

107TH CONGRESS  
1ST SESSION

# H. R. 1

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

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 2001

Mr. BOEHNER (for himself, Mr. CASTLE, Mr. McKEON, Mr. HASTERT, Mr. ARMEY, Mr. DELAY, Mr. WATTS of Oklahoma, Ms. PRYCE of Ohio, Mr. DREIER, Mr. PETRI, Mr. SCHAFFER, Mr. ISAKSON, Mr. BALLENGER, Mr. SAM JOHNSON of Texas, Mr. GREENWOOD, Mr. GRAHAM, Mr. NORWOOD, Mr. UPTON, Mr. HILLEARY, Mr. EHLERS, Mr. FLETCHER, Mr. DEMINT, Mrs. BIGGERT, Mr. TIBERI, Mr. KELLER, Mr. OSBORNE, Mr. CULBERSON, Mr. OXLEY, Mr. NUSSLE, Mr. WOLF, Mr. GEKAS, Mr. COMBEST, Mr. KOLBE, Mr. BAKER, Mr. WELDON of Pennsylvania, Mr. SHAYS, Mr. GILLMOR, Mr. GOSS, Mr. CAMP, Mr. CUNNINGHAM, Mr. HOBSON, Mr. BACHUS, Mr. CALVERT, Mr. COLLINS, Mr. DEAL of Georgia, Mr. DIAZ-BALART, Mr. HORN, Mr. KINGSTON, Mr. LINDER, Mr. McINNIS, Mr. MILLER of Florida, Mr. ROYCE, Mr. PORTMAN, Mr. BARR of Georgia, Mr. BURR of North Carolina, Mr. CHAMBLISS, Mr. EHRlich, Mr. LATOURETTE, Mr. RADANOVICH, Mr. COOKSEY, Mrs. NORTHUP, Mr. PETERSON of Pennsylvania, Mr. PICKERING, Mr. SHIMKUS, Mr. SUNUNU, Mr. FOSSELLA, Mrs. BONO, Mr. GREEN of Wisconsin, Mr. HAYES, Mr. GARY MILLER of California, Mr. OSE, Mr. SWEENEY, Mr. CRENSHAW, Ms. HART, Mr. ISSA, Mr. PUTNAM, and Mr. SCHROCK) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

A bill 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,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. TABLE OF CONTENTS.**

TITLE I—IMPROVING THE ACADEMIC PERFORMANCE OF THE  
 DISADVANTAGED

PART A—BASIC PROGRAM

- Sec. 101. Disadvantaged children meet high standards.
- Sec. 102. Authorization of appropriations.
- Sec. 103. Reservation for school improvement.
- Sec. 104. Basic programs.

PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

- Sec. 111. Reading First; Early Reading First.
- Sec. 112. Amendments to Even Start.

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.

PART F—COMPREHENSIVE SCHOOL REFORM

- Sec. 161. School reform.

PART G—RURAL EDUCATION

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; teacher liability.

TITLE III—EDUCATION OF LIMITED ENGLISH PROFICIENT  
CHILDREN; INDIAN AND ALASKA NATIVE EDUCATION

PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT 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.

TITLE IV—PROMOTING INFORMED PARENTAL CHOICE AND  
INNOVATIVE PROGRAMS

PART A—INNOVATIVE PROGRAMS

Sec. 401. Promoting informed parental choice and innovative programs.

PART B—PUBLIC CHARTER SCHOOLS

Sec. 411. Public charter schools.

PART C—SCHOOL CHOICE RESEARCH AND DEMONSTRATION

Sec. 421. School choice research and demonstration

PART D—MAGNET SCHOOLS ASSISTANCE

Sec. 431. Magnet schools assistance.

Sec. 432. Continuation of awards.

TITLE V—SAFE SCHOOLS FOR THE 21ST CENTURY

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. Construction.

Sec. 604. State consideration of payments in providing State aid.

- Sec. 605. Authorization of appropriations.  
 Sec. 606. Redesignation of 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.

TITLE IX—MISCELLANEOUS PROVISIONS

PART A—AMENDMENTS TO OTHER ACTS

SUPART 1—NATIONAL EDUCATION STATISTICS ACT

- Sec. 901. Amendment to NESA.

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.

PART B—REPEALS

- Sec. 921. Repeals.

**1 SEC. 3. REFERENCES.**

2       Whenever in this Act an amendment or repeal is ex-  
 3 pressed in terms of an amendment to, or repeal of, a sec-  
 4 tion or other provision, the reference shall be considered  
 5 to be made to a section or other provision of the Elemen-  
 6 tary and Secondary Education Act of 1965 (20 U.S.C.  
 7 6301 et seq.).

**8 SEC. 4. TRANSITION.**

9       Unless otherwise provided in this Act, any person or  
 10 agency that was awarded a grant under the Elementary

1 and Secondary Education Act of 1965 (20 U.S.C. 6301  
2 et 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, except that funds for such award may not  
5 continue more than one year after the date of the enact-  
6 ment of this Act.

7 **TITLE I—IMPROVING THE ACADEMIC PERFORMANCE OF**  
8 **THE DISADVANTAGED**

10 **PART A—BASIC PROGRAM**

11 **SEC. 101. DISADVANTAGED CHILDREN MEET HIGH STAND-**  
12 **ARDS.**

13 Section 1001 is amended to read as follows:

14 **“SEC. 1001. FINDINGS; STATEMENT OF PURPOSE; AND REC-**  
15 **OGNITION OF NEED.**

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

17 “(1) The Constitution of the United States re-  
18 serves to the States and to the people the responsi-  
19 bility for the general supervision of public education  
20 in kindergarten through the twelfth grade.

21 “(2) States and local educational agencies need  
22 the maximum liberty to build upon existing innova-  
23 tive approaches for education reform and continue  
24 their proven record of increasing student success.

1           “(3) The best education decisions are made by  
2 those who know the students best and who are re-  
3 sponsible for implementing the decisions, and there-  
4 fore, educators and parents should retain the right  
5 and responsibility to educate their pupils and chil-  
6 dren free of excessive regulation by the Federal Gov-  
7 ernment.

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

15           “(5) Schools that enroll high concentrations of  
16 children living in poverty face the greatest chal-  
17 lenges, but effective educational strategies based on  
18 scientifically based research can succeed in edu-  
19 cating children to high standards.

20           “(6) High-poverty schools are much more likely  
21 to be identified as failing to meet State standards  
22 for satisfactory progress. As a result, these schools  
23 are generally the most in need of additional re-  
24 sources and technical assistance to build the capac-

1       ity of these schools to address the many needs of  
2       their students.

3           “(7) The educational progress of children par-  
4       ticipating in programs under this title is closely as-  
5       sociated with their being taught by a highly qualified  
6       staff, particularly in schools with the highest con-  
7       centrations of poverty, where paraprofessionals,  
8       uncertified teachers, and teachers teaching out of  
9       field frequently provide instructional services.

10          “(8) Congress and the public would benefit  
11       from additional data evaluatinig the efficacy of the  
12       Elementary and Secondary Education Act of 1965.

13          “(9) States, local educational agencies, and  
14       schools should be given as much flexibility as pos-  
15       sible in exchange for greater accountability for im-  
16       proving student achievement.

17          “(10) Schools operating programs assisted  
18       under this part must be held accountable for the  
19       educational achievement of their students, when  
20       those students fail to demonstrate progress in  
21       achieving high standards, local educational agencies  
22       and States must take significant actions to improve  
23       the educational opportunities available to them.

24          “(b) PURPOSE AND INTENT.—The purpose and in-  
25       tent of this title are to ensure that all children have a

1 fair and equal opportunity to obtain a high-quality edu-  
2 cation.

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

5 “(1) Educational needs are particularly great  
6 for low-achieving children in our Nation’s highest-  
7 poverty schools, children with limited English pro-  
8 ficiency, children of migrant workers, children with  
9 disabilities, Indian children, children who are ne-  
10 glected or delinquent, and young children who are in  
11 need of reading assistance.

12 “(2) Despite more than 3 decades of Federal  
13 assistance, a sizable achievement gap remains be-  
14 tween minority and nonminority students, and be-  
15 tween disadvantaged students and their more advan-  
16 taged peers.

17 “(3) Too many students attend local schools  
18 that fail to provide them with a quality education,  
19 and are given no alternatives to enable them to re-  
20 ceive a quality education.

21 “(4) States, local educational agencies, and  
22 schools need to be held accountable for improving  
23 the academic achievement of all students, and for  
24 identifying and turning around low-performing  
25 schools.



1           “(5) 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 achievement standards. It can only  
6 be determined if schools, local educational agencies,  
7 and States are reaching this goal if student achieve-  
8 ment results are reported specifically by disadvan-  
9 tagged and minority status.”.

10 **SEC. 1002. 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 \$9,061,000,000 for fiscal year 2002 and such sums as  
17 may be necessary for each of the 4 succeeding fiscal years.

18           “(b) STUDENT READING SKILLS IMPROVEMENT  
19 GRANTS.—

20           “(1) READING FIRST.—For the purpose of car-  
21 rying out subpart 1 of part B, there are authorized  
22 to be appropriated \$900,000,000 for fiscal year  
23 2002 and such sums as may be necessary for each  
24 of the 4 succeeding fiscal years.

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

6           “(3) EVEN START.—For the purpose of car-  
7 rying out subpart 3 of part B, there are authorized  
8 to be appropriated \$250,000,000 for fiscal year  
9 2002 and such sums as may be necessary for each  
10 of the 4 succeeding fiscal years.

11          “(c) EDUCATION OF MIGRATORY CHILDREN.—For  
12 the purpose of carrying out part C, there are authorized  
13 to be appropriated \$380,000,000 for fiscal year 2002 and  
14 such sums as may be necessary for each of the 4 suc-  
15 ceeding fiscal years.

16          “(d) PREVENTION AND INTERVENTION PROGRAMS  
17 FOR YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT  
18 RISK OF DROPPING OUT.—For the purpose of carrying  
19 out part D, there are authorized to be appropriated  
20 \$46,000,000 for fiscal year 2002 and such sums as may  
21 be necessary for each of the 4 succeeding fiscal years.

22          “(e) COMPREHENSIVE SCHOOL REFORM.—For the  
23 purpose of carrying out part F, there are authorized to  
24 be appropriated \$260,000,000 for fiscal year 2002 and

1 such sums as may be necessary for each of the 4 suc-  
2 ceeding fiscal years.

3 “(f) RURAL EDUCATION.—For the purpose of car-  
4 rying out part G, 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 4 succeeding fiscal years to be  
7 distributed equally between subparts 1 and 2.

8 “(g) CAPITAL EXPENSES.—For the purpose of car-  
9 rying out section 1120(e), there are authorized to be ap-  
10 propriated \$5,000,000 for fiscal year 2002.

11 “(h) FEDERAL ACTIVITIES.—

12 “(1) SECTION 1501 AND 1502.—(A) For the pur-  
13 pose of carrying out section 1501, there are author-  
14 ized to be appropriated \$9,000,000 for fiscal year  
15 2002 and such sums as may be necessary for each  
16 of the 4 succeeding fiscal years.

17 “(B) For the purpose of carrying out section  
18 1502, there are authorized to be appropriated such  
19 sums as may be necessary for fiscal year 2002 and  
20 for each of the 4 succeeding fiscal years.

21 “(i) STATE ADMINISTRATION.—

22 “(1) STATE RESERVATION.—Each State may  
23 reserve, from the sum of the amounts it receives  
24 under parts A, C, and D of this title, an amount  
25 equal to the greater of 1 percent of the amount it

1 received under such parts for fiscal year 2001, or  
2 \$400,000 (\$50,000 for each outlying area), includ-  
3 ing any funds it receives under paragraph (2), to  
4 carry out administrative duties assigned under parts  
5 A, C, and D.

6 “(2) AUTHORIZATION OF APPROPRIATIONS.—  
7 There are authorized to be appropriated  
8 \$10,000,000 for fiscal year 2002 and such sums as  
9 may be necessary for each of the 4 succeeding fiscal  
10 years for additional State administration grants.  
11 Any such additional grants shall be allocated among  
12 the States in proportion to the sum of the amounts  
13 received by each State for that fiscal year under  
14 parts A, C, and D of this title.

15 “(3) SPECIAL RULE.—The amount allocated to  
16 each State under this subsection may not exceed the  
17 amount of State funds expended by the State edu-  
18 cational agency to administer elementary and sec-  
19 ondary education programs in such State.

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

21 Section 1003 is amended to read as follows:

22 “RESERVATION FOR SCHOOL IMPROVEMENT

23 “(a) STATE RESERVATIONS.—Each State shall re-  
24 serve 3.5 percent of the amount it receives under subpart  
25 2 of part A for fiscal years 2002 and 2003, and 5 percent  
26 of the amount received under such subpart for fiscal years

1 2004 through 2006, to carry out subsection (b) and to  
2 carry out the State’s responsibilities under sections 1116  
3 and 1117, including carrying out the State educational  
4 agency’s statewide system of technical assistance and sup-  
5 port for local educational agencies.

6 “(b) USES.—Of the amount reserved under sub-  
7 section (a) for any fiscal year, the State educational agen-  
8 cy shall make available at least 95 percent of that amount  
9 directly to local educational agencies for schools identified  
10 for school improvement, corrective action, and restruc-  
11 turing under section 1116(c).”.

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

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

22 “(2) section 1126(c).”.

23 **SEC. 104. BASIC PROGRAMS.**

24 Part A of title I is amended to read as follows:

1           **“PART A—IMPROVING BASIC PROGRAMS**  
2           **OPERATED BY LOCAL EDUCATIONAL AGENCIES**  
3           **“Subpart 1—Basic Program Requirements**

4           **“SEC. 1111. STATE PLANS.**

5           “(a) PLANS REQUIRED.—

6                   “(1) IN GENERAL.—Any State desiring to re-  
7           ceive a grant under this part shall submit to the  
8           Secretary, by March 1, 2002, a plan, developed in  
9           consultation with local educational agencies, teach-  
10          ers, principals, pupil services personnel, administra-  
11          tors (including administrators of programs described  
12          in other parts of this title), other staff, and parents,  
13          that satisfies the requirements of this section and  
14          that is coordinated with other programs under this  
15          Act, the Individuals with Disabilities Education Act,  
16          the Carl D. Perkins Vocational and Technical Edu-  
17          cation Act of 1998, and the Head Start Act.

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

21           “(b) STANDARDS, ASSESSMENTS, AND ACCOUNT-  
22          ABILITY.—

23                   “(1) CHALLENGING STANDARDS.—

24                           “(A) Each State plan shall demonstrate  
25                   that the State has adopted challenging content  
26                   standards and challenging student achievement

1 standards that will be used by the State, its  
2 local educational agencies, and its schools to  
3 carry out this part, except that a State shall  
4 not be required to submit such standards to the  
5 Secretary.

6 “(B) The standards required by subpara-  
7 graph (A) shall be the same standards that the  
8 State applies to all schools and children in the  
9 State.

10 “(C) The State shall have such standards  
11 for all public elementary and secondary school  
12 children served under this part in subjects de-  
13 termined by the State, but including at least  
14 mathematics, reading or language arts, and  
15 science (consistent with the special rule in sec-  
16 tion 1111(j), which shall include the same  
17 knowledge, skills, and levels of achievement ex-  
18 pected of all children.

19 “(D) Standards under this paragraph shall  
20 include—

21 “(i) challenging content standards in  
22 academic subjects that—

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

1                   “(II) contain coherent and rig-  
2                   orous content; and

3                   “(III) encourage the teaching of  
4                   advanced skills; and

5                   “(ii) challenging student achievement  
6                   standards that—

7                   “(I) are aligned with the State’s  
8                   content standards;

9                   “(II) describe 2 levels of high  
10                  performance, proficient and advanced,  
11                  that determine how well children are  
12                  mastering the material in the State  
13                  content standards; and

14                  “(III) describe a third level of  
15                  performance, basic, to provide com-  
16                  plete information about the progress  
17                  of the lower performing children to-  
18                  ward achieving to the proficient and  
19                  advanced levels of performance.

20                  “(E) For the subjects in which students  
21                  will be served under this part, but for which a  
22                  State is not required by subparagraphs (A),  
23                  (B), and (C) to develop, and has not otherwise  
24                  developed such standards, the State plan shall  
25                  describe a strategy for ensuring that students



1 are taught the same knowledge and skills in  
2 such subjects and held to the same expectations  
3 as are all children.

4 “(2) ACCOUNTABILITY.—

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

14 “(i) be based on the standards and as-  
15 sements adopted under paragraphs (1)  
16 and (4) and take into account the perform-  
17 ance of all public school students;

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

1           “(iii) include rewards and sanctions  
2           the State will use to hold local educational  
3           agencies and public schools accountable for  
4           student achievement and for ensuring that  
5           they make adequate yearly progress in ac-  
6           cordance with the State’s definition under  
7           subparagraph (B).

8           “(B) ADEQUATE YEARLY PROGRESS.—  
9           Each State plan shall demonstrate, based on  
10          assessments described under paragraph (4),  
11          what constitutes adequate yearly progress of  
12          the State, and of public schools and local edu-  
13          cational agencies in the State, toward enabling  
14          all public school students to meet the State’s  
15          student achievement standards, while working  
16          toward the goal of narrowing the achievement  
17          gaps in the State.

18          “(C) DEFINITION.—‘Adequate yearly  
19          progress’ shall be defined by the State in a  
20          manner that—

21                 “(i) applies the same high standards  
22                 of academic performance to all public  
23                 school students in the State;

24                 “(ii) measures the progress of public  
25                 schools and local educational agencies

1 based primarily on the assessments de-  
2 scribed in paragraph (4);

3 “(iii) includes annual measurable ob-  
4 jectives for continuing and significant im-  
5 provement in each of the following (except  
6 that disaggregation of data under sub-  
7 clauses (II) and (III) shall not be required  
8 in a case in which the number of students  
9 in a category is insufficient to yield statis-  
10 tically reliable information or the results  
11 would reveal individually identifiable infor-  
12 mation about an individual student):

13 “(I) The achievement of all public  
14 school students.

15 “(II) The achievement of—

16 “(aa) economically disadvan-  
17 taged students;

18 “(bb) students from major  
19 racial and ethnic groups;

20 “(cc) students with disabil-  
21 ities; and

22 “(dd) students with limited  
23 English proficiency;

24 “(III) solely for the purpose of deter-  
25 mining adequate yearly progress of the

1 State, the acquisition of English language  
2 proficiency by children with limited  
3 English proficiency;

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

18 “(v) includes a timeline for ensuring  
19 that each group of students described in  
20 subclauses (I) and (II) of clause (iii) meets  
21 or exceeds the State’s proficient level of  
22 performance on the State assessment used  
23 for the purposes of this section and section  
24 1116 within 10 years from the date of the

1           enactment of the No Child Left Behind  
2           Act of 2001.

3           “(D) ANNUAL IMPROVEMENT FOR  
4           SCHOOLS.—For a school to make adequate  
5           yearly progress under subparagraph (A), not  
6           less than 95 percent of each group of students  
7           described in subparagraph (C)(iii)(II) who are  
8           enrolled in the school are required to take the  
9           assessments, consistent with section  
10          612(a)(17)(A) of the Individuals with Disabil-  
11          ities Education Act and paragraph (4)(G)(ii),  
12          on which adequate yearly progress is based.

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

1           such means as the Internet, the media, and  
2           public agencies.

3           “(3) STATE AUTHORITY.—If a State edu-  
4           cational agency provides evidence, which is satisfac-  
5           tory to the Secretary, that neither the State edu-  
6           cational agency nor any other State government offi-  
7           cial, agency, or entity has sufficient authority, under  
8           State law, to adopt curriculum content and student  
9           achievement standards, and assessments aligned  
10          with such standards, which will be applicable to all  
11          students enrolled in the State’s public schools, then  
12          the State educational agency may meet the require-  
13          ments of this subsection by—

14                 “(A) adopting standards and assessments  
15                 that meet the requirements of this subsection,  
16                 on a statewide basis, limiting their applicability  
17                 to students served under this part; or

18                 “(B) adopting and implementing policies  
19                 that ensure that each local educational agency  
20                 in the State which receives grants under this  
21                 part will adopt curriculum content and student  
22                 achievement standards, and assessments  
23                 aligned with such standards, which meet all of  
24                 the criteria in this subsection and any regula-  
25                 tions regarding such standards and assessments

1           which the Secretary may publish, and which are  
2           applicable to all students served by each such  
3           local educational agency.

4           “(4) ASSESSMENTS.—Each State plan shall  
5           demonstrate that the State has implemented a set of  
6           high-quality, yearly student assessments that in-  
7           clude, at a minimum, assessments in mathematics,  
8           reading or language arts, and science (consistent  
9           with the special rule in section 1111(j), that will be  
10          used as the primary means of determining the yearly  
11          performance of each local educational agency and  
12          school in enabling all children to meet the State’s  
13          challenging student achievement standards. Such as-  
14          sessments shall—

15                 “(A) be the same assessments used to  
16                 measure the performance of all children;

17                 “(B) be aligned with the State’s chal-  
18                 lenging content and student achievement stand-  
19                 ards and provide coherent information about  
20                 student attainment of such standards;

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

1           “(D) measure the proficiency of students  
2           in the academic subjects in which a State has  
3           adopted challenging content and student  
4           achievement standards, and be administered not  
5           less than 1 or more times during—

6                   “(i) grades 3 through 5;

7                   “(ii) grades 6 through 9; and

8                   “(iii) grades 10 through 12;

9           “(E) involve multiple up-to-date measures  
10          of student achievement, including measures that  
11          assess higher order thinking skills and under-  
12          standing;

13          “(F) beginning not later than school year  
14          2004-2005, measure the performance of stu-  
15          dents against the challenging State content and  
16          student achievement standards in grades 3  
17          through 8 in at least mathematics, and reading  
18          or language arts, except that the Secretary may  
19          provide the State 1 additional year if the State  
20          demonstrates that exceptional or uncontrollable  
21          circumstances, such as a natural disaster or a  
22          precipitous and unforeseen decline in the finan-  
23          cial resources of the State, prevented full imple-  
24          mentation of the assessments by that deadline



1 and that it will complete implementation within  
2 the additional 1-year period;

3 “(G) provide for—

4 “(i) the participation in such assess-  
5 ments of all students;

6 “(ii) the reasonable adaptations and  
7 accommodations for students with disabil-  
8 ities defined under 602(3) of the Individ-  
9 uals with Disabilities Education Act nec-  
10 essary to measure the achievement of such  
11 students relative to State content and  
12 State student achievement standards;

13 “(iii) the inclusion of limited English  
14 proficient students who shall be assessed,  
15 to the extent practicable, in the language  
16 and form most likely to yield accurate and  
17 reliable information on what such students  
18 know and can do in content areas;

19 “(iv) notwithstanding clause (iii), the  
20 assessment (using tests written in English)  
21 of reading or language arts of any student  
22 who has attended school in the United  
23 States (not including Puerto Rico) for 3 or  
24 more consecutive school years, except if the  
25 local educational agency determines, on a

1 case-by-case individual basis, that assess-  
2 ments in another language and form would  
3 likely yield more accurate and reliable in-  
4 formation on what such students know and  
5 can do, the local educational agency may  
6 assess such students in the appropriate  
7 language other than English for 1 addi-  
8 tional year; and

9 “(H) include students who have attended  
10 schools in a local educational agency for a full  
11 academic year but have not attended a single  
12 school for a full academic year, except that the  
13 performance of students who have attended  
14 more than 1 school in the local educational  
15 agency in any academic year shall be used only  
16 in determining the progress of the local edu-  
17 cational agency;

18 “(I) produce individual student reports to  
19 be provided to parents, which include assess-  
20 ment scores, or other information on the attain-  
21 ment of student achievement standards; and

22 “(J) enable results to be disaggregated  
23 within each State, local educational agency, and  
24 school by gender, by each major racial and eth-  
25 nic group, by English proficiency status, by mi-

1 grant status, by students with disabilities as  
2 compared to nondisabled students, and by eco-  
3 nomically disadvantaged students as compared  
4 to students who are not economically disadvan-  
5 taged.

6 “(5) SPECIAL RULE.—Assessment measures  
7 that do not meet the requirements of paragraph  
8 (4)(C) may be included as 1 of the multiple meas-  
9 ures, if a State includes in the State plan informa-  
10 tion regarding the State’s efforts to validate such  
11 measures.

12 “(6) LANGUAGE ASSESSMENTS.—Each State  
13 plan shall identify the languages other than English  
14 that are present in the participating student popu-  
15 lation and indicate the languages for which yearly  
16 student assessments are not available and are need-  
17 ed. The State shall make every effort to develop  
18 such assessments and may request assistance from  
19 the Secretary if linguistically accessible assessment  
20 measures are needed. Upon request, the Secretary  
21 shall assist with the identification of appropriate as-  
22 sessment measures in the needed languages, but  
23 shall not mandate a specific assessment or mode of  
24 instruction.

1           “(7) ASSESSMENTS OF ENGLISH LANGUAGE  
2 PROFICIENCY.—Each State plan shall demonstrate  
3 that local educational agencies in the State will, be-  
4 ginning no later than school year 2002–2003, annu-  
5 ally assess the English proficiency of all students  
6 with limited English proficiency in their schools.”.

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

9           “(A) how the State educational agency will  
10 assist each local educational agency and school  
11 affected by the State plan to develop the capaci-  
12 ty to comply with each of the requirements of  
13 sections 1112(c)(1)(D), 1114(c), and 1115(c)  
14 that is applicable to such agency or school; and

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

20           “(c) OTHER PROVISIONS TO SUPPORT TEACHING  
21 AND LEARNING.—Each State plan shall contain assur-  
22 ances that—

23           “(1) the State shall produce, beginning with the  
24 2003–2004 school year, the annual State report  
25 cards described in subsection (h)(1);

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

5           “(A) the State National Assessment of  
6 Educational Progress carried out under section  
7 411(b)(2) of the National Education Statistics  
8 Act of 1994; or

9           “(B) another assessment selected by the  
10 State which meets the criteria of section  
11 7101(b)(1)(B)(ii) of this Act.

12           “(3) the State educational agency shall work  
13 with other agencies, including educational service  
14 agencies or other local consortia, and institutions to  
15 provide technical assistance to local educational  
16 agencies and schools to carry out the State edu-  
17 cational agency’s responsibilities under this part, in-  
18 cluding technical assistance in providing professional  
19 development under section 1119A and technical as-  
20 sistance under section 1117; and

21           “(4)(A) where educational service agencies  
22 exist, the State educational agency shall consider  
23 providing professional development and technical as-  
24 sistance through such agencies; and

1           “(B) where educational service agencies do not  
2 exist, the State educational agency shall consider  
3 providing professional development and technical as-  
4 sistance through other cooperative agreements such  
5 as through a consortium of local educational agen-  
6 cies;

7           “(5) the State educational agency shall notify  
8 local educational agencies and the public of the con-  
9 tent and student achievement standards and assess-  
10 ments developed under this section, and of the au-  
11 thority to operate schoolwide programs, and will ful-  
12 fill the State educational agency’s responsibilities re-  
13 garding local educational agency improvement and  
14 school improvement under section 1116, including  
15 such corrective actions as are necessary;

16           “(6) the State educational agency shall provide  
17 the least restrictive and burdensome regulations for  
18 local educational agencies and individual schools par-  
19 ticipating in a program assisted under this part;

20           “(7) the State educational agency shall inform  
21 the Secretary and the public of how Federal laws, if  
22 at all, hinder the ability of States to hold local edu-  
23 cational agencies and schools accountable for stu-  
24 dent academic performance;

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

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

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

14           “(11) the State educational agency shall inform  
15           local educational agencies of the local educational  
16           agency’s authority to transfer funds or enter into  
17           performance agreements under title VII, to obtain  
18           waivers under title VIII and, if the State is an Ed-  
19           Flex Partnership State, to obtain waivers under the  
20           Education Flexibility Partnership Act of 1999 (20  
21           U.S.C. 5891a et seq.).

22           “(d) PEER REVIEW AND SECRETARIAL APPROVAL.—  
23           The Secretary shall—

24           “(1) establish a peer review process to assist in  
25           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 1 or more specific  
23 elements of the State’s content standards or to use  
24 specific assessment instruments or items.

25           “(e) DURATION OF THE PLAN.—



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

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

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

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

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

19 “(f) LIMITATION ON CONDITIONS.—Nothing in this  
20 part shall be construed to authorize an officer or employee  
21 of the Federal Government to mandate, direct, or control  
22 a State, local educational agency, or school’s specific in-  
23 structional content or student achievement standards and  
24 assessments, curriculum, or program of instruction, as a  
25 condition of eligibility to receive funds under this part.

1 “(g) PENALTIES.—

2 “(1) FAILURE TO MEET DEADLINES ENACTED  
3 IN 1994.—

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

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

23 “(2) FAILURE TO MEET REQUIREMENTS EN-  
24 ACTED IN 2001.—If a State fails to meet any of the  
25 requirements of this section, other than the require-

1       ments described in paragraph (1), the Secretary may  
2       withhold funds for State administration and for ac-  
3       tivities until the Secretary determines that the State  
4       has fulfilled those requirements.

5       “(h) REPORTS.—

6             “(1) ANNUAL STATE REPORT CARD.—

7                     “(A) IN GENERAL.—Not later than the be-  
8                     ginning of the 2003–2004 school year, a State  
9                     that receives assistance under this Act shall  
10                    prepare and disseminate an annual State “re-  
11                    port card”.

12                   “(B) IMPLEMENTATION.—The State report  
13                   card shall be—

14                             “(i) concise; and

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

19                   “(C) PUBLIC DISSEMINATION.—The State  
20                   shall widely disseminate the information de-  
21                   scribed in subparagraph (D) to all schools and  
22                   local educational agencies in the State and  
23                   make the information broadly available through  
24                   public means, such as posting on the Internet,

1 distribution to the media, and distribution  
2 through public agencies.

