mechanisms that integrate
14 homeless children and youth with non-
15 homeless children and youth; and

16 “(iii) shall be designed to expand or
17 improve services provided as part of a
18 school’s regular academic program, but not
19 to replace such services provided under
20 such program.

21 “(B) SERVICES ON SCHOOL GROUNDS.—If
22 services under paragraph (1) are provided on
23 school grounds, schools—

24 “(i) may use funds under this subtitle
25 to provide the same services to other chil-

1 dren and youth who are determined by the
2 local educational agency to be at risk of
3 failing in, or dropping out of, schools, sub-
4 ject to the requirements of clause (ii); and

5 “(ii) except as otherwise provided in
6 section 722(e)(3)(B), shall not provide
7 services in settings within a school that
8 segregates homeless children and youth
9 from other children and youth, except as is
10 necessary for short periods of time—

11 “(I) for health and safety emer-
12 gencies; or

13 “(II) to provide temporary, spe-
14 cial, and supplementary services to
15 meet the unique needs of homeless
16 children and youth.

17 “(3) REQUIREMENT.—Services provided under
18 this section shall not replace the regular academic
19 program and shall be designed to expand upon or
20 improve services provided as part of the school’s reg-
21 ular academic program.

22 “(b) APPLICATION.—A local educational agency that
23 desires to receive a grant under this section shall submit
24 an application to the State educational agency at such
25 time, in such manner, and containing or accompanied by

1 such information as the State educational agency may rea-
2 sonably require. Each such application shall include—

3 “(1) an assessment of the educational and re-
4 lated needs of homeless children and youth, as de-
5 fined in section 725(1) and (2), in the area served
6 by such agency (which may be undertaken as part
7 of needs assessments for other disadvantaged
8 groups);

9 “(2) a description of the services and programs
10 for which assistance is sought to address the needs
11 identified in paragraph (1);

12 “(3) an assurance that the local educational
13 agency’s combined fiscal effort per student, or the
14 aggregate expenditures of that agency and the State
15 with respect to the provision of free public education
16 by such agency for the fiscal year preceding the fis-
17 cal year for which the determination is made, was
18 not less than 90 percent of such combined fiscal ef-
19 fort or aggregate expenditures for the second fiscal
20 year preceding the fiscal year for which the deter-
21 mination is made;

22 “(4) an assurance that the applicant complies
23 with, or will use requested funds to comply with,
24 paragraphs (3) through (7) of section 722(g); and

1 “(5) a description of policies and procedures,
2 consistent with section 722(e)(3)(B), that the agency
3 will implement to ensure that activities carried out
4 by the agency will not isolate or stigmatize homeless
5 children and youth.

6 “(c) AWARDS.—

7 “(1) IN GENERAL.—The State educational
8 agency shall, in accordance with the requirements of
9 this subtitle and from amounts made available to it
10 under section 726, make competitive subgrants to
11 local educational agencies that submit applications
12 under subsection (b). Such subgrants shall be
13 awarded on the basis of the need of such agencies
14 for assistance under this subtitle and the quality of
15 the applications submitted.

16 “(2) NEED.—In determining need under para-
17 graph (1), the State educational agency may con-
18 sider the number of homeless children and youth en-
19 rolled in preschool, elementary, and secondary
20 schools within the area served by the agency, and
21 shall consider the needs of such children and youth
22 and the ability of the agency to meet such needs.
23 Such agency may also consider—

24 “(A) the extent to which the proposed use
25 of funds would facilitate the enrollment, reten-

1 tion, and educational success of homeless chil-
2 dren and youth;

3 “(B) the extent to which the application—

4 “(i) reflects coordination with other
5 local and State agencies that serve home-
6 less children and youth; and

7 “(ii) meets the requirements of sec-
8 tion 722(g)(3);

9 “(C) the extent to which the applicant ex-
10 hibits in the application and in current practice
11 a commitment to education for all homeless
12 children and youth; and

13 “(D) such other criteria as the State agen-
14 cy determines appropriate.

15 “(3) QUALITY.—In determining the quality of
16 applications under paragraph (1), the State edu-
17 cational agency shall consider—

18 “(A) the applicant’s needs assessment
19 under subsection (b)(1) and the likelihood that
20 the program presented in the application will
21 meet such needs;

22 “(B) the types, intensity, and coordination
23 of the services to be provided under the pro-
24 gram;

1 “(C) the involvement of parents or guard-
2 ians;

3 “(D) the extent to which homeless children
4 and youth will be integrated within the regular
5 education program;

6 “(E) the quality of the applicant’s evalua-
7 tion plan for the program;

8 “(F) the extent to which services provided
9 under this subtitle will be coordinated with
10 other available services; and

11 “(G) such other measures as the State
12 educational agency considers indicative of a
13 high-quality program.