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

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

20 “(ii) the percentage of students not  
21 tested (disaggregated by the same cat-  
22 egories and subject to the same exception);

23 “(iii) the percentage of students who  
24 graduate from high school within 4 years  
25 of starting high school;

1           “(iv) the rate of completion of Ad-  
2           vanced Placement courses and the rate of  
3           passing of Advanced Placement tests;

4           “(v) the professional qualifications of  
5           teachers in the aggregate, including the  
6           percentage of teachers teaching with emer-  
7           gency or provisional qualifications, and the  
8           percentage of class sections not taught by  
9           fully qualified teachers; and

10          “(vi) such other information (such as  
11          dropout and school attendance rates; and  
12          average class size by grade level) as the  
13          State believes will best provide parents,  
14          students, and other members of the public  
15          with information on the progress of each of  
16          the State’s public schools.

17          “(2) CONTENT OF LOCAL EDUCATIONAL AGEN-  
18          CY REPORT CARDS.—

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

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

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

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

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

16 “(II) in the case of a school—

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

19 “(bb) information that shows  
20 how its students performed on the  
21 statewide assessment compared to  
22 students in the local educational agen-  
23 cy and the State as a whole.

24 “(B) OTHER INFORMATION.—A local edu-  
25 cational agency may include in its annual re-

1           ports any other appropriate information wheth-  
2           er or not such information is included in the  
3           annual State report.

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

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

24                   “(4) ANNUAL STATE REPORT TO THE SEC-  
25          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 assessment  
6 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 assessments required by that  
10 subsection, including the disaggregated results  
11 for the categories of students identified in sub-  
12 section (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 assessments (including disaggregated re-  
21 sults) required under this section.

22 “(5) PARENTS RIGHT-TO-KNOW.—

23 “(A) QUALIFICATIONS.—At the beginning  
24 of each school year, a local educational agency  
25 that receives funds under this part shall notify



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

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

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

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

21 “(iv) Whether the child is provided  
22 services by paraprofessionals and the quali-  
23 fications of such paraprofessional.

24 “(B) ADDITIONAL INFORMATION.—In ad-  
25 dition to the information which parents may re-

1           quest under subparagraph (A), and the infor-  
2           mation provided in subsection (e), a school  
3           which receives funds under this part shall pro-  
4           vide to each individual parent—

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

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

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

20                   “(6) PLAN CONTENT.—A State shall include in  
21           its plan under subsection (b) an assurance that it  
22           has in effect a policy that meets the requirements of  
23           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 ON SCIENCE STANDARDS AND  
5 ASSESSMENTS.—Notwithstanding subsections (b) and (h),  
6 no State shall be required to meet the requirements under  
7 this title relating to science standards until the beginning  
8 of the 2005–2006 school year and science assessments  
9 until the beginning of the 2007–2008 school year.

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

11       “(a) PLANS REQUIRED.—

12               “(1) SUBGRANTS.—A local educational agency  
13 may receive a subgrant under this part for any fiscal  
14 year only if such agency has on file with the State  
15 educational agency a plan, approved by the State  
16 educational agency, that is coordinated with other  
17 programs under this Act, the Individuals with Dis-  
18 abilities Education Act, the Carl D. Perkins Voca-  
19 tional and Technical Education Act of 1998, the  
20 Head Start Act, and other Acts, as appropriate.

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

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

4           “(1) a description of additional high-quality  
5 student assessments, if any, other than the assess-  
6 ments described in the State plan under section  
7 1111, that the local educational agency and schools  
8 served under this part will use to—

9           “(A) determine the success of children  
10 served under this part in meeting the State’s  
11 student achievement standards and provide in-  
12 formation to teachers, parents, and students on  
13 the progress being made toward meeting the  
14 State student achievement standards described  
15 in section 1111(b)(1)(D)(ii);

16           “(B) assist in diagnosis, teaching, and  
17 learning in the classroom in ways that best en-  
18 able low-achieving children served under this  
19 title to meet State standards and do well in the  
20 local curriculum;

21           “(C) determine what revisions are needed  
22 to projects under this title so that such children  
23 meet the State’s student achievement stand-  
24 ards; and

1           “(2) at the local educational agency’s discre-  
2           tion, a description of any other indicators that will  
3           be used in addition to the assessments described in  
4           paragraph (1) for the uses described in such para-  
5           graph;

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

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

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

22                 “(B) services for children with limited  
23                 English proficiency or with disabilities, migra-  
24                 tory children served under part C, neglected or  
25                 delinquent youth, Indian children served under

1 part B of title III, homeless children, and immi-  
2 grant children in order to increase program ef-  
3 fectiveness, eliminate duplication, and reduce  
4 fragmentation of the instructional program;

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

12 “(6) a description of the poverty criteria that  
13 will be used to select school attendance areas under  
14 section 1113;

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

20 “(8) a general description of the nature of the  
21 programs to be conducted by such agency’s schools  
22 under sections 1114 and 1115 and, where appro-  
23 priate, educational services outside such schools for  
24 children living in local institutions for neglected or  
25 delinquent children, for neglected and delinquent

1 children in community day school programs, and for  
2 homeless children;

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

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

22 “(11) a description of the actions the local edu-  
23 cational agency will take to assist its low-performing  
24 schools, including schools identified under section  
25 1116 as in need of improvement;

1           “(12) a description of the actions the local edu-  
2           cational agency will take to implement school choice,  
3           consistent with the requirements of section 1116;

4           “(13) a description how the local educational  
5           agency will meet the requirements of section  
6           1119(b)(1).

7           “(c) ASSURANCES.—

8           “(1) IN GENERAL.—Each local educational  
9           agency plan shall provide assurances that the local  
10          educational agency will—

11           “(A) inform eligible schools and parents of  
12           schoolwide project authority and the ability of  
13           such schools to consolidate funds from Federal,  
14           State, and local sources;

15           “(B) provide technical assistance and sup-  
16           port to schoolwide programs;

17           “(C) work in consultation with schools as  
18           the schools develop the schools’ plans pursuant  
19           to section 1114 and assist schools as the  
20           schools implement such plans or undertake ac-  
21           tivities pursuant to section 1115 so that each  
22           school can make adequate yearly progress to-  
23           ward meeting the State student achievement  
24           standards;



1           “(D) fulfill such agency’s school improve-  
2           ment responsibilities under section 1116, in-  
3           cluding taking corrective actions under section  
4           1116(b)(6);

5           “(E) provide services to eligible children  
6           attending private elementary and secondary  
7           schools in accordance with section 1120, and  
8           timely and meaningful consultation with private  
9           school officials regarding such services;

10           “(F) take into account the experience of  
11           model programs for the educationally disadvan-  
12           taged, and the findings of relevant scientifically  
13           based research indicating that services may be  
14           most effective if focused on students in the ear-  
15           liest grades at schools that receive funds under  
16           this part;

17           “(G) in the case of a local educational  
18           agency that chooses to use funds under this  
19           part to provide early childhood development  
20           services to low-income children below the age of  
21           compulsory school attendance, ensure that such  
22           services comply with the performance standards  
23           established under section 641A(a) of the Head  
24           Start Act;

1           “(H) comply with the requirements of sec-  
2           tion 1119 regarding the qualifications of teach-  
3           ers and paraprofessionals;

4           “(I) inform eligible schools of the local  
5           educational agency’s authority to obtain waivers  
6           on the school’s behalf under title VIII of this  
7           Act, and if the State is an Ed-Flex Partnership  
8           State, to obtain waivers under the Education  
9           Flexibility Partnership Act of 1999; and

10           “(J) coordinate and collaborate, to the ex-  
11           tent feasible and necessary as determined by  
12           the local educational agency, with other agen-  
13           cies providing services to children, youth, and  
14           families.

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

17           “(A) shall consult with the Secretary of  
18           Health and Human Services on the implemen-  
19           tation of such subparagraph and shall establish  
20           procedures (taking into consideration existing  
21           State and local laws, and local teacher con-  
22           tracts) to assist local educational agencies to  
23           comply with such subparagraph; and

24           “(B) upon publication, shall disseminate to  
25           local educational agencies the Head Start per-

1 formance standards as in effect under section  
2 641A(a) of the Head Start Act, and such agen-  
3 cies affected by such subparagraph shall plan  
4 for the implementation of such subparagraph  
5 (taking into consideration existing State and  
6 local laws, and local teacher contracts), includ-  
7 ing pursuing the availability of other Federal,  
8 State, and local funding sources to assist in  
9 compliance with such subparagraph.

10 “(3) INAPPLICABILITY.—The provisions of this  
11 subsection shall not apply to preschool programs  
12 using the Even Start model or to Even Start pro-  
13 grams which are expanded through the use of funds  
14 under this part.

15 “(d) PLAN DEVELOPMENT AND DURATION.—

16 “(1) CONSULTATION.—Each local educational  
17 agency plan shall be developed in consultation with  
18 teachers, administrators (including administrators of  
19 programs described in other parts of this title), and  
20 other appropriate school personnel, and with parents  
21 of children in schools served under this part.

22 “(2) DURATION.—Each such plan shall be sub-  
23 mitted for the first year for which this part is in ef-  
24 fect following the date of the enactment of the No  
25 Child Left Behind Act of 2001 and shall remain in

1 effect for the duration of the agency’s participation  
2 under this part.

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

6 “(e) STATE APPROVAL.—

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

10 “(2) APPROVAL.—The State educational agency  
11 shall approve a local educational agency’s plan only  
12 if the State educational agency determines that the  
13 local educational agency’s plan—

14 “(A) enables schools served under this part  
15 to substantially help children served under this  
16 part meet the standards expected of all children  
17 described in section 1111(b)(1); and

18 “(B) meets the requirements of this sec-  
19 tion.

20 “(f) PROGRAM RESPONSIBILITY.—The local edu-  
21 cational agency plan shall reflect the shared responsibility  
22 of schools, teachers, and the local educational agency in  
23 making decisions regarding activities under sections 1114  
24 and 1115.

1       “(g) PARENTAL NOTIFICATION AND CONSENT FOR  
2 ENGLISH LANGUAGE INSTRUCTION.—

3           “(1) NOTIFICATION.—If a local educational  
4 agency uses funds under this part to provide English  
5 language instruction to limited English proficient  
6 children, the agency shall inform a parent or the  
7 parents of a child participating in an English lan-  
8 guage instruction program for limited English pro-  
9 ficient children assisted under this part of—

10           “(A) the reasons for the identification of  
11 the child as being in need of English language  
12 instruction;

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

16           “(C) how the English language instruction  
17 program will specifically help the child acquire  
18 English and meet age-appropriate standards for  
19 grade promotion and graduation;

20           “(D) what the specific exit requirements  
21 are for the program;

22           “(E) the expected rate of graduation from  
23 the program into mainstream classes; and

1           “(F) the expected rate of graduation from  
2 high school for the program if funds under this  
3 part are used for children in secondary schools.

4           “(2) CONSENT.—

5           “(A) IN GENERAL.—A parent or the par-  
6 ents of a limited English proficient child who is  
7 identified for participation in an English lan-  
8 guage instruction program for limited English  
9 proficient children assisted under this part  
10 shall—

11           “(i) sign a form consenting to the stu-  
12 dent’s placement in such a program prior  
13 to such time as the student is enrolled in  
14 the program; and

15           “(ii) select among methods of instruc-  
16 tion, if more than 1 method is offered in  
17 the program.

18           “(B) REMOVAL FROM PROGRAM UPON PA-  
19 RENTAL REQUEST.—A parent or the parents of  
20 a limited English proficient child who is partici-  
21 pating in an English language instruction pro-  
22 gram for limited English proficient children as-  
23 sisted under this part shall have the right to  
24 have their child immediately removed from the  
25 program upon their request.

1           “(3) RECEIPT OF INFORMATION.—A parent or  
2           the parents of a limited English proficient child who  
3           is identified for participation in an English language  
4           instruction program for limited English proficient  
5           children assisted under this part shall receive, in a  
6           manner and form understandable to the parent or  
7           parents, the information required by this subsection.  
8           At a minimum, the parent or parents shall receive—

9                   “(A) timely information about English lan-  
10                  guage instruction programs for limited English  
11                  proficient children assisted under this part;

12                   “(B) if a parent of a participating child so  
13                  desires, notice of opportunities for regular  
14                  meetings for the purpose of formulating and re-  
15                  sponding to recommendations from such parent  
16                  or parents; and

17                   “(C) procedural information for removing  
18                  a child from a program for limited English pro-  
19                  ficient children.

20           “(4) BASIS FOR ADMISSION OR EXCLUSION.—  
21           Students shall not be admitted to, or excluded from,  
22           any federally-assisted education program on the  
23           basis of a surname or language-minority status.

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

25           “(a) DETERMINATION.—

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

4           “(2) ELIGIBLE SCHOOL ATTENDANCE AREAS.—  
5 For the purposes of this part—

6           “(A) the term ‘school attendance area’  
7 means, in relation to a particular school, the  
8 geographical area in which the children who are  
9 normally served by that school reside; and

10           “(B) the term ‘eligible school attendance  
11 area’ means a school attendance area in which  
12 the percentage of children from low-income  
13 families is at least as high as the percentage of  
14 children from low-income families in the local  
15 educational agency as a whole.

16           “(3) LOCAL EDUCATIONAL AGENCY DISCRE-  
17 TION.—

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

20           “(i) designate as eligible any school  
21 attendance area or school in which at least  
22 35 percent of the children are from low-in-  
23 come families;

24           “(ii) use funds received under this  
25 part in a school that is not in an eligible



1 school attendance area, if the percentage  
2 of children from low-income families en-  
3 rolled in the school is equal to or greater  
4 than the percentage of such children in a  
5 participating school attendance area of  
6 such agency;

7 “(iii) designate and serve a school at-  
8 tendance area or school that is not eligible  
9 under subsection (b), but that was eligible  
10 and that was served in the preceding fiscal  
11 year, but only for 1 additional fiscal year;  
12 and

13 “(iv) elect not to serve an eligible  
14 school attendance area or eligible school  
15 that has a higher percentage of children  
16 from low-income families if—

17 “(I) the school meets the com-  
18 parability requirements of section  
19 1120A(c);

20 “(II) the school is receiving sup-  
21 plemental funds from other State or  
22 local sources that are spent according  
23 to the requirements of section 1114 or  
24 1115; and

1                   “(III) the funds expended from  
2                   such other sources equal or exceed the  
3                   amount that would be provided under  
4                   this part.

5                   “(B) SPECIAL RULE.—Notwithstanding  
6                   subparagraph (A)(iv), the number of children  
7                   attending private elementary and secondary  
8                   schools who are to receive services, and the as-  
9                   sistance such children are to receive under this  
10                  part, shall be determined without regard to  
11                  whether the public school attendance area in  
12                  which such children reside is assisted under  
13                  subparagraph (A).

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

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

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

24                           “(B) all remaining eligible school attend-  
25                           ance areas in which the concentration of chil-

1           dren from low-income families is 75 percent or  
2           lower either by grade span or for the entire  
3           local educational agency;

4           “(2) shall, within each category listed in para-  
5           graph (1), serve schools in rank order from highest  
6           to lowest according to the ranking assigned under  
7           paragraph (1);

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

13          “(4) not serve a school described in paragraph  
14          (1)(B) before serving a school described in para-  
15          graph (1)(A).

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

21                 “(1) ALLOCATION TO PUBLIC SCHOOL ATTEND-  
22                 ANCE AREAS.—The local educational agency shall  
23                 use the same measure of poverty, which measure  
24                 shall be the number of children ages 5 through 17  
25                 in poverty counted in the most recent census data

1 approved by the Secretary, the number of children  
2 eligible for free and reduced priced lunches under  
3 the National School Lunch Act, the number of chil-  
4 dren in families receiving assistance under the State  
5 program funded under part A of title IV of the So-  
6 cial Security Act, or the number of children eligible  
7 to receive medical assistance under the Medicaid  
8 program, or a composite of such indicators, with re-  
9 spect to all school attendance areas in the local edu-  
10 cational agency—

11 “(A) to identify eligible school attendance  
12 areas;

13 “(B) to determine the ranking of each  
14 area; and

15 “(C) to determine allocations under sub-  
16 section (f).

17 “(2) ALLOCATION FOR EQUITABLE SERVICE TO  
18 PRIVATE SCHOOL STUDENTS.—

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

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

1           “(ii) using the results of a survey  
2           that, to the extent possible, protects the  
3           identity of families of private school stu-  
4           dents and allowing such survey results to  
5           be extrapolated if complete actual data are  
6           not available; or

7           “(iii) applying the low-income percent-  
8           age of each participating public school at-  
9           tendance area, determined pursuant to this  
10          section, to the number of private school  
11          children who reside in that attendance  
12          area.

13          “(B) COMPLAINT PROCESS.—Any dispute  
14          regarding low-income data on private school  
15          students shall be subject to the complaint proc-  
16          ess authorized in section 8505.

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

21          “(e) WAIVER FOR DESEGREGATION PLANS.—The  
22          Secretary may approve a local educational agency’s writ-  
23          ten request for a waiver of the requirements of subsections  
24          (a) and (f), and permit such agency to treat as eligible,  
25          and serve, any school that children attend under a deseg-

1 reigation plan ordered by a State or court or approved by  
2 the Secretary, or such a plan that the agency continues  
3 to implement after it has expired, if—

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

7           “(2) the Secretary determines on the basis of a  
8 written request from such agency and in accordance  
9 with such criteria as the Secretary establishes, that  
10 approval of that request would further the purposes  
11 of this part.

12           “(f) ALLOCATIONS.—

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

19           “(2) SPECIAL RULE.—(A) Except as provided  
20 in subparagraph (B), the per-pupil amount of funds  
21 allocated to each school attendance area or school  
22 under paragraph (1) shall be at least 125 percent of  
23 the per-pupil amount of funds a local educational  
24 agency received for that year under the poverty cri-  
25 teria described by the local educational agency in the

1 plan submitted under section 1112, except that this  
2 paragraph shall not apply to a local educational  
3 agency that only serves schools in which the percent-  
4 age of such children is 35 percent or greater.

5 “(B) A local educational agency may reduce the  
6 amount of funds allocated under subparagraph (A)  
7 for a school attendance area or school by the amount  
8 of any supplemental State and local funds expended  
9 in that school attendance area or school for pro-  
10 grams that meet the requirements of section 1114 or  
11 1115.

12 “(3) RESERVATION.—A local educational agen-  
13 cy shall reserve such funds as are necessary under  
14 this part to provide services comparable to those  
15 provided to children in schools funded under this  
16 part to serve—

17 “(A) homeless children who do not attend  
18 participating schools, including providing educa-  
19 tionally related support services to children in  
20 shelters;

21 “(B) children in local institutions for ne-  
22 glected or delinquent children; and

23 “(C) if appropriate, neglected and delin-  
24 quent children in community day school pro-  
25 grams.

1           “(4) SCHOOL IMPROVEMENT RESERVATION.—  
2           In addition to the funding a local educational agency  
3           receives under section 1003(b), a local educational  
4           agency may reserve such funds as are necessary  
5           under this part to meet such agency’s school im-  
6           provement responsibilities under section 1116, in-  
7           cluding taking corrective actions under section  
8           1116(b)(6).

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

17 **“SEC. 1114. SCHOOLWIDE PROGRAMS.**

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

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

24                 “(2) to help ensure that all children in such a  
25                 school meet challenging State standards for student



1 achievement, particularly those children who are  
2 most at-risk of not meeting those standards.

3 “(b) USE OF FUNDS FOR SCHOOLWIDE PRO-  
4 GRAMS.—

5 “(1) IN GENERAL.—A local educational agency  
6 may consolidate funds under this part, together with  
7 other Federal, State, and local funds, in order to up-  
8 grade the entire educational program of a school  
9 that serves an eligible school attendance area in  
10 which not less than 25 percent of the children are  
11 from low-income families, or not less than 25 per-  
12 cent of the children enrolled in the school are from  
13 such families.

14 “(2) IDENTIFICATION OF STUDENTS NOT RE-  
15 QUIRED.—

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

22 “(B) SUPPLEMENT FUNDS.—A school par-  
23 ticipating in a schoolwide program shall use  
24 funds available to carry out this section only to  
25 supplement the amount of funds that would, in

1 the absence of funds under this part, be made  
2 available from non-Federal sources for the  
3 school, including funds needed to provide serv-  
4 ices that are required by law for children with  
5 disabilities and children with limited English  
6 proficiency.

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

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

23 “(B) REQUIREMENTS.—A school that  
24 chooses to use funds from such other programs  
25 shall not be relieved of the requirements relat-

1 ing to health, safety, civil rights, student and  
2 parental participation and involvement, services  
3 to private school children, maintenance of ef-  
4 fort, uses of Federal funds to supplement, not  
5 supplant non-Federal funds, or the distribution  
6 of funds to State or local educational agencies  
7 that apply to the receipt of funds from such  
8 programs.

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

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

1 consortium with another school to carry out such ac-  
2 tivities.

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

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

6 “(A) A comprehensive needs assessment of  
7 the entire school (including taking into account  
8 the needs of migratory children as defined in  
9 section 1309(2)) that is based on information  
10 which includes the performance of children in  
11 relation to the State content standards and the  
12 State student achievement standards described  
13 in section 1111(b)(1).

14 “(B) Schoolwide reform strategies that—

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

19 “(ii) use effective methods and in-  
20 structional strategies that are based upon  
21 scientifically based research that—

22 “(I) strengthen the core aca-  
23 demic program in the school;

24 “(II) increase the amount and  
25 quality of learning time, such as pro-

1           viding an extended school year and  
2           before- and after-school and summer  
3           programs and opportunities, and help  
4           provide an enriched and accelerated  
5           curriculum; and

6                   “(III) include strategies for meet-  
7           ing the educational needs of histori-  
8           cally underserved populations;

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

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

19                   “(iv) are consistent with, and are de-  
20          signed to implement, the State and local  
21          improvement plans, if any.

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

24                   “(D) In accordance with section 1119A  
25          and subsection (b)(4), high quality and ongoing

1 professional development for teachers and para-  
2 professionals, and, where appropriate, pupil  
3 services personnel, parents, principals, and  
4 other staff to enable all children in the school  
5 to meet the State’s student achievement stand-  
6 ards.

7 “(E) Strategies to attract quality teachers  
8 to high need schools, such as differential pay  
9 systems or performance based pay.

10 “(F) Strategies to increase parental in-  
11 volvement in accordance with section 1118,  
12 such as family literary services.

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

18 “(H) Measures to include teachers in the  
19 decisions regarding the use of assessments de-  
20 scribed in section 1111(b)(4) in order to pro-  
21 vide information on, and to improve, the per-  
22 formance of individual students and the overall  
23 instructional program.

24 “(I) Activities to ensure that students who  
25 experience difficulty mastering the proficient or

1 advanced levels of performance standards re-  
2 quired by section 1111(b) shall be provided with  
3 effective, timely additional assistance which  
4 shall include measures to ensure that students'  
5 difficulties are identified on a timely basis and  
6 to provide sufficient information on which to  
7 base effective assistance.

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

15 “(A) incorporates the components de-  
16 scribed in paragraph (1);

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

20 “(C) includes a list of State and local edu-  
21 cational agency programs and other Federal  
22 programs under subsection (b)(4) that will be  
23 consolidated in the schoolwide program.

24 “(3) PLAN DEVELOPMENT.—The comprehen-  
25 sive plan shall be—

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

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

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

16           “(B) developed with the involvement of the  
17 community to be served and individuals who  
18 will carry out such plan, including teachers,  
19 principals, administrators (including adminis-  
20 trators of programs described in other parts of  
21 this title), if appropriate pupil services per-  
22 sonnel, school staff and parents, and, if the  
23 plan relates to a secondary school, students  
24 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 where 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 achievement  
20 standards on the basis of assessments under this  
21 part, and, as appropriate, on the basis of multiple,  
22 educationally related, objective criteria established  
23 by the local educational agency and supplemented by  
24 the school, except that children from preschool  
25 through grade 2 may be selected solely on the basis

1 of such criteria as teacher judgment, interviews with  
2 parents, and other appropriate measures.

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

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

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

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

22 “(ii) A child in a local institution for neglected  
23 or delinquent children or attending a community day  
24 program for such children is eligible for services  
25 under this part.

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

4           “(c) COMPONENTS OF A TARGETED ASSISTANCE  
5           SCHOOL PROGRAM.—

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

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

17                 “(B) ensure that planning for students  
18                 served under this part is incorporated into ex-  
19                 isting school planning;

20                 “(C) use effective methods and instruc-  
21                 tional strategies that are based upon scientif-  
22                 ically based research that strengthens the core  
23                 academic program of the school and that—

24                         “(i) give primary consideration to pro-  
25                         viding extended learning time such as an

1 extended school year, before- and after-  
2 school, and summer programs and oppor-  
3 tunities;

4 “(ii) help provide an accelerated, high-  
5 quality curriculum, including applied learn-  
6 ing; and

7 “(iii) minimize removing children  
8 from the regular classroom during regular  
9 school hours for instruction provided under  
10 this part;

11 “(D) coordinate with and support the reg-  
12 ular education program, which may include  
13 services to assist preschool children in the tran-  
14 sition from early childhood programs or Early  
15 Reading First programs to elementary school  
16 programs;

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

19 “(F) in accordance with subsection (e)(3)  
20 and section 1119A, provide opportunities for  
21 professional development with resources pro-  
22 vided under this part, and, to the extent prac-  
23 ticable, from other sources, for teachers, prin-  
24 cipals, and administrators and other school  
25 staff, including, if appropriate, pupil services

1 personnel, who work with participating children  
2 in programs under this section or in the regular  
3 education program; and

4 “(G) provide strategies to increase paren-  
5 tal involvement in accordance with section  
6 1118, such as family literacy services.

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

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

14 “(B) reviewing, on an ongoing basis, the  
15 progress of participating children and revising  
16 the targeted assistance program, if necessary,  
17 to provide additional assistance to enable such  
18 children to meet the State’s challenging student  
19 achievement standards, such as an extended  
20 school year, before- and after-school, and sum-  
21 mer programs and opportunities, training for  
22 teachers regarding how to identify students that  
23 require additional assistance, and training for  
24 teachers regarding how to implement student  
25 achievement standards in the classroom.

1       “(d) INTEGRATION OF PROFESSIONAL DEVELOP-  
2 MENT.—To promote the integration of staff supported  
3 with funds under this part, public school personnel who  
4 are paid with funds received under this part may partici-  
5 pate in general professional development and school plan-  
6 ning activities.

7       “(e) SPECIAL RULES.—

8           “(1) SIMULTANEOUS SERVICE.—Nothing in this  
9 section shall be construed to prohibit a school from  
10 serving students served under this section simulta-  
11 neously with students with similar educational  
12 needs, in the same educational settings where appro-  
13 priate.

14           “(2) COMPREHENSIVE SERVICES.—If health,  
15 nutrition, and other social services are not otherwise  
16 available to eligible children in a targeted assistance  
17 school and such school, if appropriate, has engaged  
18 in a comprehensive needs assessment and established  
19 a collaborative partnership with local service pro-  
20 viders, and if funds are not reasonably available  
21 from other public or private sources to provide such  
22 services, then a portion of the funds provided under  
23 this part may be used as a last resort to provide  
24 such services, including—

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

3           “(B) professional development necessary to  
4           assist teachers, pupil services personnel, other  
5           staff, and parents in identifying and meeting  
6           the comprehensive needs of eligible children.

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

15 **“SEC. 1115A. SCHOOL CHOICE.**

16          “(a) CHOICE PROGRAMS.—A local educational agen-  
17          cy may use funds under this part, in combination with  
18          State, local, and private funds, to develop and implement  
19          public school choice programs, for children eligible for as-  
20          sistance under this part, which permit parents to select  
21          the public school that their child will attend.

22          “(b) CHOICE PLAN.—A local educational agency that  
23          chooses to implement a public school choice program shall  
24          first develop a plan that includes assurances that—



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

4           “(2) describe how the school will use resources  
5 under this part and from other sources to implement  
6 the plan;

7           “(3) the plan will be developed with the involve-  
8 ment of parents and others in the community to be  
9 served and individuals who will carry out the plan,  
10 including administrators, teachers, principals, and  
11 other staff;

12           “(4) parents of eligible students in the local  
13 educational agency will be given prompt notice of the  
14 existence of the public school choice program and its  
15 availability to them, and a clear explanation of how  
16 the program will operate;

17           “(5) the program will include charter schools  
18 and any other public school and shall not include a  
19 school that is or has been identified as a school in  
20 school improvement or is or has been in corrective  
21 action for the past 2 consecutive years;

22           “(6) transportation services or the costs of  
23 transportation may be provided by the local edu-  
24 cational agency with funds under this part; and

1           “(7) such local educational agency will comply  
2           with the other requirements of this part.

3   **“SEC. 1116. ASSESSMENT AND LOCAL EDUCATIONAL AGEN-**  
4                                   **CY AND SCHOOL IMPROVEMENT.**

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

7                   “(1) use the State assessments described in the  
8           State plan;

9                   “(2) use any additional measures or indicators  
10           described in the local educational agency’s plan to  
11           review annually the progress of each school served  
12           under this part to determine whether the school is  
13           meeting, or making adequate yearly progress as de-  
14           fined in section 1111(b)(2)(B) toward enabling its  
15           students to meet the State’s student achievement  
16           standards described in the State plan;

17                   “(3) publicize and disseminate to teachers and  
18           other staff, parents, students, and the community,  
19           the results of the annual review under paragraph  
20           (2);

21                   “(4) review the effectiveness of the actions and  
22           activities the schools are carrying out under this  
23           part with respect to parental involvement assisted  
24           under this Act.

25           “(b) SCHOOL IMPROVEMENT.—

1 “(1) IN GENERAL.—

2 “(A) IDENTIFICATION.—A local edu-  
3 cational agency shall identify for school im-  
4 provement any elementary or secondary school  
5 served under this part that—

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

9 “(ii) was in school improvement status  
10 under this section immediately before the  
11 effective date of the No Child Left Behind  
12 Act of 2001.

13 “(B) APPLICATION.—Paragraph (1) does  
14 not apply to a school if almost every student in  
15 the school is meeting the State’s advanced level  
16 of performance.

17 “(C) REVIEW.—To determine if an ele-  
18 mentary school or a secondary school that is  
19 conducting a targeted assistance program under  
20 section 1115 should be identified for school im-  
21 provement under this subsection, a local edu-  
22 cational agency may choose to review the  
23 progress of only the students in the school who  
24 are served, or are eligible for services, under  
25 this part.

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

3           “(A) Before identifying an elementary  
4 school or a secondary school for school improve-  
5 ment under paragraph (1), for corrective action  
6 under section 1116(b)(6), or for restructuring  
7 under section 1116(b)(7), the local educational  
8 agency shall provide the school with an oppor-  
9 tunity to review the school-level data, including  
10 assessment data, on which the proposed identi-  
11 fication is based.

12           “(B) EVIDENCE.—If the principal of a  
13 school proposed for identification under para-  
14 graph (1), (6), or (7) believes that the proposed  
15 identification is in error for statistical or other  
16 substantive reasons, the principal may provide  
17 supporting evidence to the local educational  
18 agency, which shall consider that evidence be-  
19 fore making a final determination.

20           “(C) FINAL DETERMINATION.—Not later  
21 than 30 days after a local educational agency  
22 makes an initial determination concerning iden-  
23 tifying a school under paragraph (1), (6), or  
24 (7), the local educational agency shall make

1 public a final determination on the status of the  
2 school.

3 “(3) SCHOOL PLAN.—

4 “(A) REVISED PLAN.—Each school identi-  
5 fied under paragraph (1) for school improve-  
6 ment shall, not later than 3 months after being  
7 so identified, develop or revise a school plan, in  
8 consultation with parents, school staff, the local  
9 educational agency serving the school, the local  
10 school board, and other outside experts, for ap-  
11 proval by such local educational agency. The  
12 school plan shall cover a 2-year period and—

13 “(i) incorporate scientifically based re-  
14 search strategies that strengthen the core  
15 academic subjects in the school and ad-  
16 dress the specific academic issues that  
17 caused the school to be identified for  
18 school improvement;

19 “(ii) adopt policies and practices con-  
20 cerning the school’s core academic subjects  
21 that have the greatest likelihood of ensur-  
22 ing that all groups of students specified in  
23 section 1111(b)(2)(C)(iii)(I) and (II) and  
24 enrolled in the school will meet the State’s  
25 proficient level of achievement on the State

1 assessment described in section 1111(b)(4)  
2 not later than 10 years after the date of  
3 enactment of the No Child Left Behind  
4 Act of 2001;

5 “(iii) provide an assurance that the  
6 school shall reserve not less than 10 per-  
7 cent of the funds made available to the  
8 school under this part for each fiscal year  
9 that the school is in school improvement  
10 status, for the purpose of providing to the  
11 school’s teachers and principal high-quality  
12 professional development that—

13 “(I) directly addresses the aca-  
14 demic performance problem that  
15 caused the school to be identified for  
16 school improvement; and

17 “(II) meets the requirements for  
18 professional development activities  
19 under section 1119A;

20 “(iv) specify how the funds described  
21 in clause (iii) will be used to remove the  
22 school from school improvement status;

23 “(v) establish specific annual, measur-  
24 able goals for continuous and significant  
25 progress by each group of students speci-

1                   fied in section 1111(b)(2)(C)(iii)(I) and  
2                   (II) and enrolled in the school that will en-  
3                   sure that all such groups of students shall  
4                   meet the State’s proficient level of achieve-  
5                   ment on the State assessment described in  
6                   section 1111(b)(4) not later than 10 years  
7                   after the date of enactment of the No  
8                   Child Left Behind Act of 2001;

9                   “(vi) identify how the school will pro-  
10                  vide written notification about the identi-  
11                  fication to parents of each student enrolled  
12                  in such school, in a format and, to the ex-  
13                  tent practicable, in a language the parents  
14                  can understand; and

15                  “(vii) specify the responsibilities of  
16                  the school, the local educational agency,  
17                  and the State educational agency serving  
18                  the school under the plan, including the  
19                  technical assistance to be provided by the  
20                  local educational agency under paragraph  
21                  (4).

22                  “(B) CONDITIONAL APPROVAL.—The local  
23                  educational agency may condition approval of a  
24                  school plan on inclusion of 1 or more of the cor-  
25                  rective actions specified in paragraph (6)(D)(ii).

1           “(C) PLAN IMPLEMENTATION.—A school  
2 shall implement the school plan (including a re-  
3 vised plan) expeditiously, but not later than the  
4 beginning of the school year following the  
5 school year in which the school was identified  
6 for school improvement.

7           “(D) LOCAL EDUCATIONAL AGENCY AP-  
8 PROVAL.—The local educational agency shall—

9                   “(i) establish a peer-review process to  
10 assist with review of a school plan pre-  
11 pared by a school served by the local edu-  
12 cational agency; and

13                   “(ii) promptly review the school plan,  
14 work with the school as necessary, and ap-  
15 prove the school plan if it meets the re-  
16 quirements of this paragraph.

17           “(4) TECHNICAL ASSISTANCE.—

18                   “(A) IN GENERAL.—For each school iden-  
19 tified for school improvement under paragraph  
20 (1), the local educational agency serving the  
21 school shall provide technical assistance with  
22 funds allocated under section 1003 as the  
23 school develops and implements the school plan.

24                   “(B) SPECIFIC ASSISTANCE.—Such tech-  
25 nical assistance—



1           “(i) shall include assistance in ana-  
2           lyzing data from the assessments required  
3           under section 1111(b)(4), and other sam-  
4           ples of student work, to identify and ad-  
5           dress instructional problems and solutions;

6           “(ii) shall include assistance in identi-  
7           fying and implementing instructional strat-  
8           egies and methods that are tied to scientif-  
9           ically based research and that have proven  
10          effective in addressing the specific instruc-  
11          tional issues that caused the school to be  
12          identified for school improvement;

13          “(iii) shall include assistance in ana-  
14          lyzing and revising the school’s budget so  
15          that the school resources are more effec-  
16          tively allocated for the activities most likely  
17          to increase student performance and to re-  
18          move the school from school improvement  
19          status; and

20          “(iv) may be provided—

21                  “(I) by the local educational  
22                  agency, through mechanisms author-  
23                  ized under section 1117; or

24                  “(II) by the State educational  
25                  agency, an institution of higher edu-

1 cation (in full compliance with all the  
2 reporting provisions of title II of the  
3 Higher Education Act of 1965), a pri-  
4 vate not-for-profit organization or for-  
5 profit organization, an educational  
6 service agency, or another entity with  
7 experience in helping schools improve  
8 performance.

9 “(C) SCIENTIFICALLY BASED RE-  
10 SEARCH.—Technical assistance provided under  
11 this section by a local educational agency or an  
12 entity approved by that agency shall be based  
13 on scientifically based research.

14 “(5) NOTIFICATION TO PARENTS.—A local edu-  
15 cational agency shall promptly provide parents (in a  
16 format and, to the extent practicable, in a language  
17 they can understand) of each student in an elemen-  
18 tary school or a secondary school identified for  
19 school improvement—

20 “(A) an explanation of what the school im-  
21 provement identification means, and how the  
22 school identified for school improvement com-  
23 pares in terms of academic achievement to  
24 other elementary schools or secondary schools

1 served by the local educational agency and the  
2 State educational agency involved;

3 “(B) the reasons for the identification;

4 “(C) an explanation of what the school  
5 identified for school improvement is doing to  
6 address the problem of low achievement;

7 “(D) an explanation of what the local edu-  
8 cational agency or State educational agency is  
9 doing to help the school address the achieve-  
10 ment problem; and

11 “(E) an explanation of how parents de-  
12 scribed in this paragraph can become involved  
13 in addressing the academic issues that caused  
14 the school to be identified for school improve-  
15 ment.

16 “(6) CORRECTIVE ACTION.—

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

20 “(i) substantially and directly re-  
21 sponds to—

22 “(I) the consistent academic fail-  
23 ure of a school that caused the local  
24 educational agency to take such ac-  
25 tion; and

1                   “(II) any underlying staffing,  
2                   curriculum, or other problem in the  
3                   school; and

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

11                  “(B) SYSTEM.—In order to help students  
12                  served under this part meet challenging State  
13                  standards, each local educational agency shall  
14                  implement a system of corrective action in ac-  
15                  cordance with subparagraphs (C) through (F)  
16                  and paragraphs (7) through (9).

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

19                         “(i) may identify for corrective action  
20                         and take corrective action with respect to  
21                         any school identified as in need of improve-  
22                         ment under paragraph (1);

23                         “(ii) after providing technical assist-  
24                         ance under paragraph (4), shall identify  
25                         for corrective action and take corrective ac-

1           tion with respect to any school served by  
2           the local educational agency under this  
3           part that—

4                   “(I) fails to make adequate year-  
5                   ly progress, as defined by the State  
6                   under section 1111(b)(2), at the end  
7                   of the first school year after the  
8                   school year in which the school was  
9                   identified under paragraph (1); or

10                   “(II) was in school-improvement  
11                   status for 2 years or in corrective-ac-  
12                   tion status under this subsection im-  
13                   mediately before the effective date of  
14                   the No Child Left Behind Act of  
15                   2001;

16                   “(iii) shall continue to provide tech-  
17                   nical assistance while instituting any cor-  
18                   rective action under clause (i) or (ii); and

19                   “(iv) shall, in any case described in  
20                   clause (ii), promptly notify parents of the  
21                   option to transfer their child to another  
22                   public school under subparagraph (D)(i).

23                   “(D) REQUIREMENTS.—In the case of a  
24                   school described in subparagraph (C)(ii), the  
25                   local educational agency shall both—

1           “(i) provide all students enrolled in  
2           the school with the option to transfer to  
3           another public school within the local edu-  
4           cational agency, including a public charter  
5           school, that has not been identified for  
6           school improvement under paragraph (1),  
7           unless such an option is prohibited by  
8           State law; and

9           “(ii) take at least 1 of the following  
10          corrective actions:

11                 “(I) Replace the school staff  
12                 which are relevant to the failure to  
13                 make adequate yearly progress.

14                 “(II) Institute and fully imple-  
15                 ment a new curriculum, including pro-  
16                 viding appropriate professional devel-  
17                 opment for all relevant staff, that is  
18                 based on scientifically based research  
19                 and offers substantial promise of im-  
20                 proving educational performance for  
21                 low-performing students.

22                 “(E) DELAY.—A local educational agency  
23                 may delay, for a period not to exceed 1 year,  
24                 implementation of corrective action only if the  
25                 school’s failure to make adequate yearly

1 progress was justified due to exceptional or un-  
2 controllable circumstances, such as a natural  
3 disaster or a precipitous and unforeseen decline  
4 in the financial resources of the local edu-  
5 cational agency or school.

6 “(F) PUBLICATION AND DISSEMINA-  
7 TION.—The local educational agency shall pub-  
8 lish and disseminate information regarding any  
9 corrective action the local educational agency  
10 takes under this paragraph at a school—

11 “(i) to the public and to the parents  
12 of each student enrolled in the school sub-  
13 ject to corrective action;

14 “(ii) in a format and, to the extent  
15 practicable, in a language that the parents  
16 can understand; and

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

19 “(7) RESTRUCTURING.—

20 “(A) FAILURE TO MAKE ADEQUATE YEAR-  
21 LY PROGRESS.—If—

22 “(i) after 1 additional year, a school  
23 subject to corrective action under para-  
24 graph (6) continues to fail to make ade-  
25 quate yearly progress and students in the

1 school who are from economically dis-  
2 advantaged families are not making meas-  
3 urable progress in the subjects included in  
4 the State’s definition of adequate yearly  
5 progress; or

6 “(ii) for 2 additional years a school  
7 subject to corrective action under para-  
8 graph (6) fails to make adequate yearly  
9 progress, the local educational agency  
10 shall—

11 “(I) provide all students enrolled  
12 in the school with the option to trans-  
13 fer to another public school within the  
14 local educational agency, including a  
15 public charter school, that has not  
16 been identified for school improvement  
17 under paragraph (1), unless prohib-  
18 ited by State law;

19 “(II) make funds available to the  
20 economically disadvantaged child’s  
21 parents to place the child in a private  
22 school or to obtain supplementary  
23 educational services, in accordance  
24 with subsection (d); and



1                   “(III) prepare a plan and make  
2                   necessary arrangements to carry out  
3                   subparagraph (B).

4                   “(B) ALTERNATIVE GOVERNANCE.—Not  
5                   later than the beginning of the school year fol-  
6                   lowing the year in which the local educational  
7                   agency implements subparagraph (A), the local  
8                   educational agency shall implement 1 of the fol-  
9                   lowing alternative governance arrangements for  
10                  the school:

11                  “(i) Reopening the school as a public  
12                  charter school.

13                  “(ii) Replacing all or most of the  
14                  school staff.

15                  “(iii) With the approval of a majority  
16                  of the teachers at the school and a major-  
17                  ity of parents of children enrolled at the  
18                  school, operation of the school by another  
19                  entity, such as a private management com-  
20                  pany.

21                  “(iv) Turning the operation of the  
22                  school over to the State, if permitted under  
23                  State law and agreed to by the State.

24                  “(C) AVAILABLE RESULTS.—The State  
25                  educational agency shall ensure that, for any

1 school year in which a school is subject to cor-  
2 rective action under paragraph (6)(C)(ii), and  
3 for any school and school year described in sub-  
4 paragraph (A) or (B) of this paragraph, the re-  
5 sults of State assessments for that school are  
6 available to the local educational agency by the  
7 end of the school year in which the assessments  
8 are administered.

9 “(D) PROMPT NOTICE.—The local edu-  
10 cational agency shall provide prompt notice to  
11 teachers and parents whenever subparagraph  
12 (A) or (B) applies, shall provide them adequate  
13 opportunity to comment before taking any ac-  
14 tion under those paragraphs and to participate  
15 in developing any plan under subparagraph  
16 (A)(iii), and shall provide parents an expla-  
17 nation of the options under subparagraph (A)(i)  
18 and (ii).

19 “(8) TRANSPORTATION.—In any case described  
20 in paragraph (6)(D)(i), (7)(A)(i)(I), and  
21 (7)(A)(ii)(I) the local educational agency—

22 “(A) shall provide, or shall pay for the pro-  
23 vision of, transportation for the student to the  
24 school the child attends; and

1           “(B) may use not more than 15 percent of  
2           its allocation under this part for that purpose.

3           “(9) DURATION.—If any school identified for  
4           reconstitution under paragraph (7)—

5           “(A) makes adequate yearly progress for 2  
6           consecutive years, the local educational agency  
7           need no longer subject it to corrective action or  
8           identify it as in need of improvement; or

9           “(B) fails to make adequate yearly  
10          progress, but children from low-income families  
11          in the school make measurable educational  
12          progress for 1 year, the local educational agen-  
13          cy shall place or continue as appropriate the  
14          school in corrective action under paragraph (6).

15          “(10) STATE RESPONSIBILITIES.—The State  
16          shall—

17          “(A) make technical assistance under sec-  
18          tion 1117 available to all schools identified for  
19          school improvement and corrective action under  
20          this subsection, to the extent possible with  
21          funds reserved under section 1003; and

22          “(B) if it determines that a local edu-  
23          cational agency has failed to carry out its re-  
24          sponsibilities under this subsection, take such

1           corrective actions as the State finds appropriate  
2           and in compliance with State law.

3           “(c) STATE REVIEW AND LOCAL EDUCATIONAL  
4 AGENCY IMPROVEMENT.—

5           “(1) IN GENERAL.—A State shall—

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

13                   “(B) publicize and disseminate to local  
14          educational agencies, teachers and other staff,  
15          parents, students, and the community the re-  
16          sults of the State review consistent with section  
17          1111, including statistically sound  
18          disaggregated results, as required by section  
19          1111(b)(2).

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

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

1           “(B) was in improvement status under this  
2           section as this section was in effect on the day  
3           preceding the date of the enactment of the No  
4           Child Left Behind Act of 2001.

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

13          “(4) TARGETED ASSISTANCE SCHOOLS.—For  
14          purposes of targeted assistance schools in a local  
15          educational agency, a State educational agency may  
16          choose to review the progress of only the students in  
17          such schools who are served under this part.

18          “(5) OPPORTUNITY TO REVIEW AND PRESENT  
19          EVIDENCE.—

20                 “(A) REVIEW.—Before identifying a local  
21                 educational agency for improvement under  
22                 paragraph (2), a State educational agency shall  
23                 provide the local educational agency with an op-  
24                 portunity to review the local educational agency

1 data, including assessment data, on which that  
2 proposed identification is based.

3 “(B) SUPPORTING EVIDENCE.—If the local  
4 educational agency believes that the proposed  
5 identification is in error for statistical or other  
6 substantive reasons, it may provide supporting  
7 evidence to the State educational agency, which  
8 such agency shall consider before making a  
9 final determination.

10 “(6) NOTIFICATION TO PARENTS.—The State  
11 educational agency shall promptly notify parents in  
12 a format, and to the extent practicable in a language  
13 they can understand, of each student enrolled in a  
14 school in a local educational agency identified for  
15 improvement, of the reasons for such agency’s iden-  
16 tification and how parents can participate in upgrad-  
17 ing the quality of the local educational agency.

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

20 “(A) PLAN.—Each local educational agen-  
21 cy identified under paragraph (2) shall, not  
22 later than 3 months after being so identified,  
23 develop or revise a local educational agency  
24 plan, in consultation with parents, school staff,  
25 and others. Such plan shall—

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

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

9 “(I) have the greatest likelihood  
10 of improving the performance of par-  
11 ticipating children in meeting the  
12 State’s student achievement stand-  
13 ards;

14 “(II) address the professional de-  
15 velopment needs of staff; and

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

22 “(iii) identify how the local edu-  
23 cational agency will provide written notifi-  
24 cation to parents in a format, and to the  
25 extent practicable in a language, that they

1 can understand, pursuant to paragraph  
2 (6); and

3 “(iv) specify the responsibilities of the  
4 State educational agency and the local edu-  
5 cational agency under the plan.

6 “(B) IMPLEMENTATION.—The local edu-  
7 cational agency shall implement its plan or re-  
8 vised plan expeditiously, but not later than the  
9 beginning of the school year after which the  
10 school has been identified for improvement.

11 “(8) STATE RESPONSIBILITY.—

12 “(A) IN GENERAL.—For each local edu-  
13 cational agency identified under paragraph (2),  
14 the State shall provide technical or other assist-  
15 ance, if requested, as authorized under section  
16 1117, to better enable the local educational  
17 agency—

18 “(i) to develop and implement its re-  
19 vised plan as approved by the State edu-  
20 cational agency consistent with the require-  
21 ments of this section; and

22 “(ii) to work with schools needing im-  
23 provement.

24 “(B) TECHNICAL ASSISTANCE.—Technical  
25 assistance provided under this section by the



1 State educational agency or an entity author-  
2 ized by such agency shall be based upon sci-  
3 entifically based research.

4 “(9) CORRECTIVE ACTION.—In order to help  
5 students served under this part meet challenging  
6 State standards, each State shall implement a sys-  
7 tem of corrective action in accordance with the fol-  
8 lowing:

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

12 “(i) may take corrective action at any  
13 time with respect to a local educational  
14 agency that has been identified under  
15 paragraph (2);

16 “(ii) shall take corrective action with  
17 respect to any local educational agency  
18 that fails to make adequate yearly  
19 progress, as defined by the State, after the  
20 end of the second year following its identi-  
21 fication under paragraph (2); and

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

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

4           “(i) substantially and directly re-  
5 sponds to the consistent academic failure  
6 that caused the State to take such action  
7 and to any underlying staffing, curricular,  
8 or other problems in the school; and

9           “(ii) is designed to meet the goal of  
10 having all students served under this part  
11 perform at the proficient and advanced  
12 performance levels.

13           “(C) CERTAIN LOCAL EDUCATIONAL AGEN-  
14 CIES.—In the case of a local educational agency  
15 described in this paragraph, the State edu-  
16 cational agency shall take not less than 1 of the  
17 following corrective actions:

18           “(i) Withhold funds from the local  
19 educational agency.

20           “(ii) Replace the school district per-  
21 sonnel who are relevant to the failure to  
22 make adequate year progress.

23           “(iii) Remove particular schools from  
24 the jurisdiction of the local educational  
25 agency and establish alternative arrange-

1           ments for public governance and super-  
2           vision of such schools.

3           “(iv) Appoint, through the State edu-  
4           cational agency, a receiver or trustee to ad-  
5           minister the affairs of the local educational  
6           agency in place of the superintendent and  
7           school board.

8           “(v) Abolish or restructure the local  
9           educational agency.

10          “(vi) Authorize students to transfer  
11          from a school operated by a local edu-  
12          cational agency to a higher performing  
13          public school operated by another local  
14          educational agency, or to a public charter  
15          school and provide such students transpor-  
16          tation (or the costs of transportation to  
17          such schools), in conjunction with not less  
18          than 1 additional action described under  
19          this paragraph.

20          “(D) HEARING.—Prior to implementing  
21          any corrective action, the State educational  
22          agency shall provide due process and a hearing  
23          to the affected local educational agency, if State  
24          law provides for such process and hearing.

1           “(E) PUBLICATION.—The State edu-  
2           cational agency shall publish, and disseminate  
3           to parents and the public any corrective action  
4           it takes under this paragraph through such  
5           means as the Internet, the media, and public  
6           agencies.

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

16          “(10) SPECIAL RULE.—A local educational  
17          agency, that, for at least 2 of the 3 years following  
18          identification under paragraph (2), makes adequate  
19          yearly progress shall no longer be identified for  
20          school improvement.

21          “(d) PARENTAL CHOICE.—

22                 “(1) IN GENERAL.—In any case described in  
23                 section 1116(b)(7)(A)(ii)(II) the local educational  
24                 agency shall permit the parents of each eligible child  
25                 defined in paragraph (7)(A) to—

1           “(A) receive, from the agency, the child’s  
2 share of funds allocated to the school under this  
3 part, calculated under paragraph (2); and

4           “(B) use those funds to pay the costs of ei-  
5 ther or both of the following:

6           “(i) Notwithstanding any other provi-  
7 sion of this Act, attending a private school  
8 that agrees to—

9           “(I) assess the student in mathe-  
10 matics and reading and language arts  
11 each year during grades 3 through 8  
12 and at least once during grades 10  
13 through 12, using assessments that  
14 are comparable in what they measure  
15 to the assessments used by the State;  
16 and

17           “(II) provide the results of those  
18 assessments to the student’s parents.

19           “(ii) Obtaining supplemental edu-  
20 cational services from a provider approved  
21 for that purpose by the State educational  
22 agency, in accordance with reasonable cri-  
23 teria it shall adopt, and paying for the  
24 costs of transportation to obtain those  
25 services.

1           “(2) PER-CHILD AMOUNT.—The amount of a  
2 school’s allocation under this part that it shall make  
3 available to the parents of an eligible child under  
4 paragraph (1)(B) is equal to—

5           “(A) the amount of the school’s allocation  
6 under subpart 2 of this part, after subtracting  
7 amounts reserved by the school—

8           “(i) to carry out parental involvement  
9 activities under section 1118; and

10           “(ii) to provide professional develop-  
11 ment required by section 1119A; divided  
12 by—

13           “(B) the number of eligible children en-  
14 rolled in the school.

15           “(3) LIMITATION.—The amount of funds pro-  
16 vided to the parents of a child under this subsection  
17 shall not exceed the actual costs of the parents for  
18 either or both of the following:

19           “(A) Sending the child to a private school.

20           “(B) Obtaining supplemental educational  
21 services for the child and providing transpor-  
22 tation to those services.

23           “(4) DURATION.—The local educational agency  
24 shall continue to provide funds to parents of a child  
25 attending a private school under this section until

1 the child completes the grade corresponding to the  
2 highest grade offered at the public school the child  
3 previously attended.

4 “(5) NONDISCRIMINATION.—

5 “(A) Except as provided in subparagraph  
6 (B), title VI of the Civil Rights Act of 1964,  
7 title IX of the Education Amendments of 1972,  
8 and section 504 of the Rehabilitation Act of  
9 1973, do not apply to a private school that en-  
10 rolls an eligible child who receives funds under  
11 paragraph (1) by virtue of that child’s use of  
12 those funds to enroll at that school.

13 “(B) The local educational agency shall en-  
14 sure that a private school that enrolls an eligi-  
15 ble child described in subparagraph (A) shall  
16 afford the child the same rights against dis-  
17 crimination provided by the statutes identified  
18 in that subparagraph, and shall afford those  
19 same rights to any eligible child who applies to  
20 enroll in that school.

21 “(6) SCHOOL AID.—Funds used under this sub-  
22 section for attendance at a private school shall be  
23 considered assistance to the student and shall not be  
24 considered as assistance to any school that chooses  
25 to participate.

1           “(7) DEFINITIONS.—As used in this subsection,  
2           the term—

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

7                   “(B) ‘supplementary educational services’  
8                   means tutoring and other supplemental aca-  
9                   demic enrichment services.

10   **“SEC. 1117. STATE ASSISTANCE FOR SCHOOL SUPPORT AND**  
11                   **IMPROVEMENT.**

12           “(a) SYSTEM FOR SUPPORT.—Each State shall es-  
13           tablish a statewide system of intensive and sustained sup-  
14           port and improvement for local educational agencies and  
15           schools receiving funds under this part, in order to in-  
16           crease the opportunity for all students in those agencies  
17           and schools to meet the State’s content standards and stu-  
18           dent achievement standards.

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

21                   “(1) first, provide support and assistance to  
22                   local educational agencies subject to corrective action  
23                   under section 1116 and assist schools, in accordance  
24                   with section 1116(b)(10), for which a local edu-



1       cational agency has failed to carry out its respon-  
2       sibilities under section 1116(b)(8) and (9);

3           “(2) second, provide support and assistance to  
4       other local educational agencies identified as in need  
5       of improvement under section 1116; and

6           “(3) third, provide support and assistance to  
7       other local educational agencies and schools partici-  
8       pating under this part that need that support and  
9       assistance in order to achieve the purpose of this  
10      part.

11      “(c) APPROACHES.—In order to achieve the purpose  
12     described in subsection (a), each such system shall provide  
13     technical assistance and support through such approaches  
14     as—

15           “(1) school support teams, composed of individ-  
16     uals who are knowledgeable about scientifically  
17     based research and practice on teaching and learn-  
18     ing, particularly about strategies for improving edu-  
19     cational results for low-achieving children; and

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

24      “(d) FUNDS.—Each State—

1           “(1) shall use funds reserved under section  
2           1003(a); and

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

6           “(e) ALTERNATIVES.—The State may devise addi-  
7           tional approaches to providing the assistance described in  
8           paragraphs (1) and (2) of subsection (c), such as pro-  
9           viding assistance through institutions of higher education  
10          and educational service agencies or other local consortia,  
11          and private providers of scientifically based technical as-  
12          sistance and the State may seek approval from the Sec-  
13          retary to use funds made available under section 1002(g)  
14          for such approaches as part of the State plan.

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

16          “(a) ESTABLISHMENT OF ACADEMIC ACHIEVEMENT  
17          AWARDS PROGRAM.—

18                 “(1) IN GENERAL.—Each State receiving a  
19                 grant under this part may establish a program for  
20                 making academic achievement awards to recognize  
21                 and financially reward schools served under this part  
22                 that have—

23                         “(A) significantly closed the achievement  
24                         gap between the groups of students defined in  
25                         section 1111(b)(2); or

1           “(B) exceeded their adequate yearly  
2           progress goals, consistent with section  
3           1111(b)(2), for 2 or more consecutive years.

4           “(2) AWARDS TO TEACHERS.—A State program  
5           under paragraph (1) may also recognize and provide  
6           financial awards to teachers teaching in a school de-  
7           scribed in such paragraph whose students consist-  
8           ently make significant gains in academic achieve-  
9           ment in the areas in which the teacher provides in-  
10          struction.

11          “(b) FUNDING.—

12           “(1) RESERVATION OF FUNDS BY STATE.—For  
13           the purpose of carrying out this section, each State  
14           receiving a grant under this part may reserve, from  
15           the amount (if any) by which the funds received by  
16           the State under this part for a fiscal year exceed the  
17           amount received by the State under this part for the  
18           preceding fiscal year, not more than 30 percent of  
19           such excess amount.

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

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

3           “(A) IN GENERAL.—Each State receiving  
4           a grant under this part shall distribute at least  
5           50 percent of the amount reserved under para-  
6           graph (1) for each fiscal year to schools de-  
7           scribed in subparagraph (B), or to teachers  
8           teaching in such schools.

9           “(B) SCHOOL DESCRIBED.—A school de-  
10          scribed in subparagraph (A) is a school whose  
11          student population is in the highest quartile of  
12          schools statewide in terms of the percentage of  
13          children eligible for free and reduced priced  
14          lunches under the National School Lunch Act.

15 **“SEC. 1118. PARENTAL INVOLVEMENT.**

16          “(a) LOCAL EDUCATIONAL AGENCY POLICY.—

17               “(1) IN GENERAL.—A local educational agency  
18               may receive funds under this part only if such agen-  
19               cy implements programs, activities, and procedures  
20               for the involvement of parents in programs assisted  
21               under this part consistent with the provisions of this  
22               section. Such activities shall be planned and imple-  
23               mented with meaningful consultation with parents of  
24               participating children.

1           “(2) WRITTEN POLICY.—Each local educational  
2 agency that receives funds under this part shall de-  
3 velop jointly with, agree upon with, and distribute  
4 to, parents of participating children a written parent  
5 involvement policy that is incorporated into the local  
6 educational agency’s plan developed under section  
7 1112, establishes the expectations for parent involve-  
8 ment, and describes how the local educational agen-  
9 cy will—

10                   “(A) involve parents in the joint develop-  
11 ment of the plan under section 1112, and the  
12 process of school review and improvement under  
13 section 1116;

14                   “(B) provide the coordination, technical as-  
15 sistance, and other support necessary to assist  
16 participating schools in planning and imple-  
17 menting effective parent involvement;

18                   “(C) build the schools’ and parents’ capac-  
19 ity for strong parent involvement as described  
20 in subsection (e);

21                   “(D) coordinate and integrate parental in-  
22 volvement strategies under this part with paren-  
23 tal involvement strategies under other pro-  
24 grams, such as Head Start, Early Reading  
25 First, Reading First, Even Start, the Parents

1 as Teachers Program, the Home Instruction  
2 Program for Preschool Youngsters, and State-  
3 run preschool programs;

4 “(E) conduct, with the involvement of par-  
5 ents, an annual evaluation of the content and  
6 effectiveness of the parental involvement policy  
7 in improving the academic quality of the schools  
8 served under this part; and

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

11 “(3) RESERVATION.—

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

22 “(B) PARENTAL INPUT.—Parents of children  
23 receiving services under this part shall be involved in  
24 the decisions regarding how funds reserved under

1 subparagraph (A) are allotted for parental involve-  
2 ment activities.