14 “(4) DURATION OF GRANTS.—Grants awarded
15 under this section shall be for terms not to exceed
16 3 years.

17 “(d) AUTHORIZED ACTIVITIES.—A local educational
18 agency may use funds awarded under this section for ac-
19 tivities to carry out the purpose of this subtitle,
20 including—

21 “(1) the provision of tutoring, supplemental in-
22 struction, and enriched educational services that are
23 linked to the achievement of the same challenging
24 State academic content standards and challenging

1 State student academic achievement standards the
2 State establishes for other children and youth;

3 “(2) the provision of expedited evaluations of
4 the strengths and needs of homeless children and
5 youth, including needs and eligibility for programs
6 and services (such as educational programs for gift-
7 ed and talented students, children with disabilities,
8 and students with limited-English proficiency, serv-
9 ices provided under title I of the Elementary and
10 Secondary Education Act of 1965 or similar State
11 or local programs, programs in vocational and tech-
12 nical education, and school nutrition programs);

13 “(3) professional development and other activi-
14 ties for educators and pupil services personnel that
15 are designed to heighten the understanding and sen-
16 sitivity of such personnel to the needs of homeless
17 children and youth, the rights of such children and
18 youth under this Act, and the specific educational
19 needs of runaway and homeless youth;

20 “(4) the provision of referral services to home-
21 less children and youth for medical, dental, mental,
22 and other health services;

23 “(5) the provision of assistance to defray the
24 excess cost of transportation for students pursuant
25 to section 722(g)(4)(A), not otherwise provided

1 through Federal, State, or local funding, where nec-
2 essary to enable students to attend the school se-
3 lected under section 722(g)(3);

4 “(6) the provision of developmentally appro-
5 priate early childhood education programs, not oth-
6 erwise provided through Federal, State, or local
7 funding, for preschool-aged children;

8 “(7) the provision of services and assistance to
9 attract, engage, and retain homeless youth (as de-
10 scribed in paragraphs (1) and (2) of section 725) in
11 public school programs and services provided to non-
12 homeless youth;

13 “(8) the provision for homeless children and
14 youth of before- and after-school, mentoring, and
15 summer programs in which a teacher or other quali-
16 fied individual provides tutoring, homework assist-
17 ance, and supervision of educational activities;

18 “(9) if necessary, the payment of fees and other
19 costs associated with tracking, obtaining, and trans-
20 ferring records necessary to enroll homeless children
21 and youth in school, including birth certificates, im-
22 munization or medical records, academic records,
23 guardianship records, and evaluations for special
24 programs or services;

1 “(10) the provision of education and training to
2 the parents of homeless children and youth about
3 the rights of, and resources available to, such chil-
4 dren and youth;

5 “(11) the development of coordination between
6 schools and agencies providing services to homeless
7 children and youth, as described in section
8 722(g)(5);

9 “(12) the provision of pupil services (including
10 violence prevention counseling) and referrals for
11 such services;

12 “(13) activities to address the particular needs
13 of homeless children and youth that may arise from
14 domestic violence;

15 “(14) the adaptation of space and purchase of
16 supplies for nonschool facilities made available under
17 subsection (a)(2) to provide services under this sub-
18 section;

19 “(15) the provision of school supplies, including
20 those supplies to be distributed at shelters or tem-
21 porary housing facilities, or other appropriate loca-
22 tions; and

23 “(16) the provision of other extraordinary or
24 emergency assistance needed to enable homeless chil-
25 dren and youth to attend school.

1 **“SEC. 724. SECRETARIAL RESPONSIBILITIES.**

2 “(a) REVIEW OF PLANS.—In reviewing the State
3 plan submitted by a State educational agency under sec-
4 tion 722(g), the Secretary shall use a peer review process
5 and shall evaluate whether State laws, policies, and prac-
6 tices described in such plans adequately address the prob-
7 lems of homeless children and youth relating to access to
8 education and placement as described in such plans.

9 “(b) TECHNICAL ASSISTANCE.—The Secretary shall
10 provide support and technical assistance to the State edu-
11 cational agencies to assist such agencies to carry out their
12 responsibilities under this subtitle, if requested by the
13 State educational agency.