3 “(C) DISTRIBUTION OF FUNDS.—Not less than  
4 95 percent of the funds reserved under subpara-  
5 graph (A) shall be distributed to schools served  
6 under this part.

7 “(b) SCHOOL PARENTAL INVOLVEMENT POLICY.—

8 “(1) IN GENERAL.—Each school served under  
9 this part shall jointly develop with, and distribute to,  
10 parents of participating children a written parental  
11 involvement policy, agreed upon by such parents,  
12 that shall describe the means for carrying out the  
13 requirements of subsections (c) through (f). Parents  
14 shall be notified of the policy in a format, and to the  
15 extent practicable in a language they can under-  
16 stand. Such policy shall be updated periodically to  
17 meet the changing needs of parents and the school.

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

22 “(3) AMENDMENT.—If the local educational  
23 agency has a school district-level parental involve-  
24 ment policy that applies to all parents, such agency

1 may amend that policy, if necessary, to meet the re-  
2 quirements of this subsection.

3 “(4) PARENTAL COMMENTS.—If the plan under  
4 section 1112 is not satisfactory to the parents of  
5 participating children, the local educational agency  
6 shall submit any parent comments with such plan  
7 when such local educational agency submits the plan  
8 to the State.

9 “(c) POLICY INVOLVEMENT.—Each school served  
10 under this part shall—

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

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

22 “(3) involve parents, in an organized, ongoing,  
23 and timely way, in the planning, review, and im-  
24 provement of programs under this part, including  
25 the school parental involvement policy and the joint



1 development of the schoolwide program plan under  
2 section 1114(c)(2) and (c)(3), except that if a school  
3 has in place a process for involving parents in the  
4 joint planning and design of its programs, the school  
5 may use that process, if such process includes an  
6 adequate representation of parents of participating  
7 children;

8 “(4) provide parents of participating children—

9 “(A) timely information about programs  
10 under this part;

11 “(B) a description and explanation of the  
12 curriculum in use at the school, the forms of as-  
13 sessment used to measure student progress, and  
14 the proficiency levels students are expected to  
15 meet; and

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

21 “(d) SHARED RESPONSIBILITIES FOR HIGH STU-  
22 DENT PERFORMANCE.—As a component of the school-  
23 level parental involvement policy developed under sub-  
24 section (b), each school served under this part shall jointly  
25 develop with parents for all children served under this part

1 a school-parent compact that outlines how parents, the en-  
2 tire school staff, and students will share the responsibility  
3 for improved student achievement and the means by which  
4 the school and parents will build and develop a partnership  
5 to help children achieve the State's high standards.

6 “(e) BUILDING CAPACITY FOR INVOLVEMENT.—To  
7 ensure effective involvement of parents and to support a  
8 partnership among the school, parents, and the commu-  
9 nity to improve student achievement, each school and local  
10 educational agency—

11 “(1) shall provide assistance to participating  
12 parents in such areas as understanding the State's  
13 content standards and State student achievement  
14 standards, the provisions of section 1111(b)(8),  
15 State and local assessments, the requirements of this  
16 part, and how to monitor a child's progress and  
17 work with educators to improve the performance of  
18 their children;

19 “(2) shall provide materials and training to  
20 help parents to work with their children to improve  
21 their children's achievement;

22 “(3) shall educate teachers, pupil services per-  
23 sonnel, principals and other staff, with the assist-  
24 ance of parents, in the value and utility of contribu-  
25 tions of parents, and in how to reach out to, commu-

1       nicate with, and work with parents as equal part-  
2       ners, implement and coordinate parent programs,  
3       and build ties between parents and the school;

4               “(4) shall coordinate and integrate parent in-  
5       volvement programs and activities with Head Start,  
6       Reading First, Early Reading First, Even Start, the  
7       Home Instruction Programs for Preschool Young-  
8       sters, the Parents as Teachers Program, and public  
9       preschool programs and other programs, to the ex-  
10      tent feasible and appropriate;

11              “(5) shall ensure, to the extent possible, that  
12      information related to school and parent programs,  
13      meetings, and other activities is sent to the parents  
14      of participating children in the language used by  
15      such parents;

16              “(6) may involve parents in the development of  
17      training for teachers, principals, and other educators  
18      to improve the effectiveness of such training in im-  
19      proving instruction and services to the children of  
20      such parents in a format, and to the extent prac-  
21      ticable, in a language the parent can understand;

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

1           “(8) may pay reasonable and necessary ex-  
2           penses associated with local parental involvement ac-  
3           tivities, including transportation and child care  
4           costs, to enable parents to participate in school-re-  
5           lated meetings and training sessions;

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

8           “(10) may arrange for teachers or other edu-  
9           cators, who work directly with participating children,  
10          to conduct in-home conferences with parents who are  
11          unable to attend such conferences at school;

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

14          “(12) may establish a districtwide parent advi-  
15          sory council to provide advice on all matters related  
16          to parental involvement in programs supported  
17          under this part; and

18          “(13) may develop appropriate roles for com-  
19          munity-based organizations and businesses in parent  
20          involvement activities.

21          “(f) ACCESSIBILITY.—In carrying out the parental  
22          involvement requirements of this part, local educational  
23          agencies and schools, to the extent practicable, shall pro-  
24          vide full opportunities for the participation of parents with  
25          limited English proficiency or with disabilities and parents

1 of migratory children, including providing information and  
2 school reports required under section 1111 in a format,  
3 and to the extent practicable, in a language such parents  
4 understand.

5 **“SEC. 1119. QUALIFICATIONS FOR TEACHERS AND PARA-**  
6 **PROFESSIONALS.**

7 “(a) TEACHERS.—

8 “(1) IN GENERAL.—Each local educational  
9 agency receiving assistance under this part shall en-  
10 sure that all teachers hired on or after the effective  
11 date of the No Child Left Behind Act of 2001 and  
12 teaching in a program supported with funds under  
13 this part are fully qualified.

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

25 “(b) NEW PARAPROFESSIONALS.—

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

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

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

11                   “(C) have met a rigorous standard of qual-  
12 ity that demonstrates, through a formal  
13 assessment—

14                           “(i) knowledge of, and the ability to  
15 assist in instructing reading, writing, and  
16 math; or

17                           “(ii) knowledge of, and the ability to  
18 assist in instructing reading readiness,  
19 writing readiness, and math readiness, as  
20 appropriate.

21           “(2) CLARIFICATION.—For purposes of para-  
22 graph (1)(C), the receipt of a high school diploma  
23 (or its recognized equivalent) shall be necessary but  
24 not by itself sufficient to satisfy the requirements of  
25 such paragraph.

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

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

12               “(1) who is proficient in English and a lan-  
13 guage other than English and who provides services  
14 primarily to enhance the participation of children in  
15 programs under this part by acting as a translator;  
16 or

17               “(2) whose duties consist solely of conducting  
18 parental involvement activities consistent with sec-  
19 tion 1118.

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

1 “(f) DUTIES OF PARAPROFESSIONALS.—

2 “(1) IN GENERAL.—Each local educational  
3 agency receiving assistance under this part shall en-  
4 sure that a paraprofessional working in a program  
5 supported with funds under this part is not assigned  
6 a duty inconsistent with this subsection.

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

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

14 “(B) to assist with classroom management,  
15 such as organizing instructional and other ma-  
16 terials;

17 “(C) to provide assistance in a computer  
18 laboratory;

19 “(D) to conduct parental involvement ac-  
20 tivities;

21 “(E) to provide support in a library or  
22 media center;

23 “(F) to act as a translator; or

24 “(G) to provide instructional services to  
25 students.



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

3                   “(A) may not provide any instructional  
4                   service to a student unless the paraprofessional  
5                   is working under the direct supervision of a  
6                   fully qualified teacher; and

7                   “(B) may not provide instructional services  
8                   to students in the area of reading, writing, or  
9                   math unless the paraprofessional has dem-  
10                  onstrated, through a State or local assessment,  
11                  the ability to effectively carry out reading, writ-  
12                  ing, or math instruction.

13          “(g) USE OF FUNDS.—

14                  “(1) PROFESSIONAL DEVELOPMENT.—A local  
15                  educational agency receiving funds under this part  
16                  may use such funds to support ongoing training and  
17                  professional development to assist teachers and  
18                  paraprofessionals in satisfying the requirements of  
19                  this section.

20                  “(2) LIMITATION ON USE OF FUNDS FOR PARA-  
21                  PROFESSIONALS.—

22                          “(A) IN GENERAL.—Beginning on and  
23                          after the effective date of the No Child Left Be-  
24                          hind Act of 2001, a local educational agency  
25                          may not use funds received under this part to

1 fund any paraprofessional hired after such date  
2 unless the hiring is to fill a vacancy created by  
3 the departure of another paraprofessional fund-  
4 ed under this part and such new paraprofes-  
5 sional satisfies the requirements of subsection  
6 (b) or (c).

7 “(B) EXCEPTION.—Subparagraph (A)  
8 shall not apply for a fiscal year to a local edu-  
9 cational agency that can demonstrate to the  
10 State that all teachers under the jurisdiction of  
11 the agency are fully qualified.

12 “(h) VERIFICATION OF COMPLIANCE.—

13 “(1) IN GENERAL.—In verifying compliance  
14 with this section, each local educational agency at a  
15 minimum shall require that the principal of each  
16 school operating a program under section 1114 or  
17 1115 annually attest in writing as to whether such  
18 school is in compliance with the requirements of this  
19 section.

20 “(2) AVAILABILITY OF INFORMATION.—Copies  
21 of attestations under paragraph (1)—

22 “(A) shall be maintained at each school op-  
23 erating a program under section 1114 or 1115  
24 and at the main office of the local educational  
25 agency; and

1                   “(B) shall be available to any member of  
2                   the general public upon request.

3 **“SEC. 1119A. PROFESSIONAL DEVELOPMENT.**

4           “(a) PURPOSE.—The purpose of this section is to as-  
5 sist each local educational agency receiving assistance  
6 under this part in increasing the academic achievement  
7 of eligible children (as defined in section 1115(b)) through  
8 improved teacher quality.

9           “(b) PROFESSIONAL DEVELOPMENT ACTIVITIES.—  
10 Professional development activities under this section  
11 shall—

12                   “(1) support professional development activities  
13 that give teachers, principals, and administrators the  
14 knowledge and skills to provide students with the op-  
15 portunity to meet challenging State or local content  
16 standards and student achievement standards;

17                   “(2) support the recruiting, hiring, and training  
18 of fully qualified teachers, including teachers fully  
19 qualified through State and local alternative routes;

20                   “(3) advance teacher understanding of effective  
21 instructional strategies based on scientifically based  
22 research for improving student achievement, at a  
23 minimum, in reading or language arts and mathe-  
24 matics;

1           “(4) be directly related to the curriculum and  
2           content areas in which the teacher provides instruc-  
3           tion, except this requirement does not apply to ac-  
4           tivities that instruct in methods of disciplining chil-  
5           dren;

6           “(5) be designed to enhance the ability of a  
7           teacher to understand and use the State’s standards  
8           for the subject area in which the teacher provides in-  
9           struction;

10           “(6) be tied to scientifically based research  
11           demonstrating the effectiveness of such professional  
12           development activities or programs in increasing stu-  
13           dent achievement or substantially increasing the  
14           knowledge and teaching skills of teachers;

15           “(7) be of sufficient intensity and duration (not  
16           to include 1-day or short-term workshops and con-  
17           ferences) to have a positive and lasting impact on  
18           the teacher’s performance in the classroom;

19           “(8) be developed with extensive participation  
20           of teachers, principals, parents, and administrators  
21           of schools to be served under this part;

22           “(9) to the extent appropriate, provide training  
23           for teachers in the use of technology so that tech-  
24           nology and its applications are effectively used in the  
25           classroom to improve teaching and learning in the

1 curriculum and academic content areas in which the  
2 teachers provide instruction; and

3 “(10) 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 assess-  
12 ments to inform and instruct classroom practice;

13 “(2) instruction in ways that teachers, prin-  
14 cipals, pupil services personnel, and school adminis-  
15 trators may work more effectively with parents;

16 “(3) the forming of partnerships with institu-  
17 tions of higher education to establish school-based  
18 teacher training programs that provide prospective  
19 teachers and novice teachers with an opportunity to  
20 work under the guidance of experienced teachers and  
21 college faculty;

22 “(4) the creation of career ladder programs for  
23 paraprofessionals (assisting teachers under this  
24 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       “(c) 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       “(d) 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       “(e) 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 “(f) 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 “(g) DEFINITION.—The term ‘fully qualified’ has the  
8 same meaning given such term in section 8101.

9 “(h) SPECIAL RULE.—No State educational agency  
10 shall require a school or a local educational agency to ex-  
11 pend a specific amount of funds for professional develop-  
12 ment activities under this part, except that this paragraph  
13 shall not apply with respect to requirements under section  
14 1116(c)(9).

15 **“SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN**  
16 **PRIVATE SCHOOLS.**

17 “(a) GENERAL REQUIREMENT.—

18 “(1) IN GENERAL.—To the extent consistent  
19 with the number of eligible children identified under  
20 section 1115(b) in a local educational agency who  
21 are enrolled in private elementary and secondary  
22 schools, a local educational agency shall, after timely  
23 and meaningful consultation with appropriate pri-  
24 vate school officials, provide such children, on an eq-  
25 uitable basis, special educational services or other

1 benefits under this part (such as dual enrollment,  
2 educational radio and television, computer equip-  
3 ment and materials, other technology, and mobile  
4 educational services and equipment) that address  
5 their needs, and shall ensure that teachers and fami-  
6 lies of these students participate, on an equitable  
7 basis, in services and activities developed pursuant  
8 to sections 1118 and 1119A.

9 “(2) SECULAR, NEUTRAL, NONIDEOLOGICAL.—  
10 Such educational services or other benefits, including  
11 materials and equipment, shall be secular, neutral,  
12 and nonideological.

13 “(3) EQUITY.—Educational services and other  
14 benefits for such private school children shall be eq-  
15 uitable in comparison to services and other benefits  
16 for public school children participating under this  
17 part, and shall be provided in a timely manner.

18 “(4) EXPENDITURES.—Expenditures for edu-  
19 cational services and other benefits to eligible private  
20 school children shall be equal to the proportion of  
21 funds allocated to participating school attendance  
22 areas based on the number of children from low-in-  
23 come families who attend private schools, which the  
24 local educational agency may determine each year or  
25 every 2 years.



1           “(5) PROVISION OF SERVICES.—The local edu-  
2           cational agency shall provide services under this sec-  
3           tion directly or through contracts with public and  
4           private agencies, organizations, and institutions.

5           “(b) CONSULTATION.—

6           “(1) IN GENERAL.—To ensure timely and  
7           meaningful consultation, a local educational agency  
8           shall consult with appropriate private school officials  
9           during the design and development of such agency’s  
10          programs under this part, on issues such as—

11                   “(A) how the children’s needs will be iden-  
12                   tified;

13                   “(B) what services will be offered;

14                   “(C) how, where, and by whom the services  
15                   will be provided;

16                   “(D) how the services will be assessed and  
17                   how the results of that assessment will be used  
18                   to improve those services;

19                   “(E) the size and scope of the equitable  
20                   services to be provided to the eligible private  
21                   school children, and the amount of funds gen-  
22                   erated by low-income private school children in  
23                   each participating attendance area;

24                   “(F) the method or sources of data that  
25                   are used under subsection (a)(4) and section

1           1113(c)(2) to determine the number of children  
2           from low-income families in participating school  
3           attendance areas who attend private schools;  
4           and

5                   “(G) how and when the agency will make  
6           decisions about the delivery of services to such  
7           children, including a thorough consideration  
8           and analysis of the views of the private school  
9           officials on the provision of contract services  
10          through potential third party providers.

11 If the local educational agency disagrees with the views  
12 of the private school officials on the provision of services,  
13 through a contract, the local educational agency shall pro-  
14 vide in writing to such private school officials, an analysis  
15 of the reasons why the local educational agency has chosen  
16 not to use a contractor.

17                   “(2) TIMING.—Such consultation shall include  
18          meetings of agency and private school officials and  
19          shall occur before the local educational agency  
20          makes any decision that affects the opportunities of  
21          eligible private school children to participate in pro-  
22          grams under this part. Such meetings shall continue  
23          throughout implementation and assessment of serv-  
24          ices provided under this section.

1           “(3) DISCUSSION.—Such consultation shall in-  
2           clude a discussion of service delivery mechanisms a  
3           local educational agency can use to provide equitable  
4           services to eligible private school children.

5           “(4) DOCUMENTATION.—Each local educational  
6           agency shall maintain in its records and provide to  
7           the State educational agency a written affirmation  
8           signed by officials of each participating private  
9           school that the consultation required by this section  
10          has occurred.

11          “(5) COMPLIANCE.—Private school officials  
12          shall have the right to appeal to the State as to  
13          whether the consultation provided for in this section  
14          was meaningful and timely, and that due consider-  
15          ation was given to the views of private school offi-  
16          cials. If the private school wishes to appeal, the basis  
17          of the claim of noncompliance with this section by  
18          a local educational agency shall be provided to the  
19          State, and the local educational agency shall forward  
20          the documentation provided in subsection (b)(4) to  
21          the State.

22          “(c) PUBLIC CONTROL OF FUNDS.—

23                 “(1) IN GENERAL.—The control of funds pro-  
24                 vided under this part, and title to materials, equip-  
25                 ment, and property purchased with such funds, shall

1 be in a public agency, and a public agency shall ad-  
2 minister such funds and property.

3 “(2) PROVISION OF SERVICES.—(A) The provi-  
4 sion of services under this section shall be  
5 provided—

6 “(i) by employees of a public agency; or

7 “(ii) through contract by such public agen-  
8 cy with an individual, association, agency, or or-  
9 ganization.

10 “(B) In the provision of such services, such em-  
11 ployee, person, association, agency, or organization  
12 shall be independent of such private school and of  
13 any religious organization, and such employment or  
14 contract shall be under the control and supervision  
15 of such public agency.

16 “(d) STANDARDS FOR A BYPASS.—If a local edu-  
17 cational agency is prohibited by law from providing for  
18 the participation on an equitable basis of eligible children  
19 enrolled in private elementary and secondary schools or  
20 if the Secretary determines that a local educational agency  
21 has substantially failed or is unwilling to provide for such  
22 participation, as required by this section, the Secretary  
23 shall—

24 “(1) 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 “(2) waive the requirements of this section for  
4 such local educational agency;

5 “(3) in making the determination, consider 1 or  
6 more factors, including the quality, size, scope, and  
7 location of the program and the opportunity of eligi-  
8 ble children to participate.

9 “(e) CAPITAL EXPENSES.—

10 “(1) IN GENERAL.—(A) From the amount ap-  
11 propriated for this subsection under section 1002(e)  
12 for any fiscal year, each State is eligible to receive  
13 an amount that bears the same ratio to the amount  
14 so appropriated as the number of private school chil-  
15 dren who received services under this part in the  
16 State in the most recent year for which data satis-  
17 factory to the Secretary are available bears to the  
18 number of such children in all States in that same  
19 year.

20 “(B) The Secretary shall reallocate any  
21 amounts allocated under subparagraph (A) that are  
22 not used by a State for the purpose of this sub-  
23 section to other States on the basis of their respec-  
24 tive needs, as determined by the Secretary.

1           “(2) CAPITAL EXPENSES.—(A) A local edu-  
2           cational agency may apply to the State educational  
3           agency for payments for capital expenses consistent  
4           with this subsection.

5           “(B) State educational agencies shall distribute  
6           such funds under this subsection to local educational  
7           agencies based on the degree of need set forth in  
8           their respective applications for assistance under this  
9           subsection.

10           “(3) USES OF FUNDS.—Any funds appropriated  
11           to carry out this subsection shall be used only for  
12           capital expenses incurred to provide equitable serv-  
13           ices for private school children under this section.

14   **“SEC. 1120A. FISCAL REQUIREMENTS.**

15           “(a) MAINTENANCE OF EFFORT.—A local edu-  
16           cational agency may receive funds under this part for any  
17           fiscal year only if the State educational agency finds that  
18           the local educational agency has maintained its fiscal ef-  
19           fort in accordance with section 8501 of this Act.

20           “(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUP-  
21           PLANT, NON-FEDERAL FUNDS.—

22           “(1) IN GENERAL.—A State or local edu-  
23           cational agency shall use funds received under this  
24           part only to supplement the amount of funds that  
25           would, in the absence of such Federal funds, be

1 made available from non-Federal sources for the  
2 education of pupils participating in programs as-  
3 sisted under this part, and not to supplant such  
4 funds.

5 “(2) SPECIAL RULE.—No local educational  
6 agency shall be required to provide services under  
7 this part through a particular instructional method  
8 or in a particular instructional setting in order to  
9 demonstrate such agency’s compliance with para-  
10 graph (1).

11 “(c) COMPARABILITY OF SERVICES.—

12 “(1) IN GENERAL.—(A) Except as provided in  
13 paragraphs (4) and (5), a local educational agency  
14 may receive funds under this part only if State and  
15 local funds will be used in schools served under this  
16 part to provide services that, taken as a whole, are  
17 at least comparable to services in schools that are  
18 not receiving funds under this part.

19 “(B) If the local educational agency is serving  
20 all of such agency’s schools under this part, such  
21 agency may receive funds under this part only if  
22 such agency will use State and local funds to provide  
23 services that, taken as a whole, are substantially  
24 comparable in each school.

1           “(C) A local educational agency may meet the  
2 requirements of subparagraphs (A) and (B) on a  
3 grade-span by grade-span basis or a school-by-school  
4 basis.

5           “(2) WRITTEN ASSURANCE.—(A) A local edu-  
6 cational agency shall be considered to have met the  
7 requirements of paragraph (1) if such agency has  
8 filed with the State educational agency a written as-  
9 surance that such agency has established and  
10 implemented—

11                   “(i) a local educational agency-wide salary  
12 schedule;

13                   “(ii) a policy to ensure equivalence among  
14 schools in teachers, administrators, and other  
15 staff; and

16                   “(iii) a policy to ensure equivalence among  
17 schools in the provision of curriculum materials  
18 and instructional supplies.

19           “(B) For the purpose of subparagraph (A), in  
20 the determination of expenditures per pupil from  
21 State and local funds, or instructional salaries per  
22 pupil from State and local funds, staff salary dif-  
23 ferentials for years of employment shall not be in-  
24 cluded in such determinations.



1           “(C) A local educational agency need not in-  
2           clude unpredictable changes in student enrollment or  
3           personnel assignments that occur after the beginning  
4           of a school year in determining comparability of  
5           services under this subsection.

6           “(3) PROCEDURES AND RECORDS.—Each local  
7           educational agency assisted under this part shall—

8                   “(A) develop procedures for compliance  
9                   with this subsection; and

10                   “(B) maintain records that are updated bi-  
11                   ennially documenting such agency’s compliance  
12                   with this subsection.

13           “(4) INAPPLICABILITY.—This subsection shall  
14           not apply to a local educational agency that does not  
15           have more than 1 building for each grade span.

16           “(5) COMPLIANCE.—For the purpose of deter-  
17           mining compliance with paragraph (1), a local edu-  
18           cational agency may exclude State and local funds  
19           expended for—

20                   “(A) English language instruction for chil-  
21                   dren of limited English proficiency; and

22                   “(B) excess costs of providing services to  
23                   children with disabilities as determined by the  
24                   local educational agency.

1           “(d) **EXCLUSION OF FUNDS.**—For the purpose of  
2 complying with subsections (b) and (c), a State or local  
3 educational agency may exclude supplemental State or  
4 local funds expended in any school attendance area or  
5 school for programs that meet the intent and purposes of  
6 this part.

7           **“SEC. 1120B. COORDINATION REQUIREMENTS.**

8           “(a) **IN GENERAL.**—Each local educational agency  
9 receiving assistance under this part shall carry out the ac-  
10 tivities described in subsection (b) with Head Start Agen-  
11 cies, and if feasible, other early childhood development  
12 programs such as Early Reading First.

13           “(b) **ACTIVITIES.**—The activities referred to in sub-  
14 section (a) are activities that increase coordination be-  
15 tween the local educational agency and a Head Start agen-  
16 cy, and, if feasible, other early childhood development pro-  
17 grams, such as Early Reading First serving children who  
18 will attend the schools of such agency, including—

19                   “(1) developing and implementing a systematic  
20 procedure for receiving records regarding such chil-  
21 dren transferred with parental consent from a Head  
22 Start program or, where applicable, other early  
23 childhood development programs such as Early  
24 Reading First;

1           “(2) establishing channels of communication be-  
2           tween school staff and their counterparts in such  
3           Head Start agencies (including teachers, social  
4           workers, and health staff) or other early childhood  
5           development programs such as Early Reading First,  
6           as appropriate, to facilitate coordination of pro-  
7           grams;

8           “(3) conducting meetings involving parents,  
9           kindergarten or elementary school teachers, and  
10          Head Start teachers or, if appropriate, teachers  
11          from other early childhood development programs  
12          such as Early Reading First, to discuss the develop-  
13          mental and other needs of individual children;

14          “(4) organizing and participating in joint tran-  
15          sition related training of school staff, Head Start  
16          staff, Early Reading First staff and, where appro-  
17          priate, other early childhood staff; and

18          “(5) linking the educational services provided in  
19          such local educational agency with the services pro-  
20          vided in local Head Start agencies and Early Read-  
21          ing First programs.

22          “(c) COORDINATION OF REGULATIONS.—The Sec-  
23          retary shall work with the Secretary of Health and Human  
24          Services to coordinate regulations promulgated under this

1 part with regulations promulgated under the Head Start  
2 Act Amendments of 1994.

3 **“Subpart 2—Allocations**

4 **“SEC. 1121. GRANTS FOR THE OUTLYING AREAS AND THE**  
5 **SECRETARY OF THE INTERIOR.**

6 “(a) RESERVATION OF FUNDS.—From the amount  
7 appropriated for payments to States for any fiscal year  
8 under section 1002(a), the Secretary shall reserve a total  
9 of 1 percent to provide assistance to—

10 “(1) the outlying areas in the amount deter-  
11 mined in accordance with subsection (b); and

12 “(2) the Secretary of the Interior in the amount  
13 necessary to make payments pursuant to subsection  
14 (d).

15 “(b) ASSISTANCE TO OUTLYING AREAS.—

16 “(1) FUNDS RESERVED.—From the amount  
17 made available for any fiscal year under subsection  
18 (a), the Secretary shall award grants to the outlying  
19 areas.

20 “(2) COMPETITIVE GRANTS.—For fiscal years  
21 2000 and 2001, the Secretary shall carry out the  
22 competition described in paragraph (3), except that  
23 the amount reserved to carry out such competition  
24 shall not exceed the amount reserved under this sec-

1 tion for the freely associated states for fiscal year  
2 1999.

3 “(3) LIMITATION FOR COMPETITIVE GRANTS.—

4 “(A) COMPETITIVE GRANTS.—The Sec-  
5 retary shall use funds described in paragraph  
6 (2) to award grants, on a competitive basis, to  
7 the outlying areas and freely associated States  
8 to carry out the purposes of this part.

9 “(B) AWARD BASIS.—The Secretary shall  
10 award grants under subparagraph (A) on a  
11 competitive basis, pursuant to the recommenda-  
12 tions of the Pacific Region Educational Labora-  
13 tory in Honolulu, Hawaii.

14 “(C) ADMINISTRATIVE COSTS.—The Sec-  
15 retary may provide not more than 5 percent of  
16 the amount reserved for grants under this para-  
17 graph to pay the administrative costs of the Pa-  
18 cific Region Educational Laboratory under sub-  
19 paragraph (B).

20 “(4) SPECIAL RULE.—The provisions of Public  
21 Law 95–134, permitting the consolidation of grants  
22 by the outlying areas, shall not apply to funds pro-  
23 vided to the freely associated States under this sec-  
24 tion.

1       “(c) DEFINITIONS.—For the purposes of subsections  
2 (a) and (b)—

3           “(1) the term ‘freely associated States’ means  
4 the Republic of the Marshall Islands, the Federated  
5 States of Micronesia, and the Republic of Palau; and

6           “(2) the term ‘outlying area’ means the United  
7 States Virgin Islands, Guam, American Samoa, and  
8 the Commonwealth of the Northern Mariana Is-  
9 lands.

10       “(d) ALLOTMENT TO THE SECRETARY OF THE INTE-  
11 RIOR.—

12           “(1) IN GENERAL.—The amount allotted for  
13 payments to the Secretary of the Interior under sub-  
14 section (a)(2) for any fiscal year shall be, as deter-  
15 mined pursuant to criteria established by the Sec-  
16 retary, the amount necessary to meet the special  
17 educational needs of—

18           “(A) Indian children on reservations served  
19 by elementary and secondary schools for Indian  
20 children operated or supported by the Depart-  
21 ment of the Interior; and

22           “(B) out-of-State Indian children in ele-  
23 mentary and secondary schools in local edu-  
24 cational agencies under special contracts with  
25 the Department of the Interior.

1           “(2) PAYMENTS.—From the amount allotted  
2           for payments to the Secretary of the Interior under  
3           subsection (a)(2), the Secretary of the Interior shall  
4           make payments to local educational agencies, upon  
5           such terms as the Secretary determines will best  
6           carry out the purposes of this part, with respect to  
7           out-of-State Indian children described in paragraph  
8           (1). The amount of such payment may not exceed,  
9           for each such child, the greater of—

10                   “(A) 40 percent of the average per-pupil  
11                   expenditure in the State in which the agency is  
12                   located; or

13                   “(B) 48 percent of such expenditure in the  
14                   United States.

15 **“SEC. 1122. AMOUNTS FOR BASIC GRANTS, CONCENTRA-**  
16 **TION GRANTS, AND TARGETED GRANTS.**

17           “(a) ALLOCATION FORMULA.—Of the amount au-  
18           thorized to be appropriated to carry out this part for each  
19           of fiscal years 2002 through 2006 (referred to in this sub-  
20           section as the current fiscal year)—

21                   “(1) an amount equal to the amount appro-  
22                   priated to carry out section 1124 for fiscal year  
23                   2001 shall be allocated in accordance with section  
24                   1124;

1           “(2) an amount equal to the amount appro-  
2           priated to carry out section 1124A for fiscal year  
3           2001 shall be allocated in accordance with section  
4           1124A; and

5           “(3) an amount equal to 100 percent of the  
6           amount, if any, by which the amount appropriated  
7           under section 1002(a) for the current fiscal year ex-  
8           ceeds the amount appropriated under such section  
9           for fiscal year 2001 shall be allocated in accordance  
10          with section 1125.

11          “(b) ADJUSTMENTS WHERE NECESSITATED BY AP-  
12          PROPRIATIONS.—

13           “(1) IN GENERAL.—If the sums available under  
14           this part for any fiscal year are insufficient to pay  
15           the full amounts that all local educational agencies  
16           in States are eligible to receive under sections 1124,  
17           1124A, and 1125 for such year, the Secretary shall  
18           ratably reduce the allocations to such local edu-  
19           cational agencies, subject to subsections (c) and (d)  
20           of this section.

21           “(2) ADDITIONAL FUNDS.—If additional funds  
22           become available for making payments under sec-  
23           tions 1124, 1124A, and 1125 for such fiscal year,  
24           allocations that were reduced under paragraph (1)



1 shall be increased on the same basis as they were re-  
2 duced.

3 “(c) HOLD-HARMLESS AMOUNTS.—

4 “(1) AMOUNTS FOR SECTIONS 1124 AND 1125.—

5 For each fiscal year, the amount made available to  
6 each local educational agency under each of sections  
7 1124 and 1125 shall be—

8 “(A) not less than 95 percent of the  
9 amount made available in the preceding fiscal  
10 year if the number of children counted for  
11 grants under section 1124 is not less than 30  
12 percent of the total number of children aged 5  
13 to 17 years, inclusive, in the local educational  
14 agency;

15 “(B) not less than 90 percent of the  
16 amount made available in the preceding fiscal  
17 year if the percentage described in subpara-  
18 graph (A) is between 15 percent and 30 per-  
19 cent; and

20 “(C) not less than 85 percent of the  
21 amount made available in the preceding fiscal  
22 year if the percentage described in subpara-  
23 graph (A) is below 15 percent.

24 “(2) AMOUNT FOR SECTION 1124A.—The  
25 amount made available to each local educational

1 agency under section 1124A shall be not less than  
2 85 percent of the amount made available in the pre-  
3 ceding fiscal year.

4 “(3) PAYMENTS.—If sufficient funds are appro-  
5 priated, the amounts described in paragraph (2)  
6 shall be paid to all local educational agencies that  
7 received grants under section 1124A for the pre-  
8 ceding fiscal year, regardless of whether the local  
9 educational agency meets the minimum eligibility  
10 criteria for that fiscal year provided in section  
11 1124A(a)(1)(A) except that a local educational agen-  
12 cy that does not meet such minimum eligibility cri-  
13 teria for 4 consecutive years shall no longer be eligi-  
14 ble to receive a hold harmless amount referred to in  
15 paragraph (2).

16 “(4) POPULATION DATA.—In any fiscal year for  
17 which the Secretary calculates grants on the basis of  
18 population data for counties, the Secretary shall  
19 apply the hold harmless percentages in paragraphs  
20 (1) and (2) to counties, and if the Secretary’s alloca-  
21 tion for a county is not sufficient to meet the hold-  
22 harmless requirements of this subsection for every  
23 local educational agency within that county, the  
24 State educational agency shall reallocate funds pro-  
25 portionately from all other local educational agencies

1 in the State that are receiving funds in excess of the  
2 hold harmless amounts specified in this subsection.

3 “(d) RATABLE REDUCTIONS.—

4 “(1) IN GENERAL.—If the sums made available  
5 under this part for any fiscal year are insufficient to  
6 pay the full amounts that all States are eligible to  
7 receive under subsection (c) for such year, the Sec-  
8 retary shall ratably reduce such amounts for such  
9 year.

10 “(2) ADDITIONAL FUNDS.—If additional funds  
11 become available for making payments under sub-  
12 section (c) for such fiscal year, amounts that were  
13 reduced under paragraph (1) shall be increased on  
14 the same basis as such amounts were reduced.

15 “(e) DEFINITION.—For the purpose of this section  
16 and sections 1124, 1124A, and 1125, the term ‘State’  
17 means each of the 50 States, the District of Columbia,  
18 and the Commonwealth of Puerto Rico.

19 **“SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGEN-**  
20 **CIES.**

21 “(a) AMOUNT OF GRANTS.—

22 “(1) GRANTS FOR LOCAL EDUCATIONAL AGEN-  
23 CIES AND PUERTO RICO.—Except as provided in  
24 paragraph (4) and in section 1126, the grant that  
25 a local educational agency is eligible to receive under

1 this section for a fiscal year is the amount deter-  
2 mined by multiplying—

3 “(A) the number of children counted under  
4 subsection (c); and

5 “(B) 40 percent of the average per-pupil  
6 expenditure in the State, except that the  
7 amount determined under this subparagraph  
8 shall not be less than 32 percent or more than  
9 48 percent, of the average per-pupil expenditure  
10 in the United States.

11 “(2) CALCULATION OF GRANTS.—

12 “(A) ALLOCATIONS TO LOCAL EDU-  
13 CATIONAL AGENCIES.—The Secretary shall cal-  
14 culate grants under this section on the basis of  
15 the number of children counted under sub-  
16 section (c) for local educational agencies, unless  
17 the Secretary and the Secretary of Commerce  
18 determine that some or all of those data are un-  
19 reliable or that their use would be otherwise in-  
20 appropriate, in which case—

21 “(i) the 2 Secretaries shall publicly  
22 disclose the reasons for their determination  
23 in detail; and

24 “(ii) paragraph (3) shall apply.

1           “(B) ALLOCATIONS TO LARGE AND SMALL  
2 LOCAL EDUCATIONAL AGENCIES.—(i) For any  
3 fiscal year in which this paragraph applies, the  
4 Secretary shall calculate grants under this sec-  
5 tion for each local educational agency.

6           “(ii) The amount of a grant under this  
7 section for each large local educational agency  
8 shall be the amount determined under clause  
9 (i).

10           “(iii) For small local educational agencies,  
11 the State educational agency may either—

12           “(I) distribute grants under this sec-  
13 tion in amounts determined by the Sec-  
14 retary under clause (i); or

15           “(II) use an alternative method ap-  
16 proved by the Secretary to distribute the  
17 portion of the State’s total grants under  
18 this section that is based on those small  
19 agencies.

20           “(iv) An alternative method under clause  
21 (iii)(II) shall be based on population data that  
22 the State educational agency determines best  
23 reflect the current distribution of children in  
24 poor families among the State’s small local edu-

1 educational agencies that meet the eligibility cri-  
2 teria of subsection (b).

3 “(v) If a small local educational agency is  
4 dissatisfied with the determination of its grant  
5 by the State educational agency under clause  
6 (iii)(II), it may appeal that determination to the  
7 Secretary, who shall respond not later than 45  
8 days after receipt of such appeal.

9 “(vi) As used in this subparagraph—

10 “(I) the term ‘large local educational  
11 agency’ means a local educational agency  
12 serving an area with a total population of  
13 20,000 or more; and

14 “(II) the term ‘small local educational  
15 agency’ means a local educational agency  
16 serving an area with a total population of  
17 less than 20,000.

18 “(3) ALLOCATIONS TO COUNTIES.—

19 “(A) CALCULATION.—For any fiscal year  
20 to which this paragraph applies, the Secretary  
21 shall calculate grants under this section on the  
22 basis of the number of children counted under  
23 section 1124(c) for counties, and State edu-  
24 cational agencies shall suballocate county  
25 amounts to local educational agencies, in ac-

1 cordance with regulations issued by the Sec-  
2 retary.

3 “(B) DIRECT ALLOCATIONS.—In any State  
4 in which a large number of local educational  
5 agencies overlap county boundaries, or for  
6 which the State believes it has data that would  
7 better target funds than allocating them by  
8 county, the State educational agency may apply  
9 to the Secretary for authority to make the allo-  
10 cations under this part for a particular fiscal  
11 year directly to local educational agencies with-  
12 out regard to counties.

13 “(C) ASSURANCES.—If the Secretary ap-  
14 proves the State educational agency’s applica-  
15 tion under subparagraph (B), the State edu-  
16 cational agency shall provide the Secretary an  
17 assurance that such allocations shall be made—

18 “(i) using precisely the same factors  
19 for determining a grant as are used under  
20 this part; or

21 “(ii) using data that the State edu-  
22 cational agency submits to the Secretary  
23 for approval that more accurately target  
24 poverty.

1           “(D) APPEAL.—The State educational  
2 agency shall provide the Secretary an assurance  
3 that it shall establish a procedure through  
4 which a local educational agency that is dissat-  
5 isfied with its determinations under subpara-  
6 graph (B) may appeal directly to the Secretary  
7 for a final determination.

8           “(4) PUERTO RICO.—

9           “(A) IN GENERAL.—For each fiscal year,  
10 the grant which the Commonwealth of Puerto  
11 Rico shall be eligible to receive under this sec-  
12 tion shall be the amount determined by multi-  
13 plying the number of children counted under  
14 subsection (c) for the Commonwealth of Puerto  
15 Rico by the product of—

16           “(i) the percentage which the average  
17 per-pupil expenditure in the Common-  
18 wealth of Puerto Rico is of the lowest aver-  
19 age per-pupil expenditure of any of the 50  
20 States; and

21           “(ii) 32 percent of the average per-  
22 pupil expenditure in the United States.

23           “(B) MINIMUM PERCENTAGE.—The per-  
24 centage in subparagraph (A)(i) shall not be less  
25 than—



1 “(i) for fiscal year 2002, 77.5 percent;

2 “(ii) for fiscal year 2003, 80.0 per-  
3 cent;

4 “(iii) for fiscal year 2004, 82.5 per-  
5 cent; and

6 “(iv) for fiscal year 2005 and suc-  
7 ceeding fiscal years, 85.0 percent.

8 “(C) LIMITATION.—If the application of  
9 subparagraph (B) would result in any of the 50  
10 States or the District of Columbia receiving less  
11 under this part than it received under this part  
12 for the preceding fiscal year, the percentage in  
13 subparagraph (A) shall be the greater of the  
14 percentage in subparagraph (A)(i) or the per-  
15 centage used for the preceding fiscal year.

16 “(5) DEFINITION.—For purposes of this sub-  
17 section, the term ‘State’ does not include Guam,  
18 American Samoa, the Virgin Islands, and the North-  
19 ern Mariana Islands.

20 “(b) MINIMUM NUMBER OF CHILDREN TO QUAL-  
21 IFY.—A local educational agency is eligible for a basic  
22 grant under this section for any fiscal year only if the  
23 number of children counted under subsection (c) for that  
24 agency is both—

25 “(1) 10 or more; and

1           “(2) more than 2 percent of the total school-age  
2 population in the agency’s jurisdiction.

3           “(c) CHILDREN TO BE COUNTED.—

4           “(1) CATEGORIES OF CHILDREN.—The number  
5 of children to be counted for purposes of this section  
6 is the aggregate of—

7           “(A) the number of children aged 5 to 17,  
8 inclusive, in the school district of the local edu-  
9 cational agency from families below the poverty  
10 level as determined under paragraph (2);

11           “(B) the number of children (determined  
12 under paragraph (4) for either the preceding  
13 year as described in that paragraph, or for the  
14 second preceding year, as the Secretary finds  
15 appropriate) aged 5 to 17, inclusive, in the  
16 school district of such agency in institutions for  
17 neglected and delinquent children (other than  
18 such institutions operated by the United  
19 States), but not counted pursuant to subpart 1  
20 of part D for the purposes of a grant to a State  
21 agency, or being supported in foster homes with  
22 public funds; and

23           “(C) the number of children aged 5 to 17,  
24 inclusive, in the school district of such agency

1 from families above the poverty level as deter-  
2 mined under paragraph (4).

3 “(2) DETERMINATION OF NUMBER OF CHIL-  
4 DREN.—For the purposes of this section, the Sec-  
5 retary shall determine the number of children aged  
6 5 to 17, inclusive, from families below the poverty  
7 level on the basis of the most recent satisfactory  
8 data, described in paragraph (3), available from the  
9 Department of Commerce. The District of Columbia  
10 and the Commonwealth of Puerto Rico shall be  
11 treated as individual local educational agencies. If a  
12 local educational agency contains 2 or more counties  
13 in their entirety, then each county will be treated as  
14 if such county were a separate local educational  
15 agency for purposes of calculating grants under this  
16 part. The total of grants for such counties shall be  
17 allocated to such a local educational agency, which  
18 local educational agency shall distribute to schools in  
19 each county within such agency a share of the local  
20 educational agency’s total grant that is no less than  
21 the county’s share of the population counts used to  
22 calculate the local educational agency’s grant.

23 “(3) POPULATION UPDATES.—In fiscal year  
24 2001 and every 2 years thereafter, the Secretary  
25 shall use updated data on the number of children,

1 aged 5 to 17, inclusive, from families below the pov-  
2 erty level for local educational agencies or counties,  
3 published by the Department of Commerce, unless  
4 the Secretary and the Secretary of Commerce deter-  
5 mine that use of the updated population data would  
6 be inappropriate or unreliable. If the Secretary and  
7 the Secretary of Commerce determine that some or  
8 all of the data referred to in this paragraph are in-  
9 appropriate or unreliable, they shall publicly disclose  
10 their reasons. In determining the families which are  
11 below the poverty level, the Secretary shall utilize  
12 the criteria of poverty used by the Bureau of the  
13 Census in compiling the most recent decennial cen-  
14 sus, in such form as those criteria have been up-  
15 dated by increases in the Consumer Price Index for  
16 all urban consumers, published by the Bureau of  
17 Labor Statistics.

18 “(4) OTHER CHILDREN TO BE COUNTED.—For  
19 the purposes of this section, the Secretary shall de-  
20 termine the number of children aged 5 to 17, inclu-  
21 sive, from families above the poverty level on the  
22 basis of the number of such children from families  
23 receiving an annual income, in excess of the current  
24 criteria of poverty, from payments under a State  
25 program funded under part A of title IV of the So-

1       cial Security Act; and in making such determina-  
2       tions the Secretary shall utilize the criteria of pov-  
3       erty used by the Bureau of the Census in compiling  
4       the most recent decennial census for a family of 4  
5       in such form as those criteria have been updated by  
6       increases in the Consumer Price Index for all urban  
7       consumers, published by the Bureau of Labor Statis-  
8       tics. The Secretary shall determine the number of  
9       such children and the number of children aged 5  
10      through 17 living in institutions for neglected or de-  
11      linquent children, or being supported in foster homes  
12      with public funds, on the basis of the caseload data  
13      for the month of October of the preceding fiscal year  
14      (using, in the case of children described in the pre-  
15      ceding sentence, the criteria of poverty and the form  
16      of such criteria required by such sentence which  
17      were determined for the calendar year preceding  
18      such month of October) or, to the extent that such  
19      data are not available to the Secretary before Janu-  
20      ary of the calendar year in which the Secretary's de-  
21      termination is made, then on the basis of the most  
22      recent reliable data available to the Secretary at the  
23      time of such determination. The Secretary of Health  
24      and Human Services shall collect and transmit the  
25      information required by this subparagraph to the

1 Secretary not later than January 1 of each year.  
2 For the purpose of this section, the Secretary shall  
3 consider all children who are in correctional institu-  
4 tions to be living in institutions for delinquent chil-  
5 dren.

6 “(5) ESTIMATE.—When requested by the Sec-  
7 retary, the Secretary of Commerce shall make a spe-  
8 cial updated estimate of the number of children of  
9 such ages who are from families below the poverty  
10 level (as determined under subparagraph (A) of this  
11 paragraph) in each school district, and the Secretary  
12 is authorized to pay (either in advance or by way of  
13 reimbursement) the Secretary of Commerce the cost  
14 of making this special estimate. The Secretary of  
15 Commerce shall give consideration to any request of  
16 the chief executive of a State for the collection of ad-  
17 ditional census information.

18 “(d) STATE MINIMUM.—Notwithstanding section  
19 1122, the aggregate amount allotted for all local edu-  
20 cational agencies within a State may not be less than the  
21 lesser of—

22 “(1) 0.25 percent of total grants under this sec-  
23 tion; or

24 “(2) the average of—

1           “(A) one-quarter of 1 percent of the total  
2 amount available for such fiscal year under this  
3 section; and

4           “(B) the number of children in such State  
5 counted under subsection (c) in the fiscal year  
6 multiplied by 150 percent of the national aver-  
7 age per-pupil payment made with funds avail-  
8 able under this section for that year.

9 **“SEC. 1124A. CONCENTRATION GRANTS TO LOCAL EDU-  
10 CATIONAL AGENCIES.**

11       “(a) **ELIGIBILITY FOR AND AMOUNT OF GRANTS.—**

12           “(1) **IN GENERAL.—**(A) Except as otherwise  
13 provided in this paragraph, each local educational  
14 agency, in a State other than Guam, American  
15 Samoa, the Virgin Islands, and the Commonwealth  
16 of the Northern Mariana Islands, which is eligible  
17 for a grant under section 1124 for any fiscal year  
18 is eligible for an additional grant under this section  
19 for that fiscal year if the number of children counted  
20 under section 1124(c) in the agency exceeds either—

21                   “(i) 6,500; or

22                   “(ii) 15 percent of the total number of  
23 children aged 5 through 17 in the agency.

1           “(B) Notwithstanding section 1122, no State  
2 described in subparagraph (A) shall receive less than  
3 the lesser of—

4                   “(i) 0.25 percent of total grants; or

5                   “(ii) the average of—

6                           “(I) one-quarter of 1 percent of the  
7 sums available to carry out this section for  
8 such fiscal year; and

9                           “(II) the greater of—

10                                   “(aa) \$340,000; or

11                                   “(bb) the number of children in  
12 such State counted for purposes of  
13 this section in that fiscal year multi-  
14 plied by 150 percent of the national  
15 average per-pupil payment made with  
16 funds available under this section for  
17 that year.

18           “(2) SPECIAL RULE.—For each county or local  
19 educational agency eligible to receive an additional  
20 grant under this section for any fiscal year the Sec-  
21 retary shall determine the product of—

22                   “(A) the number of children counted under  
23 section 1124(e) for that fiscal year; and

24                   “(B) the quotient resulting from the divi-  
25 sion of the amount determined for those agen-



1           cies under section 1124(a)(1) for the fiscal year  
2           for which the determination is being made di-  
3           vided by the total number of children counted  
4           under section 1124(c) for that agency for that  
5           fiscal year.

6           “(3) AMOUNT.—The amount of the additional  
7           grant for which an eligible local educational agency  
8           or county is eligible under this section for any fiscal  
9           year shall be an amount which bears the same ratio  
10          to the amount available to carry out this section for  
11          that fiscal year as the product determined under  
12          paragraph (2) for such local educational agency for  
13          that fiscal year bears to the sum of such products  
14          for all local educational agencies in the United  
15          States for that fiscal year.

16          “(4) LOCAL ALLOCATIONS.—(A) Grant  
17          amounts under this section shall be determined in  
18          accordance with section 1124(a)(2) and (3).

19          “(B) For any fiscal year for which the Sec-  
20          retary allocates funds under this section on the basis  
21          of counties, a State may reserve not more than 2  
22          percent of its allocation under this section to make  
23          grants to local educational agencies that meet the  
24          criteria of paragraph (1)(A)(i) or (ii) and are in in-  
25          eligible counties that do not meet these criteria.

1       “(b) STATES RECEIVING MINIMUM GRANTS.—In  
2 States that receive the minimum grant under subsection  
3 (a)(1)(B), the State educational agency shall allocate such  
4 funds among the local educational agencies in each State  
5 either—

6               “(1) in accordance with paragraphs (2) and (4)  
7 of subsection (a); or

8               “(2) based on their respective concentrations  
9 and numbers of children counted under section  
10 1124(e), except that only those local educational  
11 agencies with concentrations or numbers of children  
12 counted under section 1124(e) that exceed the state-  
13 wide average percentage of such children or the  
14 statewide average number of such children shall re-  
15 ceive any funds on the basis of this paragraph.

16 **“SEC. 1125. TARGETED GRANTS TO LOCAL EDUCATIONAL**  
17 **AGENCIES.**

18       “(a) ELIGIBILITY OF LOCAL EDUCATIONAL AGEN-  
19 CIES.—A local educational agency in a State is eligible to  
20 receive a targeted grant under this section for any fiscal  
21 year if the number of children in the local educational  
22 agency counted under subsection 1124(c), before applica-  
23 tion of the weighting factor described in subsection (c),  
24 is at least 10, and if the number of children counted for  
25 grants under section 1124 is at least 5 percent of the total

1 population aged 5 to 17 years, inclusive, in the local edu-  
2 cational agency. For each fiscal year for which the Sec-  
3 retary uses county population data to calculate grants,  
4 funds made available as a result of applying this sub-  
5 section shall be reallocated by the State educational agen-  
6 cy to other eligible local educational agencies in the State  
7 in proportion to the distribution of other funds under this  
8 section.

9 “(b) GRANTS FOR LOCAL EDUCATIONAL AGENCIES,  
10 THE DISTRICT OF COLUMBIA, AND PUERTO RICO.—

11 “(1) IN GENERAL.—The amount of the grant  
12 that a local educational agency in a State or that the  
13 District of Columbia is eligible to receive under this  
14 section for any fiscal year shall be the product of—

15 “(A) the weighted child count determined  
16 under subsection (c); and

17 “(B) the amount in paragraph  
18 1124(a)(1)(B).

19 “(2) PUERTO RICO.—For each fiscal year, the  
20 amount of the grant for which the Commonwealth of  
21 Puerto Rico is eligible under this section shall be  
22 equal to the number of children counted under sub-  
23 section (c) for Puerto Rico, multiplied by the  
24 amount determined in subparagraph 1124(a)(4).

25 “(c) WEIGHTED CHILD COUNT.—

1           “(1) WEIGHTS FOR ALLOCATIONS TO COUN-  
2           TIES.—

3           “(A) IN GENERAL.—For each fiscal year  
4           for which the Secretary uses county population  
5           data to calculate grants, the weighted child  
6           count used to determine a county’s allocation  
7           under this section is the larger of the 2  
8           amounts determined under clause (i) or (ii), as  
9           follows:

10           “(i) BY PERCENTAGE OF CHIL-  
11           DREN.—This amount is determined by  
12           adding—

13           “(I) the number of children de-  
14           termined under section 1124(c) for  
15           that county constituting up to 15 per-  
16           cent, inclusive, of the county’s total  
17           population aged 5 to 17, inclusive,  
18           multiplied by 1.0;

19           “(II) the number of such children  
20           constituting more than 15 percent,  
21           but not more than 19 percent, of such  
22           population, multiplied by 1.75;

23           “(III) the number of such chil-  
24           dren constituting more than 19 per-  
25           cent, but not more than 24.20 per-

1 cent, of such population, multiplied by  
2 2.5;

3 “(IV) the number of such chil-  
4 dren constituting more than 24.20  
5 percent, but not more than 29.20 per-  
6 cent, of such population, multiplied by  
7 3.25; and

8 “(V) the number of such children  
9 constituting more than 29.20 percent  
10 of such population, multiplied by 4.0.

11 “(ii) BY NUMBER OF CHILDREN.—  
12 This amount is determined by adding—

13 “(I) the number of children de-  
14 termined under section 1124(c) con-  
15 stituting up to 2,311, inclusive, of the  
16 county’s total population aged 5 to  
17 17, inclusive, multiplied by 1.0;

18 “(II) the number of such children  
19 between 2,312 and 7,913, inclusive, in  
20 such population, multiplied by 1.5;

21 “(III) the number of such chil-  
22 dren between 7,914 and 23,917, inclu-  
23 sive, in such population, multiplied by  
24 2.0;

1           “(IV) the number of such chil-  
2           dren between 23,918 and 93,810, in-  
3           clusive, in such population, multiplied  
4           by 2.5; and

5           “(V) the number of such children  
6           in excess of 93,811 in such popu-  
7           lation, multiplied by 3.0.

8           “(B) PUERTO RICO.—Notwithstanding  
9           subparagraph (A), the weighted child count for  
10          Puerto Rico under this paragraph shall not be  
11          greater than the total number of children  
12          counted under subsection 1124(c) multiplied by  
13          1.72.

14          “(2) WEIGHTS FOR ALLOCATIONS TO LOCAL  
15          EDUCATIONAL AGENCIES.—

16                 “(A) IN GENERAL.—For each fiscal year  
17                 for which the Secretary uses local educational  
18                 agency data, the weighted child count used to  
19                 determine a local educational agency’s grant  
20                 under this section is the larger of the 2  
21                 amounts determined under clauses (i) and (ii),  
22                 as follows:

23                         “(i) BY PERCENTAGE OF CHIL-  
24                         DREN.—This amount is determined by  
25                         adding—

1           “(I) the number of children de-  
2           termined under section 1124(c) for  
3           that local educational agency consti-  
4           tuting up to 15.233 percent, inclusive,  
5           of the agency’s total population aged  
6           5 to 17, inclusive, multiplied by 1.0;

7           “(II) the number of such children  
8           constituting more than 15.233 per-  
9           cent, but not more than 22.706 per-  
10          cent, of such population, multiplied by  
11          1.75;

12          “(III) the number of such chil-  
13          dren constituting more than 22.706  
14          percent, but not more than 32.213  
15          percent, of such population, multiplied  
16          by 2.5;

17          “(IV) the number of such chil-  
18          dren constituting more than 32.213  
19          percent, but not more than 41.452  
20          percent, of such population, multiplied  
21          by 3.25; and

22          “(V) the number of such children  
23          constituting more than 41.452 percent  
24          of such population, multiplied by 4.0.

1 “(ii) BY NUMBER OF CHILDREN.—

2 This amount is determined by adding—

3 “(I) the number of children de-  
4 termined under section 1124(c) con-  
5 stituting up to 710, inclusive, of the  
6 agency’s total population aged 5 to  
7 17, inclusive, multiplied by 1.0;

8 “(II) the number of such children  
9 between 711 and 2,384, inclusive, in  
10 such population, multiplied by 1.5;

11 “(III) the number of such chil-  
12 dren between 2,385 and 9,645, inclu-  
13 sive, in such population, multiplied by  
14 2.0;

15 “(IV) the number of such chil-  
16 dren between 9,646 and 54,600, inclu-  
17 sive, in such population, multiplied by  
18 2.5; and

19 “(V) the number of such children  
20 in excess of 54,601 in such popu-  
21 lation, multiplied by 3.0.

22 “(B) PUERTO RICO.—Notwithstanding  
23 subparagraph (A), the weighted child count for  
24 Puerto Rico under this paragraph shall not be  
25 greater than the total number of children



1           counted under section 1124(c) multiplied by  
2           1.72.

3           “(d) CALCULATION OF GRANT AMOUNTS.—Grants  
4 under this section shall be calculated in accordance with  
5 section 1124(a)(2) and (3).

6           “(e) STATE MINIMUM.—Notwithstanding any other  
7 provision of this section or section 1122, from the total  
8 amount available for any fiscal year to carry out this sec-  
9 tion, each State shall be allotted at least the lesser of—

10           “(1) 0.25 percent of total appropriations; or

11           “(2) the average of—

12           “(A) one-quarter of 1 percent of the total  
13 amount available to carry out this section; and

14           “(B) 150 percent of the national average  
15 grant under this section per child described in  
16 section 1124(c), without application of a  
17 weighting factor, multiplied by the State’s total  
18 number of children described in section  
19 1124(c), without application of a weighting fac-  
20 tor.

21 **“SEC. 1126. SPECIAL ALLOCATION PROCEDURES.**

22           “(a) ALLOCATIONS FOR NEGLECTED CHILDREN.—

23           “(1) IN GENERAL.—If a State educational  
24 agency determines that a local educational agency in  
25 the State is unable or unwilling to provide for the

1 special educational needs of children who are living  
2 in institutions for neglected children as described in  
3 subparagraph (B) of section 1124(c)(1), the State  
4 educational agency shall, if such agency assumes re-  
5 sponsibility for the special educational needs of such  
6 children, receive the portion of such local educational  
7 agency's allocation under sections 1124, 1124A, and  
8 1125 that is attributable to such children.

9 “(2) SPECIAL RULE.—If the State educational  
10 agency does not assume such responsibility, any  
11 other State or local public agency that does assume  
12 such responsibility shall receive that portion of the  
13 local educational agency's allocation.

14 “(b) ALLOCATIONS AMONG LOCAL EDUCATIONAL  
15 AGENCIES.—The State educational agency may allocate  
16 the amounts of grants under sections 1124, 1124A, and  
17 1125 among the affected local educational agencies—

18 “(1) if 2 or more local educational agencies  
19 serve, in whole or in part, the same geographical  
20 area;

21 “(2) if a local educational agency provides free  
22 public education for children who reside in the  
23 school district of another local educational agency;  
24 or

1           “(3) to reflect the merger, creation, or change  
2           of boundaries of 1 or more local educational agen-  
3           cies.

4           “(c) REALLOCATION.—If a State educational agency  
5           determines that the amount of a grant a local educational  
6           agency would receive under sections 1124, 1124A, and  
7           1125 is more than such local agency will use, the State  
8           educational agency shall make the excess amount available  
9           to other local educational agencies in the State that need  
10          additional funds in accordance with criteria established by  
11          the State educational agency.

12          **“SEC. 1127. CARRYOVER AND WAIVER.**

13          “(a) LIMITATION ON CARRYOVER.—Notwithstanding  
14          section 421 of the General Education Provisions Act or  
15          any other provision of law, not more than 15 percent of  
16          the funds allocated to a local educational agency for any  
17          fiscal year under this subpart (but not including funds re-  
18          ceived through any reallocation under this subpart) may  
19          remain available for obligation by such agency for 1 addi-  
20          tional fiscal year.

21          “(b) WAIVER.—A State educational agency may,  
22          once every 3 years, waive the percentage limitation in sub-  
23          section (a) if—

1           “(1) the agency determines that the request of  
2           a local educational agency is reasonable and nec-  
3           essary; or

4           “(2) supplemental appropriations for this sub-  
5           part become available.