14 “(c) NOTICE.—The Secretary shall, before the next
15 school year that begins after the date of the enactment
16 of the McKinney-Vento Homeless Education Assistance
17 Improvements Act of 2001, create and disseminate nation-
18 wide a public notice of the educational rights of homeless
19 children and youth and disseminate such notice to other
20 Federal agencies, programs, and grantees, including Head
21 Start grantees, Health Care for the Homeless grantees,
22 Emergency Food and Shelter grantees, and homeless as-
23 sistance programs administered by the Department of
24 Housing and Urban Development.

25 “(d) EVALUATION AND DISSEMINATION.—The Sec-
26 retary shall conduct evaluation and dissemination activi-

1 ties of programs designed to meet the educational needs
2 of homeless elementary and secondary school students,
3 and may use funds appropriated under section 726 to con-
4 duct such activities.

5 “(e) SUBMISSION AND DISTRIBUTION.—The Sec-
6 retary shall require applications for grants under this sub-
7 title to be submitted to the Secretary not later than the
8 expiration of the 60-day period beginning on the date that
9 funds are available for purposes of making such grants
10 and shall make such grants not later than the expiration
11 of the 120-day period beginning on such date.

12 “(f) DETERMINATION BY SECRETARY.—The Sec-
13 retary, based on the information received from the States
14 and information gathered by the Secretary under sub-
15 section (e), shall determine the extent to which State edu-
16 cational agencies are ensuring that each homeless child
17 and homeless youth has access to a free appropriate public
18 education as described in section 721(1).

19 “(g) INFORMATION.—

20 “(1) IN GENERAL.—From funds appropriated
21 under section 726, the Secretary shall, either di-
22 rectly or through grants, contracts, or cooperative
23 agreements, periodically collect and disseminate data
24 and information regarding—

1 “(A) the number and location of homeless
2 children and youth;

3 “(B) the education and related services
4 such children and youth receive;

5 “(C) the extent to which such needs are
6 being met; and

7 “(D) such other data and information as
8 the Secretary deems necessary and relevant to
9 carry out this subtitle.

10 “(2) COORDINATION.—The Secretary shall co-
11 ordinate such collection and dissemination with
12 other agencies and entities that receive assistance
13 and administer programs under this subtitle.

14 “(h) REPORT.—Not later than 4 years after the date
15 of the enactment of the McKinney-Vento Homeless Edu-
16 cation Assistance Improvements Act of 2001, the Sec-
17 retary shall prepare and submit to the President and the
18 Committee on Education and the Workforce of the House
19 of Representatives and the Committee on Health, Edu-
20 cation, Labor, and Pensions of the Senate a report on the
21 status of education of homeless children and youth, which
22 shall include information on—

23 “(1) the education of homeless children and
24 youth; and

1 “(2) the actions of the Department and the ef-
2 fectiveness of the programs supported under this
3 subtitle.

4 **“SEC. 725. DEFINITIONS.**

5 “In this subtitle:

6 “(1) The term ‘homeless children and youth’—

7 “(A) means individuals who lack a fixed,
8 regular, and adequate nighttime residence
9 (within the meaning of section 103(a)(1));

10 “(B) includes—

11 “(i) children and youth who are living
12 in doubled-up accommodations sharing the
13 housing of another due to loss of housing,
14 economic hardship or a similar reason, are
15 living in motels, hotels, trailer parks, or
16 camping grounds due to the lack of alter-
17 native adequate accommodations, are living
18 in emergency or transitional shelters, are
19 abandoned in hospitals, or are awaiting
20 foster care placement;

21 “(ii) individuals who have a primary
22 nighttime residence that is a public or pri-
23 vate place not designed for or ordinarily
24 used as a regular sleeping accommodation

1 for human beings (within the meaning of
2 section 103(a)(2)(C)); and

3 “(iii) children and youth who are liv-
4 ing in cars, parks, public spaces, aban-
5 doned buildings or substandard housing,
6 bus or train stations, or similar settings;
7 and

8 “(C) does not include migratory children
9 (as such term is defined in section 1309(2) of
10 the Elementary and Secondary Education Act
11 of 1965), unless such children are staying in ac-
12 commodated not fit for habitation.

13 “(2) The term ‘unaccompanied youth’ includes
14 youth not in the physical custody of a parent or
15 guardian.

16 “(3) The terms ‘enroll’ and ‘enrollment’ include
17 within their meaning the right to attend classes and
18 to participate fully in school activities.