6           “(c) EXCLUSION.—The percentage limitation under  
7           subsection (a) shall not apply to any local educational  
8           agency that receives less than \$50,000 under this subpart  
9           for any fiscal year.

10   **“SEC. 1128. SECULAR, NEUTRAL, AND NONIDEOLOGICAL.**

11           “Any school that receives funds under this part shall  
12           ensure that educational services or other benefits provided  
13           under this part, including materials and equipment, shall  
14           be secular, neutral, and nonideological.”.

15           **PART B—STUDENT READING SKILLS**

16                   **IMPROVEMENT GRANTS**

17   **SEC. 111. READING FIRST; EARLY READING FIRST.**

18           Part B of title I (20 U.S.C. 6361 et seq.) is  
19           amended—

20                   (1) by striking the part heading and inserting  
21           the following:

1           **“PART B—STUDENT READING SKILLS**  
2                           **IMPROVEMENT GRANTS”;**

3           (2) by redesignating sections 1201 through  
4           1212 as sections 1231 through 1242, respectively;  
5           and

6           (3) by inserting after the part heading the fol-  
7           lowing:

8                           **“Subpart 1—Reading First**

9           **“SEC. 1201. FINDINGS.**

10          “The Congress finds as follows:

11           “(1) The 1998 National Assessment of Edu-  
12           cational Progress found that 68 percent of fourth  
13           grade students in the United States are reading  
14           below the proficient level.

15           “(2) That assessment also found that minority  
16           students, on average, continue to lag far behind  
17           their non-minority counterparts in reading pro-  
18           ficiency.

19           “(3) More than ½ of the students placed in  
20           special education classes are identified as learning  
21           disabled and, for as many as 80 percent of the stu-  
22           dents so identified, reading is the primary difficulty.

23           “(4) It is estimated that, at a minimum,  
24           10,000,000 children have difficulty learning to read.  
25           10 to 15 percent of those children eventually drop

1 out of high school, and only 2 percent complete a 4-  
2 year program at an institution of higher education.

3 “(5) It is estimated that the number of children  
4 who are typically identified as poor readers can be  
5 significantly reduced through the implementation of  
6 early identification and prevention programs that  
7 are based on scientifically based reading research.

8 “(6) The report issued by the National Reading  
9 Panel in 2000 found that the course of reading in-  
10 struction that obtains maximum benefits for stu-  
11 dents includes explicit and systematic instruction in  
12 phonemic awareness, phonics, vocabulary develop-  
13 ment, reading fluency, and reading comprehension  
14 strategies.

15 **“SEC. 1202. PURPOSES.**

16 “The purposes of this subpart are as follows:

17 “(1) To provide assistance to States and local  
18 educational agencies in establishing reading pro-  
19 grams for students in grades kindergarten through  
20 3 that are based on scientifically based reading re-  
21 search, in order to ensure that every student can  
22 read at grade level or above by the end of the third  
23 grade.

24 “(2) To provide assistance to States and local  
25 educational agencies in preparing teachers, through

1 professional development and other support, so the  
2 teachers can identify specific reading barriers facing  
3 their students and so the teachers have the tools to  
4 effectively help their students learn to read.

5 “(3) To provide assistance to States and local  
6 educational agencies in selecting or developing rig-  
7 orous diagnostic reading assessments that document  
8 the effectiveness of this subpart in improving stu-  
9 dents’ reading and in holding grant and subgrant re-  
10 cipients accountable for their results.

11 “(4) To provide assistance to States and local  
12 educational agencies in selecting or developing effec-  
13 tive instructional materials, programs, and strategies  
14 to implement scientific research-based methods that  
15 have been proven to prevent or remediate reading  
16 failure within a State or States.

17 “(5) To strengthen coordination among schools  
18 and early literacy programs in order to improve  
19 reading achievement for all children.

20 **“SEC. 1203. FORMULA GRANTS TO STATES; COMPETITIVE**  
21 **SUBGRANTS TO LOCAL AGENCIES.**

22 “(a) IN GENERAL.—

23 “(1) AUTHORIZATION TO MAKE GRANTS.—In  
24 the case of each State that in accordance with sec-  
25 tion 1204 submits to the Secretary an application

1 for a 5-year period, the Secretary, subject to the ap-  
2 plication's approval, shall make a grant to the State  
3 for the uses specified in subsections (c) and (d). The  
4 grant shall consist of the allotment determined for  
5 the State under subsection (b).

6 “(2) DURATION OF GRANTS.—

7 “(A) IN GENERAL.—Subject to subpara-  
8 graph (B), a grant under this section shall be  
9 awarded for a period of not more than 5 years.

10 “(B) INTERIM REVIEW.—Not later than 60  
11 days after the termination of the third year of  
12 the grant period, each State receiving a grant  
13 under this section shall submit a progress re-  
14 port to the Secretary on the progress the State  
15 and local educational agencies within the State  
16 are making in reducing the number of students  
17 reading below grade level. The progress report  
18 shall be reviewed by the peer review panel con-  
19 vened under section 1204(c)(2). After the sub-  
20 mission of this report, if the Secretary deter-  
21 mines that the State is not making significant  
22 progress in meeting the purposes of this sub-  
23 part, the Secretary may withhold from the  
24 State, in whole or in part, further payments  
25 under this section in accordance with section



1           455 of the General Education Provisions Act  
2           (20 U.S.C. 1234d) or take such other action  
3           authorized by law as the Secretary deems nec-  
4           essary, including providing technical assistance  
5           upon request of the State.

6           “(b) DETERMINATION OF AMOUNT OF ALLOT-  
7 MENTS.—

8           “(1) RESERVATIONS FROM APPROPRIATIONS.—  
9           From the amounts appropriated under section  
10          1002(b)(1) to carry out this subpart for a fiscal  
11          year, the Secretary—

12                  “(A) shall reserve  $\frac{1}{2}$  of 1 percent for allot-  
13                  ments for the Virgin Islands, Guam, American  
14                  Samoa, and the Commonwealth of the Northern  
15                  Mariana Islands, to be distributed among these  
16                  outlying areas on the basis of their relative  
17                  need, as determined by the Secretary in accord-  
18                  ance with the purposes of this subpart;

19                  “(B) shall reserve  $\frac{1}{2}$  of 1 percent for the  
20                  Secretary of the Interior for programs under  
21                  this subpart in schools operated or funded by  
22                  the Bureau of Indian Affairs;

23                  “(C) may reserve not more than 1 percent  
24                  to carry out section 1207; and

1           “(D) shall reserve \$5,000,000 to carry sec-  
2           tions 1208 and 1224.

3           “(2) STATE ALLOTMENTS.—From the total  
4           amount made available under section 1002(b)(1) to  
5           carry out this subpart for any fiscal year and not re-  
6           served under paragraph (1), the Secretary shall allot  
7           75 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 in proportion to the  
16               number of children, aged 5 to 17, who reside  
17               within the State from families with incomes  
18               below the poverty line (as defined by the Office  
19               of Management and Budget and revised annu-  
20               ally in accordance with section 673(2) of the  
21               Community Services Block Grant Act (42  
22               U.S.C. 9902(2)) applicable to a family of the  
23               size involved for the most recent fiscal year for  
24               which satisfactory data are available, compared

1 to the number of such individuals who reside in  
2 all such States for that fiscal year.

3 “(B) EXCEPTION.—No State receiving an  
4 allotment under subparagraph (A) may receive  
5 less than  $\frac{1}{4}$  of 1 percent of the total amount  
6 allotted under subparagraph (A).

7 “(4) REALLOTMENT.—If any State does not  
8 apply for an allotment under this section for any fis-  
9 cal year, or if the State’s application is not ap-  
10 proved, the Secretary shall reallocate such amount to  
11 the remaining States in accordance with paragraph  
12 (3).

13 “(d) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-  
14 CIES.—

15 “(1) DISTRIBUTION OF SUBGRANTS.—The Sec-  
16 retary may make a grant to a State under this sec-  
17 tion only if the State agrees to expend at least 80  
18 percent of the amount of the funds provided under  
19 the grant for the purpose of making, in accordance  
20 with this subsection, competitive subgrants to local  
21 educational agencies.

22 “(2) NOTICE.—A State receiving a grant under  
23 this section shall provide notice to all local edu-  
24 cational agencies in the State of the availability of

1 competitive subgrants under this subsection and of  
2 the requirements for applying for the subgrants.

3 “(3) LOCAL APPLICATIONS.—To be eligible to  
4 receive a subgrant under this subsection, a local edu-  
5 cational agency shall submit an application to the  
6 State at such time, in such manner, and containing  
7 such information as the State may reasonably re-  
8 quire.

9 “(4) PRIORITY FOR CERTAIN LOCAL AGEN-  
10 CIES.—A State receiving a grant under this section  
11 shall, in distributing subgrants to local educational  
12 agencies, give priority to local educational agencies  
13 that—

14 “(A) have a high percentage of students in  
15 grades kindergarten through 3 reading below  
16 grade level;

17 “(B) have jurisdiction over—

18 “(i) a geographic area that includes  
19 an area designated as an empowerment  
20 zone, or an enterprise community, under  
21 part I of subchapter U of chapter 1 of the  
22 Internal Revenue Code of 1986; or

23 “(ii) a significant number of schools  
24 that are identified for school improvement  
25 under section 1116(b); and

1           “(C) are located in areas having the great-  
2           est numbers of children aged 5 through 17 liv-  
3           ing in families below the poverty line, as defined  
4           by the Office of Management and Budget and  
5           revised annually in accordance with section  
6           673(2) of the Community Services Block Grant  
7           Act (42 U.S.C. 9902(2)).

8           “(5) STATE REQUIREMENT.—In distributing  
9           subgrant funds to local educational agencies under  
10          this subsection, a State shall provide funds in suffi-  
11          cient concentrations to enable local educational  
12          agencies to improve reading, as measured by scores  
13          on rigorous diagnostic reading assessments.

14          “(6) PRIORITY FOR CERTAIN SCHOOLS.—In dis-  
15          tributing subgrant funds under this subsection, a  
16          local educational agency shall give priority to pro-  
17          viding the funds to schools that—

18                 “(A) have a high percentage of students in  
19                 grades kindergarten through 3 reading below  
20                 grade level;

21                 “(B) are identified for school improvement  
22                 under section 1116(b); and

23                 “(C) have the greatest numbers of children  
24                 aged 5 through 17 living in families below the  
25                 poverty line, as defined by the Office of Man-

1           agement and Budget and revised annually in  
2           accordance with section 673(2) of the Commu-  
3           nity Services Block Grant Act (42 U.S.C.  
4           9902(2)).

5           “(7) LOCAL USES OF FUNDS.—Subject to para-  
6           graph (8), a local educational agency that receives a  
7           subgrant under this subsection shall use the funds  
8           provided under the subgrant to carry out the fol-  
9           lowing activities:

10                   “(A) Selecting or developing, and admin-  
11                   istering, rigorous diagnostic reading assess-  
12                   ments.

13                   “(B) Selecting and implementing a pro-  
14                   gram or programs of reading instruction based  
15                   on scientifically based reading research that—

16                           “(i) includes the essential components  
17                           of reading instruction; and

18                           “(ii) provides such instruction to all  
19                           children, including children who—

20                                   “(I) may have reading difficul-  
21                                   ties;

22                                   “(II) are at risk of being referred  
23                                   to special education based on these  
24                                   difficulties;

1           “(III) have been evaluated under  
2           section 614 of the Individuals with  
3           Disabilities Education Act but, in ac-  
4           cordance with section 614(b)(5) of  
5           such Act, have not been identified as  
6           being a child with a disability (as de-  
7           fined in section 602 of such Act);

8           “(IV) are being served under  
9           such Act primarily due to being iden-  
10          tified as being a child with a specific  
11          learning disability (as defined in sec-  
12          tion 602 of such Act) related to read-  
13          ing;

14          “(V) are deficient in their pho-  
15          nemic awareness and phonics skills; or

16          “(VI) are identified as having  
17          limited English proficiency.

18          “(C) Procuring instructional materials  
19          based on scientifically based reading research.

20          “(D) Providing professional development  
21          for teachers of grades kindergarten through 3  
22          that—

23                  “(i) will prepare these teachers in all  
24                  of the essential components of reading in-  
25                  struction;

1 “(ii) shall include—

2 “(I) information, instructional  
3 materials, programs, strategies, and  
4 approaches based on scientifically  
5 based reading research, including  
6 early intervention and reading remedi-  
7 ation materials, programs, and ap-  
8 proaches; and

9 “(II) instruction in the use of  
10 rigorous diagnostic reading assess-  
11 ments and other procedures that ef-  
12 fectively identify students who may be  
13 at risk for reading failure or who are  
14 having difficulty reading; and

15 “(iii) shall be provided by eligible pro-  
16 fessional development providers.

17 “(E) Providing training to individuals who  
18 volunteer to be reading tutors for a student on  
19 the essential components of reading instruction  
20 to enable such volunteers to support instruc-  
21 tional practices of the student’s teacher.

22 “(F) Providing instruction for parents of  
23 children enrolled in a school selected to receive  
24 assistance under this section, and for others  
25 who volunteer to be reading tutors for such



1 children, in the instructional practices that are  
2 based on scientifically based reading research  
3 used by the applicant.

4 “(G) Assisting parents, through the use of  
5 materials, programs, strategies, and approaches  
6 that are based on scientifically based reading  
7 research, to help support their children’s read-  
8 ing development.

9 “(H) Collecting and summarizing data  
10 from rigorous diagnostic reading assessments—

11 “(i) to document the effectiveness of  
12 this subpart in individual schools and in  
13 the local educational agency as a whole;  
14 and

15 “(ii) to stimulate and accelerate im-  
16 provement by identifying the schools that  
17 produce the largest gains in reading  
18 achievement.

19 “(I) Reporting aggregated data described  
20 in subparagraph (H) in a manner that protects  
21 the privacy of individuals—

22 “(i) to the State; and

23 “(ii) to the public, including parents  
24 and students, through such means as the  
25 Internet and major print and broadcast

1           media outlets or other journal of public  
2           record.

3           “(8) LOCAL PLANNING AND ADMINISTRA-  
4           TION.—A local educational agency that receives a  
5           subgrant under this subsection may use not more  
6           than 2 percent of the funds provided under the  
7           subgrant for planning and administration.

8           “(e) OTHER STATE USES OF FUNDS.—

9           “(1) PROFESSIONAL DEVELOPMENT.—

10           “(A) IN GENERAL.—A State that receives  
11           a grant under this section may expend not more  
12           than 15 percent of the amount of the funds  
13           provided under the grant to develop and imple-  
14           ment a program of professional development for  
15           teachers of kindergarten through third grades  
16           that—

17                   “(i) will prepare these teachers in all  
18                   of the essential components of reading in-  
19                   struction;

20                   “(ii) shall include—

21                           “(I) information on interventions,  
22                           instructional materials, programs, and  
23                           approaches based on scientifically  
24                           based reading research, including  
25                           early intervention and reading remedi-

1                   ation materials, programs, and ap-  
2                   proaches; and

3                   “(II) instruction in the use of  
4                   rigorous diagnostic reading assess-  
5                   ments and other procedures that ef-  
6                   fectively identify students who may be  
7                   at risk for reading failure or who are  
8                   having difficulty reading; and

9                   “(iii) shall be provided by eligible pro-  
10                  fessional development providers.

11                  “(B) FUNDS NOT USED FOR PROFES-  
12                  SIONAL DEVELOPMENT.—Any portion of the  
13                  funds described in subparagraph (A) that a  
14                  State does not expend to develop and implement  
15                  a program described in such subparagraph shall  
16                  be expended for the purpose of making sub-  
17                  grants in accordance with subsection (c).

18                  “(2) OTHER STATE-LEVEL ACTIVITIES.—A  
19                  State that receives a grant under this section may  
20                  expend not more than 3 percent of the amount of  
21                  the funds provided under the grant for one or more  
22                  of the following authorized State activities:

23                  “(A) Assisting local educational agencies in  
24                  accomplishing the tasks required to design and

1           implement a program under this subpart,  
2           including—

3                   “(i) selecting and implementing a pro-  
4                   gram or programs of reading instruction  
5                   based on scientifically based reading re-  
6                   search;

7                   “(ii) selecting or developing rigorous  
8                   diagnostic reading assessments; and

9                   “(iii) identifying eligible professional  
10                  development providers to help prepare  
11                  reading teachers to teach students using  
12                  the programs and assessments described in  
13                  clauses (i) and (ii);

14                  “(B) Providing to students in kindergarten  
15                  through third grades through alternative pro-  
16                  viders reading instruction that includes—

17                          “(i) rigorous diagnostic reading as-  
18                          sessments; and

19                          “(ii) as need is indicated by such as-  
20                          sessments, instruction based on scientif-  
21                          ically based reading research that includes  
22                          the essential components of reading in-  
23                          struction.

24                  “(3) PLANNING, ADMINISTRATION, AND RE-  
25                  PORTING.—

1           “(A) IN GENERAL.—A State that receives  
2 a grant under this section shall expend not  
3 more than 2 percent of the amount of the funds  
4 provided under the grant for the activities de-  
5 scribed in this paragraph.

6           “(B) PLANNING AND ADMINISTRATION.—A  
7 State that receives a grant under this section  
8 may expend funds described in subparagraph  
9 (A) for planning and administration relating to  
10 the State uses of funds authorized under this  
11 subpart, including the following:

12           “(i) Administering the distribution of  
13 competitive subgrants to local educational  
14 agencies under this section and sections  
15 1205 and 1206.

16           “(ii) Collecting and summarizing data  
17 from rigorous diagnostic reading  
18 assessments—

19           “(I) to document the effective-  
20 ness of this subpart in individual local  
21 educational agencies and in the State  
22 as a whole; and

23           “(II) to stimulate and accelerate  
24 improvement by identifying the local

1 educational agencies that produce the  
2 largest gains in reading achievement.

3 “(C) ANNUAL REPORTING.—

4 “(i) IN GENERAL.—A State that re-  
5 ceives a grant under this section shall ex-  
6 pend funds provided under the grant to  
7 provide the Secretary annually with a re-  
8 port on the implementation of this subpart.  
9 The report shall include evidence that the  
10 State is fulfilling its obligations under this  
11 subpart. The report shall also include the  
12 data required under subsection (c)(7)(I) to  
13 be reported to the State by local edu-  
14 cational agencies. The report shall include  
15 a specific identification of those local edu-  
16 cational agencies that report the largest  
17 gains in reading achievement.

18 “(ii) PRIVACY PROTECTION.—Data in  
19 the report shall be set forth in a manner  
20 that protects the privacy of individuals.

21 “(iii) CONTRACT.—To the extent  
22 practicable, a State shall enter into a con-  
23 tract with an entity that conducts scientif-  
24 ically based reading research, under which  
25 contract the entity will produce the reports

1                   required to be submitted under this sub-  
2                   paragraph.

3 **“SEC. 1204. STATE FORMULA GRANT APPLICATIONS.**

4           “(a) IN GENERAL.—A State that desires to receive  
5 a grant under section 1203 shall submit an application  
6 to the Secretary at such time and in such form as the  
7 Secretary may require. The application shall contain the  
8 information described in subsection (b).

9           “(b) CONTENTS.—An application under this section  
10 shall contain the following:

11                   “(1) An assurance that the Governor of the  
12 State, in consultation with the State educational  
13 agency, has established a reading partnership de-  
14 scribed in subsection (d), and a description of how  
15 such partnership—

16                           “(A) coordinated the development of the  
17 application; and

18                           “(B)) will assist in the oversight and eval-  
19 uation of the State’s activities under this sub-  
20 part.

21                   “(2) An assurance that the State will submit to  
22 the Secretary, at such time and in such manner as  
23 the Secretary may reasonably require, a State plan  
24 containing a description of a process—

1           “(A) to evaluate programs carried out by  
2 local educational agencies under this subpart;

3           “(B) to assist local educational agencies in  
4 identifying rigorous diagnostic reading assess-  
5 ments; and

6           “(C) to assist local educational agencies in  
7 identifying interventions, and instructional ma-  
8 terials, programs and approaches, based on sci-  
9 entifically based reading research, including  
10 early intervention and reading remediation ma-  
11 terials, programs and approaches.

12       “(c) APPROVAL OF APPLICATIONS.—

13           “(1) IN GENERAL.—The Secretary, in consulta-  
14 tion with the peer review panel convened under para-  
15 graph (2), shall approve an application of a State  
16 under this section if such application meets the re-  
17 quirements of this section.

18           “(2) PEER REVIEW.—

19           “(A) IN GENERAL.—The Secretary, in con-  
20 sultation with the National Institute for Lit-  
21 eracy, shall convene a panel to evaluate applica-  
22 tions under this section. At a minimum, the  
23 panel shall include—

24                   “(i) 3 individuals selected by the Sec-  
25 retary;



1                   “(ii) 3 individuals selected by the Na-  
2                   tional Institute for Literacy;

3                   “(iii) 3 individuals selected by the Na-  
4                   tional Research Council of the National  
5                   Academy of Sciences; and

6                   “(iv) 3 individuals selected by the Na-  
7                   tional Institute of Child Health and  
8                   Human Development.

9                   “(B) EXPERTS.—The panel shall include  
10                  experts who are competent, by virtue of their  
11                  training, expertise, or experience, to evaluate  
12                  applications under this section, and experts who  
13                  provide professional development to teachers of  
14                  reading to children and adults, and experts who  
15                  provide professional development to other in-  
16                  structional staff, based on scientifically based  
17                  reading research.

18                  “(C) RECOMMENDATIONS.—The panel  
19                  shall recommend grant applications from States  
20                  under this section to the Secretary for funding  
21                  or for disapproval.

22                  “(d) READING PARTNERSHIPS.—

23                  “(1) IN GENERAL.—In order for a State to re-  
24                  ceive a grant under section 1203, the Governor of  
25                  the State, in consultation with the State educational

1 agency, shall establish a reading partnership. The  
2 partnership shall consist of the participants de-  
3 scribed in paragraphs (2), (3), and (4).

4 “(2) AUTOMATIC PARTICIPANTS.—The reading  
5 partnership shall include the following participants:

6 “(A) The Governor of the State.

7 “(B) The chief State school officer.

8 “(C) The chairman and the ranking mem-  
9 ber of each committee of the State legislature  
10 that is responsible for elementary education.

11 “(3) APPOINTED BY GOVERNOR.—The following  
12 members of the reading partnership shall be ap-  
13 pointed by the Governor:

14 “(A) Parents of public, private, or home  
15 schooled students who are knowledgeable about  
16 the essential components of reading instruction.

17 “(B) A representative of an institution of  
18 higher education operating a program of teach-  
19 er preparation in which prospective reading  
20 teachers are being taught the essential compo-  
21 nents of reading instruction.

22 “(C) A representative of a literacy volun-  
23 teen organization where the essential compo-  
24 nents of reading instruction are being taught to  
25 students or adults.

1           “(D) A representative of a school.

2           “(E) A representative of a public library.

3           “(4) APPOINTED BY CHIEF SCHOOL OFFICER.—

4           The following members of the reading partnership  
5           shall be appointed by the chief State school officer:

6           “(A) A teacher and reading specialist who  
7           successfully teaches students to read using the  
8           essential components of reading instruction.

9           “(B) Representatives of at least 2 local  
10          educational agencies where the essential compo-  
11          nents of reading instruction are being taught.

12          “(C) A representative of a community-  
13          based organization where the essential compo-  
14          nents of reading instruction are being taught.

15          “(D) State directors of appropriate Fed-  
16          eral or State programs where the essential com-  
17          ponents of reading instruction are being taught,  
18          especially in programs under part A and the In-  
19          dividuals with Disabilities Education Act.

20       **“SEC. 1205. SUPPLEMENTAL GRANTS TO STATES; COMPETI-**  
21                               **TIVE SUBGRANTS TO LOCAL AGENCIES.**

22          “(a) IN GENERAL.—In the case of a State that in  
23          accordance with subsection (c) submits to the Secretary  
24          an application for fiscal year 2002 or 2003, the Secretary  
25          may make a grant for the year to the State for the use

1 specified in subsection (d). The grant shall consist of the  
2 allotment determined for the State under subsection (b).

3 “(b) DETERMINATION OF AMOUNT OF ALLOT-  
4 MENT.—

5 “(1) IN GENERAL.—From the total amount  
6 made available under section 1002(b)(1) to carry out  
7 this subpart for any fiscal year referred to in sub-  
8 section (a) that is not reserved under section  
9 1203(b)(1), the Secretary may allot 25 percent  
10 under this section among each of the 50 States, the  
11 District of Columbia, and the Commonwealth of  
12 Puerto Rico.

13 “(2) STATE ALLOTMENTS.—In carrying out  
14 paragraph (1), the Secretary may allot such funds  
15 according to such criteria as the Secretary considers  
16 appropriate and consistent with the purposes of this  
17 subpart and based on the recommendations of the  
18 peer review panel convened under section  
19 1204(e)(2).

20 “(c) STATE APPLICATIONS.—

21 “(1) IN GENERAL.—A State that desires to re-  
22 ceive a grant under this section shall submit an ap-  
23 plication to the Secretary at such time, in such  
24 form, and containing such information as the Sec-  
25 retary may require.

1           “(2) PEER REVIEW.—The peer review panel  
2           convened under section 1204(c)(2) shall evaluate  
3           grant applications from States under this section.  
4           The panel shall recommend such applications to the  
5           Secretary for funding or for disapproval.

6           “(d) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-  
7           CIES.—

8           “(1) IN GENERAL.—The Secretary may make a  
9           grant to a State under this section only if the State  
10          agrees to expend 100 percent of the amount of the  
11          funds provided under the grant for the purpose of  
12          making competitive subgrants in accordance with  
13          this subsection to local educational agencies.

14          “(2) NOTICE.—A State receiving a grant under  
15          this section shall provide notice to all local edu-  
16          cational agencies in the State of the availability of  
17          competitive subgrants under this subsection and of  
18          the requirements for applying for the subgrants.

19          “(3) LOCAL APPLICATIONS.—To be eligible to  
20          receive a subgrant under this subsection, a local edu-  
21          cational agency shall submit an application to the  
22          State at such time, in such manner, and containing  
23          such information as the State may reasonably re-  
24          quire.

1           “(4) DISTRIBUTION.—A State shall distribute  
2 funds under this section according to such criteria  
3 as the State considers appropriate and consistent  
4 with the purposes of this subpart giving special at-  
5 tention to those local educational agencies that are  
6 making a good faith effort to improve reading skills  
7 consistent with this subpart.

8           “(5) LOCAL USES OF FUNDS.—A local edu-  
9 cational agency that receives a subgrant under this  
10 subsection—

11                   “(A) shall use the funds provided under  
12 the subgrant to carry out the activities de-  
13 scribed in subparagraphs (A) through (D) of  
14 section 1203(e)(7); and

15                   “(B) may use such funds to carry out the  
16 activities described in subparagraphs (E)  
17 through (H) of such section.

18           “(e) SUNSET.—This section is repealed on September  
19 30, 2003.

20 **“SEC. 1206. PERFORMANCE GRANTS TO STATES; COMPETI-**  
21 **TIVE SUBGRANTS TO LOCAL AGENCIES.**

22           “(a) IN GENERAL.—In the case of a State that in  
23 accordance with subsection (c) submits to the Secretary  
24 an application for any fiscal year after fiscal year 2003,  
25 the Secretary may make a grant for the year to the State

1 for the use specified in subsection (d). The grant shall con-  
2 sist of the allotment determined for the State under sub-  
3 section (b).

4 “(b) DETERMINATION OF AMOUNT OF ALLOT-  
5 MENT.—

6 “(1) IN GENERAL.—From the total amount  
7 made available under section 1002(b)(1) to carry out  
8 this subpart for any fiscal year referred to in sub-  
9 section (a) that is not reserved under section  
10 1203(b)(1), the Secretary may allot 25 percent  
11 under this section among each of the 50 States, the  
12 District of Columbia, and the Commonwealth of  
13 Puerto Rico.

14 “(2) STATE ALLOTMENTS.—

15 “(A) IN GENERAL.—In carrying out para-  
16 graph (1), the Secretary shall allot such funds  
17 to those States that demonstrate the most ef-  
18 fective implementation of this subpart, as deter-  
19 mined by the peer review panel convened under  
20 section 1204(c)(2) based upon the application  
21 contents described in subsection (c)(3).

22 “(c) STATE APPLICATIONS.—

23 “(1) IN GENERAL.—A State that desires to re-  
24 ceive a grant under this section shall submit an ap-

1       plication to the Secretary at such time and in such  
2       form as the Secretary may require.

3               “(2) PEER REVIEW.—The peer review panel  
4       convened under section 1204(c)(2) shall evaluate  
5       grant applications from States under this section.  
6       The panel shall recommend such applications to the  
7       Secretary for funding or for disapproval.

8               “(3) APPLICATION CONTENTS.—A State that  
9       desires to receive a grant under this section shall in-  
10      clude in its application the following:

11              “(A) Evidence that the State has carried  
12      out its obligations under this subpart.

13              “(B) Evidence that the State has increased  
14      significantly the percentage of students reading  
15      at grade level or above by the end of the third  
16      grade.

17              “(C) Evidence that the State has been suc-  
18      cessful in reducing the reading deficit in terms  
19      of the percentage of students in ethnic, racial,  
20      and low-income populations who are reading at  
21      grade level or above by the end of the third  
22      grade.

23              “(D) A description of the criteria the State  
24      intends to use in distributing subgrants to local



1 educational agencies under this section to con-  
2 tinue or expand activities under this subpart.

3 “(E) Any additional evidence that dem-  
4 onstrates success in the implementation of this  
5 subpart.

6 “(d) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-  
7 CIES.—

8 “(1) IN GENERAL.—The Secretary may make a  
9 grant to a State under this section only if the State  
10 agrees to expend 100 percent of the amount of the  
11 funds provided under the grant for the purpose of  
12 making competitive subgrants in accordance with  
13 this subsection to local educational agencies.

14 “(2) NOTICE.—A State receiving a grant under  
15 this section shall provide notice to all local edu-  
16 cational agencies in the State of the availability of  
17 competitive subgrants under this subsection and of  
18 the requirements for applying for the subgrants.

19 “(3) APPLICATION.—To be eligible to receive a  
20 subgrant under this subsection, a local educational  
21 agency shall submit an application to the State at  
22 such time, in such manner, and containing such in-  
23 formation as the State may reasonably require.

1           “(4) DISTRIBUTION.—A State shall distribute  
2 funds under this section through a competitive pro-  
3 cess based on the following criteria:

4           “(A) Evidence that a local educational  
5 agency has carried out its obligations under this  
6 subpart.

7           “(B) Evidence that a local educational  
8 agency has increased significantly the percent-  
9 age of students reading at grade level or above  
10 by the end of the third grade.

11           “(C) Evidence that a local educational  
12 agency has been successful in reducing the  
13 reading deficit in terms of the percentage of  
14 students in ethnic, racial, and low-income popu-  
15 lations who are reading at grade level or above  
16 by the end of the third grade.

17           “(D) The description in such application of  
18 how such funds will be used to support the con-  
19 tinuation or expansion of the agency’s programs  
20 under this subpart.

21           “(E) Evidence that the local educational  
22 agency will work with other eligible local edu-  
23 cational agencies in the State that have not re-  
24 ceived a subgrant under this subsection to as-

1           sist such nonreceiving agencies in increasing the  
2           reading achievement of students.

3           “(F) Any additional evidence in a local  
4           educational agency’s application under para-  
5           graph (3) that demonstrates success in the im-  
6           plementation of this subpart.

7           “(5) LOCAL USES OF FUNDS.—A local edu-  
8           cational agency that receives a subgrant under this  
9           subsection—

10           “(A) shall use the funds provided under  
11           the subgrant to carry out the activities de-  
12           scribed in subparagraphs (A) through (D) of  
13           section 1203(e)(7); and

14           “(B) may use such funds to carry out the  
15           activities described in subparagraphs (E)  
16           through (H) of such section.

17 **“SEC. 1207. NATIONAL ACTIVITIES.**

18           “From funds reserved under section 1203(b)(1)(C),  
19 the Secretary—

20           “(1) through grants or contracts, shall conduct  
21           an evaluation of the program under this subpart  
22           using criteria recommended by the peer review panel  
23           convened under section 1204(e)(2); and

24           “(2) may provide technical assistance in achiev-  
25           ing the purposes of this subpart to States, local edu-

1           cational agencies, and schools requesting such assist-  
2           ance.

3   **“SEC. 1208. INFORMATION DISSEMINATION.**

4           “(a) IN GENERAL.—From funds reserved under sec-  
5   tion 1203(b)(1)(D), the National Institute for Literacy,  
6   in collaboration with the Secretary of Education, the Sec-  
7   retary of Health and Human Services, and the Director  
8   of the National Institute for Child Health and Human  
9   Development—

10           “(1) shall disseminate information on scientif-  
11   ically based reading research pertaining to children,  
12   youth, and adults;

13           “(2) shall identify and disseminate information  
14   about schools, local educational agencies, and States  
15   that effectively developed and implemented reading  
16   programs that meet the requirements of this sub-  
17   part, including those effective States, local edu-  
18   cational agencies, and schools identified through the  
19   evaluation and peer review provisions of this sub-  
20   part; and

21           “(3) shall support the continued identification  
22   and dissemination of information on programs that  
23   contain the essential components of reading instruc-  
24   tion as supported by scientifically based reading re-  
25   search, that can lead to improved reading outcomes

1 for children, youth, and adults through evidence-  
2 based assessments of the scientific research lit-  
3 erature.

4 “(b) DISSEMINATION.—At a minimum, the National  
5 Institute for Literacy shall disseminate such information  
6 to recipients of Federal financial assistance under part A  
7 of this title, part A of title III, the Head Start Act, the  
8 Individuals with Disabilities Education Act, and the Adult  
9 Education and Family Literacy Act. In carrying out this  
10 section, the National Institute for Literacy shall, to the  
11 extent practicable, utilize existing information and dis-  
12 semination networks developed and maintained through  
13 other public and private entities.

14 “(c) USE OF FUNDS.—The National Institute for  
15 Literacy may use not more than 5 percent of the funds  
16 reserved under section 1203(b)(1)(D) for administrative  
17 purposes directly related to carrying out the activities au-  
18 thorized by this section.

19 **“SEC. 1209. DEFINITIONS.**

20 “For purposes of this subpart:

21 “(1) ELIGIBLE PROFESSIONAL DEVELOPMENT  
22 PROVIDER.—The term ‘eligible professional develop-  
23 ment provider’ means a provider of professional de-  
24 velopment in reading instruction to teachers that is  
25 based on scientifically 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 ASSESS-  
12 MENTS.—The term ‘rigorous diagnostic reading as-  
13 sessments’ means diagnostic reading assessments  
14 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 and

21           “(C) identify students who may be at risk  
22 for reading failure or who are having difficulty  
23 reading.

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****2 “SEC. 1221. PURPOSES.**

3 “The purposes of this subpart are—

4 “(1) to improve prereading skills in children  
5 aged 3 through 5, particularly those children from  
6 low-income families, in high-quality oral language  
7 and literature-rich environments;

8 “(2) to provide professional development for  
9 early childhood teachers that prepares them with sci-  
10 entific research-based knowledge of early reading de-  
11 velopment to assist in developing the children’s—

12 “(A) automatic recognition of the letters of  
13 the alphabet;

14 “(B) understanding that spoken words are  
15 made up of small segments of speech sounds  
16 and that certain letters regularly represent such  
17 speech sounds; and

18 “(C) spoken vocabulary and oral com-  
19 prehension abilities;

20 “(3) to identify and provide scientific research-  
21 based prereading language and literacy activities and  
22 instructional materials that can be used to assist in  
23 the development of prereading skills in children; and

24 “(4) to integrate such scientific research-based  
25 instructional materials and literacy activities with

1 existing preschool programs, Head Start centers,  
2 and family literacy services.

3 **“SEC. 1222. LOCAL EARLY READING FIRST GRANTS.**

4 “(a) PROGRAM AUTHORIZED.—From amounts ap-  
5 propriated under section 1002(b)(2), the Secretary shall  
6 make awards, on a competitive basis, for periods of not  
7 more than 4 years, to eligible applicants to enable such  
8 applicants to carry out activities that are consistent with  
9 the purposes of this subpart.

10 “(b) DEFINITION OF ELIGIBLE APPLICANT.—In this  
11 subpart, the term ‘eligible applicant’ means—

12 “(1) a local educational agency;

13 “(2) one or more public or private organiza-  
14 tions, acting on behalf of one or more programs that  
15 serve preschool age children (such as a program at  
16 a Head Start center or a family literacy program),  
17 which organizations shall be located in a community  
18 served by a local educational agency; or

19 “(3) one or more local educational agencies in  
20 collaboration with one or more organizations de-  
21 scribed in paragraph (2).

22 “(c) APPLICATIONS.—An eligible applicant that de-  
23 sires to receive a grant under this section shall submit an  
24 application to the Secretary which shall include a descrip-  
25 tion of—

1           “(1) the programs to be served by the proposed  
2 project, including general demographic and socio-  
3 economic information on the communities in which  
4 the proposed project will be administered;

5           “(2) how the proposed project will enhance the  
6 school readiness of young children aged 3 through 5  
7 in high-quality oral language and literature-rich en-  
8 vironments;

9           “(3) how the proposed project will provide early  
10 childhood teachers with scientific research-based  
11 knowledge of early reading development and assist  
12 such teachers in developing the children’s prereading  
13 skills;

14           “(4) how the proposed project will provide serv-  
15 ices and utilize instructional materials that are  
16 based on scientifically based reading research on  
17 early language acquisition, prereading activities, and  
18 the development of spoken vocabulary skills;

19           “(5) how the proposed project will integrate  
20 such instructional materials and literacy activities  
21 with existing preschool programs and family literacy  
22 services;

23           “(6) how the proposed project will help staff in  
24 the programs to meet the diverse needs of children  
25 in the community, including children with limited

1 English proficiency and children with learning dis-  
2 abilities;

3 “(7) how the proposed project will help chil-  
4 dren, particularly children experiencing difficulty  
5 with spoken language, prereading, and early reading  
6 skills, to make the transition from preschool to for-  
7 mal classroom instruction in school;

8 “(8) how the activities conducted under this  
9 subpart will be coordinated with the eligible appli-  
10 cant’s activities under subpart 1, if the applicant has  
11 received a subgrant under such subpart, at the kin-  
12 dergarten through third grade levels;

13 “(9) how the proposed project will evaluate the  
14 success of the activities supported under this sub-  
15 part in enhancing the early language and reading  
16 development of children served by the project; and

17 “(10) such other information as the Secretary  
18 may require.

19 “(d) APPROVAL OF LOCAL APPLICATIONS.—The Sec-  
20 retary shall select applicants for funding under this sub-  
21 part on the basis of the quality of the applications and  
22 based on the recommendations of the peer review panel  
23 convened under section 1204(e)(2).

24 “(e) LOCAL USES OF FUNDS.—A local educational  
25 agency that receives a grant under this subpart shall use

1 the funds provided under the grant to carry out the fol-  
2 lowing activities:

3           “(1) To provide children aged 3 through 5 with  
4 high-quality oral language and literature-rich envi-  
5 ronments in which to acquire prereading skills.

6           “(2) To provide professional development for  
7 early childhood teachers that prepares them with sci-  
8 entific research-based knowledge of early reading de-  
9 velopment to assist in developing the children’s—

10           “(A) automatic recognition of the letters of  
11 the alphabet;

12           “(B) understanding that spoken words are  
13 made up of small segments of speech sounds  
14 and that certain letters regularly represent such  
15 speech sounds; and

16           “(C) spoken vocabulary and oral com-  
17 prehension abilities.

18           “(3) To identify and provide scientific research-  
19 based prereading language and literacy activities and  
20 instructional materials for use in developing the  
21 children’s—

22           “(A) automatic recognition of the letters of  
23 the alphabet;

24           “(B) understanding that spoken words are  
25 made up of small segments of speech sounds

1           and that certain letters regularly represent such  
2           speech sounds; and

3                   “(C) spoken vocabulary and oral com-  
4           prehension abilities.

5           “(4) To integrate such instructional materials and lit-  
6           eracy activities with existing Head Start centers, preschool  
7           programs, and 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 early childhood  
15          programs administered by the Department of Health and  
16          Human Services.

17       **“SEC. 1224. INFORMATION DISSEMINATION.**

18          “From funds reserved under section 1203(b)(1)(D),  
19          the National Institute for Literacy, in consultation with  
20          the Secretary, shall disseminate information regarding  
21          projects assisted under this subpart that have proven ef-  
22          fective.

23       **“SEC. 1225. REPORTING REQUIREMENTS.**

24          “Each eligible applicant receiving a grant under this  
25          subpart shall report annually to the Secretary regarding

1 the eligible applicant's progress in addressing the purposes  
2 of this subpart.

3 **“SEC. 1226. EVALUATIONS.**

4 “From the total amount appropriated under section  
5 1002(b)(2) for the period beginning October 1, 2002, and  
6 ending September 30, 2006, the Secretary shall reserve  
7 not more than \$1,000,000 to conduct an independent eval-  
8 uation of the effectiveness of this subpart.

9 **“SEC. 1227. ADDITIONAL RESEARCH.**

10 “From the amount appropriated under section  
11 1002(b)(2) for each of the fiscal years 2002 through 2006,  
12 the Secretary shall reserve not more than \$3,000,000 to  
13 conduct, in consultation with the National Institute for  
14 Child Health and Human Development, the National In-  
15 stitute for Literacy, and the Department of Health and  
16 Human Services, additional research on language and lit-  
17 eracy development for children aged 3 through 5.”.

18 **SEC. 112. AMENDMENTS TO EVEN START.**

19 Part B of title I (20 U.S.C. 6361 et seq.), as amend-  
20 ed by section 111, is further amended—

21 (1) by inserting before section 1231 (as so re-  
22 designated by section 111) the following:

1 **“Subpart 3—William F. Goodling Even Start Family**  
2 **Literacy Programs”;**

3 (2) in each of sections 1231 through 1242 (as  
4 so redesignated by section 111)—

5 (A) by striking “this part” each place such  
6 term appears and inserting “this subpart”; and

7 (B) by striking “1002(b)” each place such  
8 term appears and inserting “1002(b)(3)”;

9 (3) in section 1231(4), by striking “2252)” and  
10 inserting “1209)”;

11 (4) in section 1232—

12 (A) in subsection (b)—

13 (i) in paragraph (1)(A), by striking  
14 “1209;” and inserting “1239;”; and

15 (ii) in paragraph (2), by striking  
16 “1211(b)” each place such term appears  
17 and inserting “1241(b)”;

18 (B) in subsection (c)—

19 (i) by amending paragraph (2)(C) to  
20 read as follows:

21 “(C) COORDINATION WITH SUBPART 1.—

22 The consortium shall coordinate its activities  
23 with the activities of the reading partnership  
24 for the State established under section 1204(d),  
25 if the State receives a grant under section  
26 1203.”; and



1 (ii) in paragraph (3), by striking  
2 “2252.” and inserting “1209.”;

3 (5) in section 1233—

4 (A) by striking “1202(d)(1)” each place  
5 such term appears and inserting “1232(d)(1)”;  
6 and

7 (B) by striking “1210.” and inserting  
8 “1240.”;

9 (6) in section 1234—

10 (A) in subsection (b)—

11 (i) in paragraph (1)(A), by moving  
12 the margins of clauses (v) and (vi) 2 ems  
13 to the right; and

14 (ii) in paragraph (3), by striking  
15 “1202(a)(1)(C)” and inserting  
16 “1232(a)(1)(C)”;

17 (B) in subsection (c)—

18 (i) in paragraph (1)—

19 (I) by striking “1203(a),” and  
20 inserting “1233(a),”; and

21 (II) by striking “1203(b)” and  
22 inserting “1233(b),”; and

23 (ii) in paragraph (2), by striking  
24 “1210.” and inserting “1240.”;

25 (7) in section 1235—

1 (A) in paragraph (10), by striking “2252)”  
2 and inserting “1209”;

3 (B) in paragraph (12), by striking  
4 “2252),” and inserting “1209,”; and

5 (C) in paragraph (15), by striking “pro-  
6 gram.” and inserting “program to be used for  
7 program improvement.”;

8 (8) in section 1237—

9 (A) in subsection (c)(1)—

10 (i) in subparagraph (B), by striking  
11 “1205;” and inserting “1235;”; and

12 (ii) in subparagraph (F), by striking  
13 “14306;” and inserting “8306;”; and

14 (B) in subsection (d), by striking “14302.”  
15 and inserting “8302.”;

16 (9) in section 1238—

17 (A) in subsection (a)(1)—

18 (i) in subparagraph (A)(ii), by strik-  
19 ing “1205;” and inserting “1235;”; and

20 (ii) in subparagraph (F), by striking  
21 “1204(b);” and inserting “1234(b);”; and

22 (B) in subsection (b)—

23 (i) in paragraph (3)—

24 (I) by striking “1207(c)(1)(A)”  
25 and inserting “1237(c)(1)(A)”;

1 (II) by striking “1210.” and in-  
2 serting “1240.”;

3 (ii) in paragraph (4), by striking  
4 “1210,” and inserting “1240,”; and

5 (iii) in paragraph (5)(B), by striking  
6 “1204(b).” and inserting “1234(b).”;

7 (10) in section 1239—

8 (A) by striking “1202(b)(1),” and insert-  
9 ing “1232(b)(1),”; and

10 (B) by striking “1205(10)” and inserting  
11 “1235(10)”;

12 (11) in section 1241—

13 (A) in subsection (b)(1)—

14 (i) by striking “1202(b)(2),” and in-  
15 serting “1232(b)(2),”; and

16 (ii) by striking “2252);” and inserting  
17 “1209);”; and

18 (B) in subsection (c), by striking “2258,”  
19 and inserting “1208.”.

20 **PART C—EDUCATION OF MIGRATORY CHILDREN**

21 **SEC. 121. STATE ALLOCATIONS.**

22 Section 1303 (20 U.S.C. 6393) is amended—

23 (1) by amending subsection (a) to read as fol-  
24 lows:

25 “(a) STATE ALLOCATIONS.—

1           “(1) FISCAL YEAR 2002.—For fiscal year 2002,  
2 each State (other than the Commonwealth of Puerto  
3 Rico) is entitled to receive under this part an  
4 amount equal to—

5           “(A) the sum of the estimated number of  
6 migratory children aged three through 21 who  
7 reside in the State full time and the full-time  
8 equivalent of the estimated number of migra-  
9 tory children aged three through 21 who reside  
10 in the State part time, as determined in accord-  
11 ance with subsection (e); multiplied by

12           “(B) 40 percent of the average per-pupil  
13 expenditure in the State, except that the  
14 amount determined under this paragraph shall  
15 not be less than 32 percent, nor more than 48  
16 percent, of the average expenditure per pupil in  
17 the United States.

18           “(2) SUBSEQUENT YEARS.—

19           “(A) BASE AMOUNT.—

20           “(i) IN GENERAL.—Except as pro-  
21 vided in subsection (b) and clause (ii), each  
22 State (other than the Commonwealth of  
23 Puerto Rico) is entitled to receive under  
24 this part, for fiscal year 2003 and suc-  
25 ceeding fiscal years, an amount equal to—

1           “(I) the amount that such State  
2           received under this part for fiscal year  
3           2002; plus

4           “(II) the amount allocated to the  
5           State under subparagraph (B).

6           “(ii) NONPARTICIPATING STATES.—In  
7           the case of a State (other than the Com-  
8           monwealth of Puerto Rico) that did not re-  
9           ceive any funds for fiscal year 2002 under  
10          this part, the State shall receive, for fiscal  
11          year 2003 and succeeding fiscal years, an  
12          amount equal to—

13           “(I) the amount that such State  
14           would have received under this part  
15           for fiscal year 2002 if its application  
16           under section 1304 for the year had  
17           been approved; plus

18           “(II) the amount allocated to the  
19           State under subparagraph (B).

20           “(B) ALLOCATION OF ADDITIONAL  
21           AMOUNT.—For fiscal year 2003 and succeeding  
22           fiscal years, the amount (if any) by which the  
23           funds appropriated to carry out this part for  
24           the year exceed such funds for fiscal year 2002  
25           shall be allocated to a State (other than the

1 Commonwealth of Puerto Rico) so that the  
2 State receives an amount equal to—

3 “(i) the sum of—

4 “(I) the number of identified eli-  
5 gible migratory children, aged 3  
6 through 21, residing in the State dur-  
7 ing the previous year; and

8 “(II) the number of identified eli-  
9 gible migratory children, aged 3  
10 through 21, who received services  
11 under this part in summer or interses-  
12 sion programs provided by the State  
13 during such year; multiplied by

14 “(ii) 40 percent of the average per-  
15 pupil expenditure in the State, except that  
16 the amount determined under this clause  
17 may not be less than 32 percent, or more  
18 than 48 percent, of the average per-pupil  
19 expenditure in the United States.”;

20 (2) by amending subsection (b) to read as fol-  
21 lows:

22 “(b) ALLOCATION TO PUERTO RICO.—

23 “(1) IN GENERAL.—For each fiscal year, the  
24 grant which the Commonwealth of Puerto Rico shall  
25 be eligible to receive under this part shall be the

1 amount determined by multiplying the number of  
2 children counted under subsection (a)(1)(A) for the  
3 Commonwealth of Puerto Rico by the product of—

4 “(A) the percentage which the average per  
5 pupil expenditure in the Commonwealth of  
6 Puerto Rico is of the lowest average per pupil  
7 expenditure of any of the 50 States; and

8 “(B) 32 percent of the average per pupil  
9 expenditure in the United States.

10 “(2) MINIMUM PERCENTAGE.—The percentage  
11 in paragraph (1)(A) shall not be less than—

12 “(A) for fiscal year 2002, 77.5 percent;

13 “(B) for fiscal year 2003, 80.0 percent;

14 “(C) for fiscal year 2004, 82.5 percent;

15 and

16 “(D) for fiscal year 2005 and succeeding  
17 fiscal years, 85.0 percent.

18 “(3) LIMITATION.—If the application of para-  
19 graph (2) would result in any of the 50 States or  
20 the District of Columbia receiving less under this  
21 part than it received under this part for the pre-  
22 ceding fiscal year, the percentage in paragraph (1)  
23 shall be the greater of the percentage in paragraph  
24 (1)(A) or the percentage used for the preceding fis-  
25 cal year.”; and

1 (3) by striking subsections (d) and (e).

2 **SEC. 122. STATE APPLICATIONS; SERVICES.**

3 (a) PROGRAM INFORMATION.—Section 1304(b) (20  
4 U.S.C. 6394(b)) is amended—

5 (1) in paragraph (1), by striking “addressed  
6 through” and all that follows through the semicolon  
7 at the end and inserting the following:

8 “addressed through—

9 (A) the full range of services that are  
10 available for migratory children from appro-  
11 priate local, State, and Federal educational pro-  
12 grams;

13 (B) joint planning among local, State,  
14 and Federal educational programs serving mi-  
15 grant children, including programs under part  
16 A of title III;

17 (C) the integration of services available  
18 under this part with services provided by those  
19 other programs; and

20 (D) measurable program goals and out-  
21 comes;”;

22 (2) in paragraph (5), by striking “the require-  
23 ments of paragraph (1); and” and inserting “the  
24 numbers and needs of migratory children, the re-  
25 quirements of subsection (d), and the availability of



1 funds from other Federal, State, and local pro-  
2 grams;” and

3 (3) in paragraph (6), by striking the period at  
4 the end and inserting “; and”.

5 (b) ASSURANCES.—Section 1304(c) (20 U.S.C.  
6 6394(c)) is amended—

7 (1) in paragraph (1), by striking “1306(b)(1);”  
8 and inserting “1306(a);”;

9 (2) in paragraph (2), by striking “part F;” and  
10 inserting “part H;”

11 (3) in paragraph (3)—

12 (A) by striking “appropriate”;

13 (B) by striking “out, to the extent fea-  
14 sible,” and inserting “out”; and

15 (C) by striking “1118;” and inserting  
16 “1118, unless extraordinary circumstances  
17 make implementation consistent with such sec-  
18 tion impractical;” and

19 (4) in paragraph (7), by striking “section  
20 1303(e)” and inserting “paragraphs (1)(A) and  
21 (2)(B)(i) of section 1303(a)”.

22 **SEC. 123. AUTHORIZED ACTIVITIES.**

23 Section 1306 (20 U.S.C. 6396) is amended to read  
24 as follows:

1 **“SEC. 1306. AUTHORIZED ACTIVITIES.**

2 “(a) IN GENERAL.—

3 “(1) FLEXIBILITY.—Each State educational  
4 agency, through its local educational agencies, shall  
5 have the flexibility to determine the activities to be  
6 provided with funds made available under this part,  
7 except that such funds shall first be used to meet  
8 the identified needs of migratory children that result  
9 from their migratory lifestyle, and to permit these  
10 children to participate effectively in school.

11 “(2) UNADDRESSED NEEDS.—Funds provided  
12 under this part shall be used to address the needs  
13 of migratory children that are not addressed by serv-  
14 ices available from other Federal or non-Federal  
15 programs, except that migratory children who are el-  
16 igible to receive services under part A of this title  
17 may receive those services through funds provided  
18 under that part, or through funds under this part  
19 that remain after the agency addresses the needs de-  
20 scribed in paragraph (1).

21 “(b) CONSTRUCTION.—Nothing in this part shall be  
22 construed to prohibit a local educational agency from serv-  
23 ing migratory children simultaneously with students with  
24 similar educational needs in the same educational settings,  
25 where appropriate.

1       “(c) SPECIAL RULE.—Notwithstanding section 1114,  
2 a school that receives funds under this part shall continue  
3 to address the identified needs described in subsection  
4 (a)(1).”.

5 **SEC. 124. COORDINATION OF MIGRANT EDUCATION ACTIVI-**  
6 **TIES.**

7       (a) DURATION.—Section 1308(a)(2) (20 U.S.C.  
8 6398(a)(2)) is amended by striking “subpart” and insert-  
9 ing “subsection”.

10       (b) STUDENT RECORDS.—Section 1308(b) (20  
11 U.S.C. 6398(b)) is amended to read as follows:

12       “(b) STUDENT RECORDS.—

13               “(1) ASSISTANCE.—The Secretary shall assist  
14 States in developing effective methods for the trans-  
15 fer of student records and in determining the num-  
16 ber of migratory children in each State. The Sec-  
17 retary, in consultation with the States, shall deter-  
18 mine the minimum data elements that each State re-  
19 ceiving funds under this part shall collect and main-  
20 tain. The Secretary shall assist States to implement  
21 a system of linking their student record transfer sys-  
22 tems for the purpose of electronic records mainte-  
23 nance and transfer for migrant students.

24               “(2) NO COST FOR CERTAIN TRANSFERS.—A  
25 State educational agency or local educational agency

1 receiving assistance under this part shall make stu-  
2 dent records available to another State or local edu-  
3 cational agency that requests the records at no cost  
4 to the requesting agency, if the request is made in  
5 order to meet the needs of a migratory child.”.

6 (c) AVAILABILITY OF FUNDS.—Section 1308(c) (20  
7 U.S.C. 6398(c)) is amended by striking “\$6,000,000” and  
8 inserting “\$10,000,000”.

9 (d) INCENTIVE GRANTS.—Section 1308(d) (20  
10 U.S.C. 6398(d)) is amended to read as follows:

11 “(d) INCENTIVE GRANTS.—From the amounts made  
12 available to carry out this section for any fiscal year, the  
13 Secretary may reserve not more than \$3,000,000 to award  
14 grants of not more than \$250,000 on a competitive basis  
15 to State educational agencies that propose a consortium  
16 arrangement with another State or other appropriate enti-  
17 ty that the Secretary determines, pursuant to criteria that  
18 the Secretary shall establish, will improve the delivery of  
19 services to migratory children whose education is inter-  
20 rupted.”.

21 **PART D—NEGLECTED OR DELINQUENT YOUTH**

22 **SEC. 131. NEGLECTED OR DELINQUENT YOUTH.**

23 The heading for part D of title I is amended to read  
24 as follows:

1 **“PART D—PREVENTION AND INTERVENTION**  
2 **PROGRAMS FOR NEGLECTED OR DELIN-**  
3 **QUENT CHILDREN AND YOUTH”.**

4 **SEC. 132. FINDINGS.**

5 Section 1401(a) (20 U.S.C. 6421(a)) is amended by  
6 striking paragraphs (6) through (9) and inserting the fol-  
7 lowing:

8 “(6) Youth returning from correctional facilities  
9 need to be involved in programs that provide them  
10 with high-level skills and other support to help them  
11 stay in school and complete their education.

12 “(7) Pregnant and parenting teenagers are a  
13 high-at-risk group for dropping out of school and  
14 should be targeted by dropout prevention pro-  
15 grams.”.

16 **SEC. 133. ALLOCATION OF FUNDS.**

17 Section 1412(b) (20 U.S.C. 6432(b)) is amended to  
18 read as follows:

19 “(b) **SUBGRANTS TO STATE AGENCIES IN PUERTO**  
20 **RICO.—**

21 “(1) **IN GENERAL.—**For each fiscal year, the  
22 amount of the subgrant which a State agency in the  
23 Commonwealth of Puerto Rico shall be eligible to re-  
24 ceive under this part shall be the amount determined  
25 by multiplying the number of children counted under

1 subparagraph (a)(1)(A) for the Commonwealth of  
2 Puerto Rico by the product of—

3 “(A) the percentage which the average per-  
4 pupil expenditure in the Commonwealth of  
5 Puerto Rico is of the lowest average per-pupil  
6 expenditure of any of the 50 States; and

7 “(B) 32 percent of the average per-pupil  
8 expenditure in the United States.

9 “(2) MINIMUM PERCENTAGE.—The percentage  
10 in paragraph (1)(A) shall not be less than—

11 “(A) for fiscal year 2002, 77.5 percent;

12 “(B) for fiscal year 2003, 80.0 percent;

13 “(C) for fiscal year 2004, 82.5 percent;

14 and

15 “(D) for fiscal year 2005 and succeeding  
16 fiscal years, 85.0 percent.

17 “(3) LIMITATION.—If the application of para-  
18 graph (2) would result in any of the 50 States or  
19 the District of Columbia receiving less under this  
20 part than it received under this part for the pre-  
21 ceding fiscal year, the percentage in paragraph (1)  
22 shall be the greater of the percentage in paragraph  
23 (1)(A) or the percentage used for the preceding fis-  
24 cal year.”.

1 **SEC. 134. STATE PLAN AND STATE AGENCY APPLICATIONS.**

2 Section 1414 (20 U.S.C. 6434) is amended to read  
3 as follows:

4 **“SEC. 1414. STATE PLAN AND STATE AGENCY APPLICA-**  
5 **TIONS.**

6 “(a) STATE PLAN.—

7 “(1) IN GENERAL.—Each State educational  
8 agency that desires to receive a grant under this  
9 part shall submit, for approval by the Secretary, a  
10 plan for meeting the educational needs of neglected  
11 and delinquent youth, for assisting in their transi-  
12 tion from institutions to locally operated programs,  
13 and which is integrated with other programs under  
14 this Act or other Acts, as appropriate, consistent  
15 with section 8306.

16 “(2) CONTENTS.—Each such State plan shall—

17 “(A) describe the program goals, objec-  
18 tives, and performance measures established by  
19 the State that will be used to assess the effec-  
20 tiveness of the program in improving academic  
21 and vocational and technical skills of children in  
22 the program;

23 “(B) provide that, to the extent feasible,  
24 such children will have the same opportunities  
25 to learn as such children would have if such

1 children were in the schools of local educational  
2 agencies in the State; and

3 “(C) contain assurances that the State  
4 educational agency will—

5 “(i) ensure that programs assisted  
6 under this part will be carried out in ac-  
7 cordance with the State plan described in  
8 this subsection;

9 “(ii) carry out the evaluation require-  
10 ments of section 1416;

11 “(iii) ensure that the State agencies  
12 receiving subgrants under this subpart  
13 comply with all applicable statutory and  
14 regulatory requirements; and

15 “(iv) provide such other information  
16 as the Secretary may reasonably require.

17 “(3) DURATION OF THE PLAN.—Each such  
18 State plan shall—

19 “(A) remain in effect for the duration of  
20 the State’s participation under this part; and

21 “(B) be periodically reviewed and revised  
22 by the State, as necessary, to reflect changes in  
23 the State’s strategies and programs under this  
24 part.