19 “(4) The terms ‘local educational agency’ and
20 ‘State educational agency’ have the meanings given
21 such terms in section 8101 of the Elementary and
22 Secondary Education Act of 1965.

23 “(5) The term ‘Secretary’ means the Secretary
24 of Education.

1 “(6) The term ‘State’ means each of the 50
2 States, the District of Columbia, and the Common-
3 wealth of Puerto Rico.

4 **“SEC. 726. AUTHORIZATION OF APPROPRIATIONS.**

5 “For the purpose of carrying out this subtitle, there
6 are authorized to be appropriated \$60,000,000 for fiscal
7 year 2002 and such sums as may be necessary for each
8 of the fiscal years 2003 through 2006.”.

9 **SEC. 915. TECHNICAL AMENDMENT.**

10 (a) IN GENERAL.—Section 1 of Public Law 106–400
11 (42 U.S.C. 11301) is amended by striking “Section 1 of”
12 and inserting “Section 101 of”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall be deemed to be effective on the date
15 of the enactment of Public Law 106–400.

16 **Subpart 3—General Education Provisions**

17 **SEC. 916. INFORMATION ACCESS AND CONSENT.**

18 (a) IN GENERAL.—Section 445 of the General Edu-
19 cation Provisions Act (20 U.S.C. 1232h) is amended by—

20 (1) redesignating subsections (e) through (e) as
21 subsections (d) through (f), respectively; and

22 (2) by striking subsections (a) and (b) and in-
23 serting the following:

24 “(a) ACCESS TO INFORMATION.—No funds shall be
25 made available under any applicable program to any edu-

1 cational agency or institution that has a policy of denying,
2 or that effectively prevents, the parent of an elementary
3 school or secondary school student served by such agency
4 or at such institution, as the case may be—

5 “(1) the right to inspect and review any in-
6 structional material used with respect to the edu-
7 cational curriculum of the student. Each educational
8 agency or institution shall establish appropriate pro-
9 cedures for the granting of a request by parents for
10 access to the instructional material. The granting of
11 each such request shall be made in a reasonable pe-
12 riod of time, but shall not exceed 45 days, after the
13 date of the request;

14 “(2) the right to inspect and review a survey,
15 analysis, or evaluation that is subject to subsection
16 (c)(7) before the survey, analysis, or evaluation is
17 given to a student.

18 “(b) RESTRICTION ON SEEKING INFORMATION FROM
19 MINORS.—

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of Federal law, no funds shall be made
22 available under any program administered by the
23 Secretary to any educational agency or institution
24 that administers or provides a survey, analysis, or
25 evaluation to a student without the prior, informed,

1 written consent of the parent or guardian of a stu-
2 dent concerning—

3 “(A) political affiliations or beliefs of the
4 student or the student’s parent;

5 “(B) mental or psychological problems po-
6 tentially embarrassing to the student or the stu-
7 dent’s family;

8 “(C) sex behavior or attitudes;

9 “(D) illegal, antisocial, or self-incrimi-
10 nating behavior;

11 “(E) appraisals of other individuals with
12 whom the minor has a familial relationship;

13 “(F) relationships that are legally recog-
14 nized as privileged, including those with law-
15 yers, physicians, and members of the clergy;
16 and

17 “(G) religious practices affiliations or be-
18 liefs.

19 “(2) EXPLANATION.—In seeking the consent of the
20 parent an educational agency or institution must provide
21 an accurate explanation, in writing, of the types of items
22 listed in subparagraphs (A) through (G) of paragraph (1)
23 that are contained in the survey and the purpose, if
24 known, for including those items.

1 “(c) RESTRICTION ON MEDICAL TESTING AND
2 TREATMENT OF MINORS.—

3 “(1) CONSENT REQUIRED.—Except as provided
4 in paragraph (2), no funds shall be made available
5 under any applicable program to an educational
6 agency or institution that requires or otherwise
7 causes the student without the prior, written, in-
8 formed consent of the parent or a guardian of a
9 minor to undergo medical or mental health examina-
10 tion, testing, treatment, or immunization (except in
11 the case of a medical emergency).

12 “(2) EXCEPTION.—Paragraph (1) shall not
13 apply to medical or mental health examinations,
14 testing, treatment, or immunizations of students ex-
15 pressly permitted by State law without written pa-
16 rental consent.

17 “(3) DEFINITIONS.—For the purpose of this
18 section, the term ‘educational agency or institution’
19 means any elementary, middle, or secondary school,
20 any school district or local board of education, and
21 any State educational agency that is the recipient of
22 funds under any program administered by the Sec-
23 retary, except that it does not apply to postsec-
24 ondary institutions.

1 “(4) INSTRUCTIONAL MATERIAL.—In this sub-
2 section the term ‘instructional material’ means a
3 textbook, audio/visual material, informational mate-
4 rial accessible through Internet sites, material in
5 digital or electronic formats, instructional manual,
6 or journal, or any other material supplementary to
7 the education of a student.

8 “(5) RULES OF CONSTRUCTION.—(A) Nothing
9 in this section shall be construed to supersede the
10 Family Educational Rights and Privacy Act (20
11 U.S.C. 1232g).

12 “(B) The term ‘instructional material’ does not
13 include academic tests or assessments.

14 “(6) APPLICATION.—

15 “(A) CERTAIN SURVEYS, ANALYSIS, AND
16 EVALUATIONS.—Subsection (b) shall not apply
17 to surveys, analysis, or evaluations administered
18 to a student as part of the Individuals with Dis-
19 abilities Act (20 U.S.C. 1400 et seq.).

20 “(B) PARENTAL CONSENT.—Nothing in
21 subsection (c) shall be construed to supersede
22 or otherwise affect the parental consent require-
23 ments under the Individuals with Disabilities
24 Education Act (20 U.S.C. 1400 et seq.).

1 (2) denies equal access or a fair opportunity to
2 meet to, or discriminates against, any group affili-
3 ated with the Boy Scouts of America or any other
4 youth group that wishes to conduct a meeting within
5 that designated open forum, on the basis of the
6 membership or leadership criteria of the Boy Scouts
7 of America or of the youth group that prohibit the
8 acceptance of homosexuals, or individuals who reject
9 the Boy Scouts' or the youth group's oath of alle-
10 giance to God and country, as members or leaders.

11 (b) TERMINATION OF ASSISTANCE AND OTHER AC-
12 TION.—

13 (1) DEPARTMENTAL ACTION.—The Secretary is
14 authorized and directed to effectuate subsection (a)
15 by issuing, and securing compliance with, rules or
16 orders with respect to a public school or agency that
17 receives funds made available through the Depart-
18 ment of Education and that denies equal access, or
19 a fair opportunity to meet, or discriminates, as de-
20 scribed in subsection (a).

21 (2) PROCEDURE.—The Secretary shall issue
22 and secure compliance with the rules or orders,
23 under paragraph (1), in a manner consistent with
24 the procedure used by a Federal department or

1 agency under section 602 of the Civil Rights Act of
2 1964 (42 U.S.C. 2000d-1).

3 (3) JUDICIAL REVIEW.—Any action taken by
4 the Secretary under paragraph (1) shall be subject
5 to the judicial review described in section 603 of
6 that Act (42 U.S.C. 2000d-2). Any person aggrieved
7 by the action may obtain that judicial review in the
8 manner, and to the extent, provided in section 603
9 of that Act.

10 (c) DEFINITIONS AND RULE.—

11 (1) DEFINITIONS.—In this section:

12 (A) ELEMENTARY SCHOOL; LOCAL EDU-
13 CATIONAL AGENCY; SECONDARY SCHOOL; STATE
14 EDUCATIONAL AGENCY.—The terms “elemen-
15 tary school”, “local educational agency”, “sec-
16 ondary school”, and “State educational agency”
17 have the meanings given the terms in section
18 8101 of the Elementary and Secondary Edu-
19 cation Act of 1965 (as in effect after the effec-
20 tive date of this Act).

21 (B) SECRETARY.—The term “Secretary”
22 means the Secretary of Education, acting
23 through the Assistant Secretary for Civil Rights
24 of the Department of Education.

1 (A) Title IX, relating to Indian, Native
2 Hawaiian, and Alaska Native education.

3 (B) Parts A, B, C, D, F, G, I, J, L, of
4 title X, relating to programs of national signifi-
5 cance.

6 (C) Title XI, relating to coordinated serv-
7 ices.

8 (D) Title XII, relating to education infra-
9 structure.

10 (E) The title heading of title XIII and sec-
11 tions 13001 and 13002.

12 (F) Title XIV, relating to general provi-
13 sions.

Passed the House of Representatives May 23, 2001.

Attest:

Clerk.

107TH CONGRESS
1ST SESSION

H. R. 1

AN ACT

To close the achievement gap with accountability,
flexibility, and choice, so that no child is left be-
hind.