25 “(b) SECRETARIAL APPROVAL AND PEER REVIEW.—



1           “(1) SECRETARIAL APPROVAL.—The Secretary  
2 shall approve each State plan that meets the re-  
3 quirements of this part.

4           “(2) PEER REVIEW.—The Secretary may review  
5 any State plan with the assistance and advice of in-  
6 dividuals with relevant expertise.

7           “(c) STATE AGENCY APPLICATIONS.—Any State  
8 agency that desires to receive funds to carry out a pro-  
9 gram under this part shall submit an application to the  
10 State educational agency that—

11           “(1) describes the procedures to be used, con-  
12 sistent with the State plan under section 1111, to  
13 assess the educational needs of the children to be  
14 served;

15           “(2) provides assurances that in making serv-  
16 ices available to youth in adult correctional facilities,  
17 priority will be given to such youth who are likely to  
18 complete incarceration within a 2-year period;

19           “(3) describes the program, including a budget  
20 for the first year of the program, with annual up-  
21 dates to be provided to the State educational agency;

22           “(4) describes how the program will meet the  
23 goals and objectives of the State plan under this  
24 subpart;

1           “(5) describes how the State agency will consult  
2 with experts and provide the necessary training for  
3 appropriate staff, to ensure that the planning and  
4 operation of institution-wide projects under section  
5 1416 are of high quality;

6           “(6) describes how the agency will carry out the  
7 evaluation requirements of section 8651 and how the  
8 results of the most recent evaluation are used to  
9 plan and improve the program;

10           “(7) includes data showing that the agency has  
11 maintained fiscal effort required of a local edu-  
12 cational agency, in accordance with section 8501;

13           “(8) describes how the programs will be coordi-  
14 nated with other appropriate State and Federal pro-  
15 grams, such as programs under title I of the Work-  
16 force Investment Act of 1998 (29 U.S.C. 2801 et  
17 seq.), vocational and technical education programs,  
18 State and local dropout prevention programs, and  
19 special education programs;

20           “(9) describes how States will encourage correc-  
21 tional facilities receiving funds under this subpart to  
22 coordinate with local educational agencies or alter-  
23 native education programs attended by incarcerated  
24 youth prior to their incarceration to ensure that stu-  
25 dent assessments and appropriate academic records

1 are shared jointly between the correctional facility  
2 and the local educational agency or alternative edu-  
3 cation program;

4 “(10) describes how appropriate professional  
5 development will be provided to teachers and other  
6 staff;

7 “(11) designates an individual in each affected  
8 institution to be responsible for issues relating to the  
9 transition of children and youth from the institution  
10 to locally operated programs;

11 “(12) describes how the agency will endeavor to  
12 coordinate with businesses for training and men-  
13 toring for participating youth;

14 “(13) provides assurances that the agency will  
15 assist in locating alternative programs through  
16 which students can continue their education if stu-  
17 dents are not returning to school after leaving the  
18 correctional facility;

19 “(14) provides assurances that the agency will  
20 work with parents to secure parents’ assistance in  
21 improving the educational achievement of their chil-  
22 dren and preventing their children’s further involve-  
23 ment in delinquent activities;

24 “(15) provides assurances that the agency  
25 works with special education youth in order to meet

1 an existing individualized education program and an  
2 assurance that the agency will notify the youth's  
3 local school if such youth—

4 “(A) is identified as in need of special edu-  
5 cation services while the youth is in the facility;  
6 and

7 “(B) intends to return to the local school;

8 “(16) provides assurances that the agency will  
9 work with youth who dropped out of school before  
10 entering the facility to encourage the youth to reen-  
11 ter school once the term of incarceration has been  
12 completed or provide the youth with the skills nec-  
13 essary to gain employment, continue the education  
14 of the youth, or achieve a secondary school diploma  
15 or the recognized equivalent if the youth does not in-  
16 tend to return to school;

17 “(17) provides assurances that teachers and  
18 other qualified staff are also trained to work with  
19 children with disabilities and other students with  
20 special needs, taking into consideration the unique  
21 needs of such students;

22 “(18) describes any additional services to be  
23 provided to youth, such as career counseling, dis-  
24 tance learning, and assistance in securing student  
25 loans and grants; and

1           “(19) provides assurances that the program  
2           under this subpart will be coordinated with any pro-  
3           grams operated under the Juvenile Justice and De-  
4           linquency Prevention Act of 1974 (42 U.S.C. 5601  
5           et seq.) or other comparable programs, if applica-  
6           ble.”.

7 **SEC. 135. USE OF FUNDS.**

8           Section 1415(a) (20 U.S.C. 6435(a)) is amended—

9           (1) in paragraph (1)(B), by inserting “, voca-  
10          tional and technical training,” after “secondary  
11          school completion”;

12          (2) in paragraph (2)(B)—

13                  (A) in clause (i), by inserting “and” after  
14          the semicolon;

15                  (B) in clause (ii), by striking “; and” and  
16          inserting a period; and

17                  (C) by striking clause (iii);

18          (3) in paragraph (2)(C), by striking “part F of  
19          this title” and inserting “part H”; and

20          (4) in paragraph (2)(D), by striking “section  
21          14701” and inserting “section 8651”.

22 **SEC. 136. TRANSITION SERVICES.**

23          Section 1418(a) (20 U.S.C. 6438(a)) is amended by  
24          striking “10 percent” and inserting “15 percent”.

1 **SEC. 137. PURPOSE.**

2 Section 1421(3) (20 U.S.C. 6451(3)) is amended to  
3 read as follows:

4 “(3) operate programs in local schools for youth  
5 returning from correctional facilities and programs  
6 which may also serve youth at risk of dropping out  
7 of school.”.

8 **SEC. 138. PROGRAMS OPERATED BY LOCAL EDUCATIONAL**  
9 **AGENCIES.**

10 Section 1422 (20 U.S.C. 6452) is amended—

11 (1) in subsection (a), by striking “retained”;

12 (2) by amending subsection (b) to read as fol-  
13 lows:

14 “(b) SPECIAL RULE.—A local educational agency  
15 which includes a correctional facility that operates a school  
16 is not required to operate a program of support for chil-  
17 dren returning from such school to a school not operated  
18 by a correctional agency but served by such local edu-  
19 cational agency if more than 30 percent of the youth at-  
20 tending the school operated by the correctional facility will  
21 reside outside the boundaries of the local educational  
22 agency after leaving such facility.”; and

23 (3) by adding at the end the following:

24 “(d) TRANSITIONAL AND ACADEMIC SERVICES.—  
25 Transitional and supportive programs operated in local  
26 educational agencies under this subpart shall be designed

1 primarily to meet the transitional and academic needs of  
2 students returning to local educational agencies or alter-  
3 native education programs from correctional facilities.  
4 Services to students at risk of dropping out of school shall  
5 not have a negative impact on meeting the transitional and  
6 academic needs of the students returning from correc-  
7 tional facilities.”.

8 **SEC. 139. LOCAL EDUCATIONAL AGENCY APPLICATIONS.**

9 Section 1423 (20 U.S.C. 6453) is amended by strik-  
10 ing paragraphs (4) through (9) and inserting the fol-  
11 lowing:

12 “(4) a description of the program operated by  
13 participating schools for children returning from cor-  
14 rectional facilities and the types of services that such  
15 schools will provide such youth and other at-risk  
16 youth;

17 “(5) a description of the characteristics (includ-  
18 ing learning difficulties, substance abuse problems,  
19 and other special needs) of the youth who will be re-  
20 turning from correctional facilities and, as appro-  
21 priate, other at-risk youth expected to be served by  
22 the program and how the school will coordinate ex-  
23 isting educational programs to meet the unique edu-  
24 cational needs of such youth;

1           “(6) as appropriate, a description of how  
2 schools will coordinate with existing social, health,  
3 and other services to meet the needs of students re-  
4 turning from correctional facilities, students at risk  
5 of dropping out of school, and other participating  
6 students, including prenatal health care and nutri-  
7 tion services related to the health of the parent and  
8 child, parenting and child development classes, child  
9 care, targeted reentry and outreach programs, refer-  
10 rals to community resources, and scheduling flexi-  
11 bility;

12           “(7) as appropriate, a description of any part-  
13 nerships with local businesses to develop training,  
14 curriculum-based youth entrepreneurship education,  
15 and mentoring services for participating students;

16           “(8) as appropriate, a description of how pro-  
17 grams will involve parents in efforts to improve the  
18 educational achievement of their children, prevent  
19 the involvement of their children in delinquent activi-  
20 ties, and encourage their children to remain in  
21 school and complete their education;

22           “(9) a description of how the program under  
23 this subpart will be coordinated with other Federal,  
24 State, and local programs, such as programs under  
25 title I of the Workforce Investment Act of 1998 (29



1 U.S.C. 2801 et seq.) and vocational and technical  
2 education programs serving this at-risk population  
3 of youth.”.

4 **SEC. 140. USES OF FUNDS.**

5 Section 1424 (20 U.S.C. 6454) is amended by strik-  
6 ing paragraphs (1) through (3) and inserting the fol-  
7 lowing:

8 “(1) programs that serve youth returning from  
9 correctional facilities to local schools, to assist in the  
10 transition of such youth to the school environment  
11 and help them remain in school in order to complete  
12 their education;

13 “(2) providing assistance to other youth at risk  
14 of dropping out of school, including pregnant and  
15 parenting teenagers;

16 “(3) the coordination of social, health, and  
17 other services, including day care, for participating  
18 youth, if the provision of such services will improve  
19 the likelihood that such youth will complete their  
20 education;

21 “(4) special programs to meet the unique aca-  
22 demic needs of participating youth, including voca-  
23 tional and technical education, special education, ca-  
24 reer counseling, curriculum-based youth entrepre-  
25 neurship education, and assistance in securing stu-

1 dent loans or grants for postsecondary education;  
2 and

3 “(5) programs providing mentoring and peer  
4 mediation.”.

5 **SEC. 141. PROGRAM REQUIREMENTS.**

6 Section 1425 (20 U.S.C. 6455) is amended—

7 (1) in the section heading, by striking “**THIS**  
8 **SECTION**” and inserting “**THIS SUBPART**”;

9 (2) in the matter preceding paragraph (1), by  
10 striking “this section” and inserting “this subpart”;

11 (3) in paragraph (1), by striking “where fea-  
12 sible, ensure educational programs” and inserting  
13 “to the extent practicable, ensure that educational  
14 programs”;

15 (4) in paragraphs (3) and (8), by striking  
16 “where feasible,” and inserting “to the extent prac-  
17 ticable,”;

18 (5) in paragraph (9)—

19 (A) by striking “this program” and insert-  
20 ing “this subpart”;

21 (B) by inserting “and technical” after “vo-  
22 cational”; and

23 (C) by inserting “(20 U.S.C. 2801 et  
24 seq.)” after “Workforce Investment Act of  
25 1998”;

1 (6) in paragraph (10), by inserting “(42 U.S.C.  
2 5601 et seq.)” after “Juvenile Justice and Delin-  
3 quency Prevention Act of 1974”; and

4 (7) by amending paragraph (11) to read as fol-  
5 lows:

6 “(11) if appropriate, work with local businesses  
7 to develop training, curriculum-based youth entre-  
8 preneurship education, and mentoring programs for  
9 youth.”.

10 **SEC. 142. PROGRAM EVALUATIONS.**

11 Section 1431(a) (20 U.S.C. 6471(a)) is amended by  
12 striking “sex, and if feasible,” and inserting “gender,”.

13 **PART E—FEDERAL EVALUATIONS AND**  
14 **DEMONSTRATIONS**

15 **SEC. 151. EVALUATIONS.**

16 Section 1501 (20 U.S.C. 6491) is amended to read  
17 as follows:

18 **“SEC. 1501. EVALUATIONS.**

19 “(a) NATIONAL ASSESSMENT.—

20 “(1) IN GENERAL.—In accordance with this  
21 section, the Secretary shall conduct a national as-  
22 sessment of programs assisted under this title.

23 “(2) ISSUES TO BE EXAMINED.—In conducting  
24 the assessment under this subsection, the Secretary  
25 shall examine—

1           “(A) the implementation of programs as-  
2           sisted under this title and the impact of such  
3           implementation on increasing student academic  
4           achievement, particularly schools with high con-  
5           centrations of children living in poverty;

6           “(B) the implementation of State stand-  
7           ards, assessments, and accountability systems  
8           developed under this title and the impact of  
9           such implementation on educational programs  
10          and instruction at the local level;

11          “(C) the impact of schoolwide programs  
12          and targeted assistance programs under this  
13          title on improving student academic achieve-  
14          ment;

15          “(D) the extent to which varying models of  
16          comprehensive school reform are funded under  
17          this title, and the effect of the implementation  
18          of such models on improving achievement of  
19          disadvantaged students;

20          “(E) the cost-effectiveness of programs as-  
21          sisted under this title;

22          “(F) the impact of school choice options  
23          under section 1116 on the academic achieve-  
24          ment of disadvantaged students and schools in  
25          school improvement;

1           “(G) the extent to which corrective actions  
2 authorized under section 1116 of this title are  
3 employed by State and local educational agen-  
4 cies to improve the academic achievement of  
5 students in low-performing schools, and the ef-  
6 fectiveness of the implementation of such cor-  
7 rective actions;

8           “(H) the extent to which technical assist-  
9 ance made available under this title is used to  
10 improve the achievement of students in low-per-  
11 forming schools, and the impact of such assist-  
12 ance on such achievement;

13           “(I) the extent to which State and local  
14 fiscal accounting requirements under this title  
15 limit the flexibility of schoolwide programs;

16           “(J) the impact of the professional devel-  
17 opment activities assisted under this title on in-  
18 struction and student performance;

19           “(K) the extent to which the assistance  
20 made available under this title is targeted to  
21 disadvantaged students and schools that need  
22 them the most;

23           “(L) the effectiveness of Federal adminis-  
24 tration assistance made available under this

1 title, including monitoring and technical assist-  
2 ance; and

3 “(M) such other issues as the Secretary  
4 considers appropriate.

5 “(3) SOURCES OF INFORMATION.—In con-  
6 ducting the assessment under this subsection, the  
7 Secretary shall use information from a variety of  
8 sources, including the National Assessment of Edu-  
9 cational Progress (carried out under section 411 of  
10 the National Education Statistics Act of 1994 (20  
11 U.S.C. 9010)), state evaluations, and other research  
12 studies.

13 “(4) COORDINATION.—In carrying out this sub-  
14 section, the Secretary shall—

15 “(A) coordinate conducting the national  
16 assessment with conducting the longitudinal  
17 study described in subsection (c); and

18 “(B) ensure that the independent review  
19 panel described in subsection (d) participates in  
20 conducting the national assessment, including  
21 planning for and reviewing the assessment.

22 “(5) REPORTS.—

23 “(A) INTERIM REPORT.—Not later than 3  
24 years after the date of enactment of the Leave  
25 No Child Behind Act of 2001, the Secretary

1 shall transmit to the President and the Con-  
2 gress an interim report on the national assess-  
3 ment conducted under this subsection.

4 “(B) FINAL REPORT.—Not later than 4  
5 years after the date of enactment of the Leave  
6 No Child Behind Act of 2001, the Secretary  
7 shall transmit to the President and the Con-  
8 gress a final report on the national assessment  
9 conducted under this subsection.

10 “(b) STUDIES AND DATA COLLECTION.—

11 “(1) IN GENERAL.—In addition to other activi-  
12 ties described in this section, the Secretary may, di-  
13 rectly or through the making of grants to or con-  
14 tracts with appropriate entities—

15 “(A) conduct studies and evaluations of  
16 the need for, and effectiveness of, each program  
17 authorized under this title;

18 “(B) collect the data necessary to comply  
19 with the Government Performance and Results  
20 Act of 1993; and

21 “(C) provide guidance and technical assist-  
22 ance to State education agencies and local edu-  
23 cational agencies in developing and maintaining  
24 management information systems through  
25 which such agencies can develop program per-

1 formance indicators in order to improve services  
2 and performance.

3 “(2) MINIMUM INFORMATION.—Under this sub-  
4 section, the Secretary shall collect, at a minimum,  
5 trend information on the effect of each program au-  
6 thorized under this title, which shall complement the  
7 data collected and reported under subsections (a)  
8 and (c).

9 “(c) NATIONAL LONGITUDINAL STUDY.—

10 “(1) IN GENERAL.—The Secretary shall con-  
11 duct a longitudinal study of schools receiving assist-  
12 ance under this title.

13 “(2) ISSUES TO BE EXAMINED.—In carrying  
14 out this subsection, the Secretary shall ensure that  
15 the study referred to in paragraph (1) provides the  
16 Congress and educators with each of the following:

17 “(A) An accurate description and analysis  
18 of short-term and long-term effectiveness of the  
19 assistance made available under this title upon  
20 academic performance.

21 “(B) Information that can be used to im-  
22 prove the effectiveness of the assistance made  
23 available under this title in enabling students to  
24 meet challenging achievement standards.



1           “(C) An analysis of educational practices  
2 or model programs that are effective in improv-  
3 ing the achievement of disadvantaged children.

4           “(D) An analysis of the cost-effectiveness  
5 of the assistance made available under this title  
6 in improving the achievement of disadvantaged  
7 children.

8           “(E) An analysis of the effects of the avail-  
9 ability of school choice options under section  
10 1116 on the academic achievement of disadvan-  
11 tagged students and schools in school improve-  
12 ment.

13           “(F) Such other information as the Sec-  
14 retary considers appropriate.

15           “(3) SCOPE.—In conducting the study referred  
16 to in paragraph (1), the Secretary shall ensure that  
17 the study—

18           “(A) bases its analysis on a nationally rep-  
19 resentative sample of schools participating in  
20 programs under this part;

21           “(B) to the extent practicable, includes in  
22 its analysis students who transfer to different  
23 schools during the course of the study; and

24           “(C) analyzes varying models or strategies  
25 for delivering school services, including—

1                   “(i) schoolwide and targeted services;  
2                   and  
3                   “(ii) comprehensive school reform  
4                   models.

5           “(d) INDEPENDENT REVIEW PANEL.—

6                   “(1) IN GENERAL.—The Secretary shall estab-  
7                   lish an independent review panel (in this subsection  
8                   referred to as the ‘Review Panel’) to advise the Sec-  
9                   retary on methodological and other issues that arise  
10                  in carrying out subsections (a) and (c).

11                  “(2) APPOINTMENT OF MEMBERS.—

12                   “(A) IN GENERAL.—Subject to subpara-  
13                   graph (B), the Secretary shall appoint members  
14                   of the Review Panel from among qualified indi-  
15                   viduals who are—

16                   “(i) specialists in statistics, evalua-  
17                   tion, research, and assessment;

18                   “(ii) education practitioners, including  
19                   teachers, principals, and local and State  
20                   superintendents; and

21                   “(iii) other individuals with technical  
22                   expertise who would contribute to the over-  
23                   all rigor and quality of the program eval-  
24                   uation.

1           “(B) LIMITATIONS.—In appointing mem-  
2           bers of the Review Panel under this subpara-  
3           graph (A), the Secretary shall ensure that—

4                   “(i) in order to ensure diversity, a  
5                   majority of the number of individuals ap-  
6                   pointed under subparagraph (A)(i) rep-  
7                   resent disciplines or programs outside the  
8                   field of education; and

9                   “(ii) the total number of the individ-  
10                  uals appointed under subparagraph (A)(ii)  
11                  or (A)(iii) does not exceed  $\frac{1}{3}$  of the total  
12                  number of the individuals appointed under  
13                  this paragraph.

14           “(3) FUNCTIONS.—The Review Panel shall con-  
15           sult with and advise the Secretary—

16                   “(A) to ensure that the assessment con-  
17                   ducted under subsection (a) and the study con-  
18                   ducted under subsection (c)—

19                           “(i) adhere to the highest possible  
20                           standards of quality with respect to re-  
21                           search design, statistical analysis, and the  
22                           dissemination of findings; and

23                           “(ii) use valid and reliable measures  
24                           to document program implementation and  
25                           impacts; and

1 “(B) to ensure—

2 “(i) that the final report described in  
3 subsection (a)(5)(B) is reviewed not later  
4 than 120 days after its completion by not  
5 less than 2 independent experts in pro-  
6 gram evaluation;

7 “(ii) that such experts evaluate and  
8 comment on the degree to which the report  
9 complies with subsection (a); and

10 “(iii) that the comments of such ex-  
11 perts are transmitted with the report  
12 under subsection (a)(5)(B).”.

13 **SEC. 152. DEMONSTRATIONS OF INNOVATIVE PRACTICES.**

14 (a) IN GENERAL.—Section 1502 (20 U.S.C. 6492)  
15 is amended—

16 (1) by striking subsection (b);

17 (2) by striking “(a) DEMONSTRATION PRO-  
18 GRAMS” and all that follows through “IN GEN-  
19 ERAL.—From the funds” and inserting “(a) IN  
20 GENERAL.—From the funds”;

21 (3) by moving paragraph (2) 2 ems to the left;

22 (4) by redesignating paragraph (2) as sub-  
23 section (b); and

24 (5) in subsection (a) (as redesignated by para-  
25 graph (2) of this section)—

1 (A) by moving each of subparagraphs (A)  
2 through (F) 2 ems to the left; and

3 (B) by redesignating subparagraphs (A)  
4 through (F) as paragraphs (1) through (6), re-  
5 spectively.

6 (b) PROMISING STRATEGIES.—Section 1502(a) (as  
7 amended by subsection (a) of this section) is further is  
8 amended—

9 (1) by inserting “charter schools,” after “other  
10 public agencies,”;

11 (2) in paragraph (1), by striking “accelerated  
12 curricula” and all that follows through “to reach  
13 such standards” and inserting “innovative instruc-  
14 tional programs and practices based on reliable,  
15 replicable research”;

16 (3) in paragraph (2), by striking “integration of  
17 education services” and all that follows through “en-  
18 terprise communities” and inserting “public and pri-  
19 vate school choice, charter schools, and other such  
20 programs to promote school improvement”;

21 (4) in paragraph (3), by striking “whole school  
22 reform” and inserting “comprehensive school re-  
23 form”;

24 (5) by adding “and” at the end of paragraph  
25 (4);

1           (6) by striking “; and” at the end of paragraph  
2           (5) and inserting “, including the use of incentives  
3           such as differential or performance based pay to  
4           serve areas of high need.”; and  
5           (7) by striking paragraph (6).

6           **PART F—COMPREHENSIVE SCHOOL REFORM**

7           **SEC. 161. SCHOOL REFORM.**

8           Part F of title I is amended to read as follows:

9           **“PART F—COMPREHENSIVE SCHOOL REFORM**

10          **“SEC. 1601. COMPREHENSIVE SCHOOL REFORM.**

11          “(a) FINDINGS AND PURPOSE.—

12                 “(1) FINDINGS.—Congress finds the following:

13                         “(A) A number of schools across the coun-  
14                         try have shown impressive gains in student per-  
15                         formance through the use of comprehensive  
16                         models for schoolwide change that incorporate  
17                         virtually all aspects of school operations.

18                         “(B) No single comprehensive school re-  
19                         form model may be suitable for every school,  
20                         however, schools should be encouraged to exam-  
21                         ine successful, externally developed comprehen-  
22                         sive school reform approaches as they under-  
23                         take comprehensive school reform.

24                         “(C) Comprehensive school reform is an  
25                         important means by which children are assisted

1           in meeting challenging State student perform-  
2           ance standards.

3           “(2) PURPOSE.—The purpose of this section is  
4           to provide financial incentives for schools to develop  
5           comprehensive school reforms, based upon scientif-  
6           ically-based research and effective practices that in-  
7           clude an emphasis on basic academics and parental  
8           involvement so that all children can meet challenging  
9           State content and performance standards.

10          “(b) PROGRAM AUTHORIZED.—

11           “(1) IN GENERAL.—The Secretary is authorized  
12           to provide grants to State educational agencies to  
13           provide subgrants to local educational agencies to  
14           carry out the purpose described in subsection (a)(2).

15           “(2) ALLOCATION.—

16           “(A) RESERVATION.—Of the amount ap-  
17           propriated under this section, the Secretary  
18           may reserve—

19                   “(i) not more than 1 percent for  
20                   schools supported by the Bureau of Indian  
21                   Affairs and in the United States Virgin Is-  
22                   lands, Guam, American Samoa, and the  
23                   Commonwealth of the Northern Mariana  
24                   Islands; and

1           “(ii) not more than 1 percent to con-  
2           duct national evaluation activities de-  
3           scribed under subsection (e).

4           “(B) IN GENERAL.—Of the amount of  
5           funds remaining after the reservation under  
6           subparagraph (A), the Secretary shall allocate  
7           to each State for a fiscal year, an amount that  
8           bears the same ratio to the amount appro-  
9           priated for that fiscal year as the amount made  
10          available under section 1124 to the State for  
11          the preceding fiscal year bears to the total  
12          amount allocated under section 1124 to all  
13          States for that year.

14          “(C) REALLOCATION.—If a State does not  
15          apply for funds under this section, the Sec-  
16          retary shall reallocate such funds to other  
17          States that do apply in proportion to the  
18          amount allocated to such States under subpara-  
19          graph (B).

20          “(c) STATE AWARDS.—

21                  “(1) STATE APPLICATION.—

22                          “(A) IN GENERAL.—Each State edu-  
23                          cational agency that desires to receive a grant  
24                          under this section shall submit an application to  
25                          the Secretary at such time, in such manner and



1 containing such other information as the Sec-  
2 retary may reasonably require.

3 “(B) CONTENTS.—Each State application  
4 shall also describe—

5 “(i) the process and selection criteria  
6 by which the State educational agency,  
7 using expert review, will select local edu-  
8 cational agencies to receive subgrants  
9 under this section;

10 “(ii) how the agency will ensure that  
11 only comprehensive school reforms that are  
12 based on scientifically-based research re-  
13 ceive funds under this section;

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;

18 “(iv) how the agency will evaluate the  
19 implementation of such reforms and meas-  
20 ure the extent to which the reforms re-  
21 sulted in increased student academic per-  
22 formance; and

23 “(v) how the agency will provide, upon  
24 request, technical assistance to the local  
25 educational agency in evaluating, devel-

1           oping, and implementing comprehensive  
2           school reform.

3           “(2) USES OF FUNDS.—

4           “(A) IN GENERAL.—Except as provided in  
5           subparagraph (E), a State educational agency  
6           that receives an award under this section shall  
7           use such funds to provide competitive grants to  
8           local educational agencies receiving funds under  
9           part A.

10          “(B) GRANT REQUIREMENTS.—A grant to  
11          a local educational agency shall be—

12               “(i) of sufficient size and scope to  
13               support the initial costs for the particular  
14               comprehensive school reform plan selected  
15               or designed by each school identified in the  
16               application of the local educational agency;

17               “(ii) in an amount not less than  
18               \$50,000 to each participating school; and

19               “(iii) renewable for two additional 1-  
20               year periods after the initial 1-year grant  
21               is made if schools are making substantial  
22               progress in the implementation of their re-  
23               forms.

1           “(C) PRIORITY.—The State, in awarding  
2 grants under this paragraph, shall give priority  
3 to local educational agencies that—

4                   “(i) plan to use the funds in schools  
5 identified as being in need of improvement  
6 or corrective action under section 1116(e);  
7 and

8                   “(ii) demonstrate a commitment to  
9 assist schools with budget allocation, pro-  
10 fessional development, and other strategies  
11 necessary to ensure the comprehensive  
12 school reforms are properly implemented  
13 and are sustained in the future.

14           “(D) GRANT CONSIDERATION.—In making  
15 subgrant awards under this part, the State edu-  
16 cational agency shall take into account the equi-  
17 table distribution of awards to different geo-  
18 graphic regions within the State, including  
19 urban and rural areas, and to schools serving  
20 elementary and secondary students.

21           “(E) ADMINISTRATIVE COSTS.—A State  
22 educational agency that receives a grant award  
23 under this section may reserve not more than 5  
24 percent of such award for administrative, eval-  
25 uation, and technical assistance expenses.

1           “(F) SUPPLEMENT.—Funds made avail-  
2           able under this section shall be used to supple-  
3           ment, not supplant, any other Federal, State,  
4           or local funds that would otherwise be available  
5           to carry out this section.

6           “(3) REPORTING.—Each State educational  
7           agency that receives an award under this section  
8           shall provide to the Secretary such information as  
9           the Secretary may require, including the names of  
10          local educational agencies and schools selected to re-  
11          ceive subgrant awards under this section, the  
12          amount of such award, and a description of the com-  
13          prehensive school reform model selected and in use.

14          “(d) LOCAL AWARDS.—

15                 “(1) IN GENERAL.—Each local educational  
16                 agency that applies for a subgrant under this section  
17                 shall—

18                         “(A) identify which schools eligible for  
19                         funds under part A plan to implement a com-  
20                         prehensive school reform program, including the  
21                         projected costs of such a program;

22                         “(B) describe the scientifically-based com-  
23                         prehensive school reforms that such schools will  
24                         implement;

1           “(C) describe how the agency will provide  
2           technical assistance and support for the effec-  
3           tive implementation of the scientifically-based  
4           school reforms selected by such schools; and

5           “(D) describe how the agency will evaluate  
6           the implementation of such reforms and meas-  
7           ure the results achieved in improving student  
8           academic performance.

9           “(2) COMPONENTS OF THE PROGRAM.—A local  
10          educational agency that receives a subgrant award  
11          under this section shall provide such funds to  
12          schools that implement a comprehensive school re-  
13          form program that—

14               “(A) employs innovative strategies and  
15               proven methods for student learning, teaching,  
16               and school management that are based on sci-  
17               entifically-based research and effective practices  
18               and have been replicated successfully in schools  
19               with diverse characteristics;

20               “(B) integrates a comprehensive design for  
21               effective school functioning, including instruc-  
22               tion, assessment, classroom management, pro-  
23               fessional development, parental involvement,  
24               and school management, that aligns the school’s  
25               curriculum, technology, professional develop-

1           ment into a comprehensive reform plan for  
2           schoolwide change designed to enable all stu-  
3           dents to meet challenging State content and  
4           challenging student performance standards and  
5           addresses needs identified through a school  
6           needs assessment;

7           “(C) provides high-quality and continuous  
8           teacher and staff professional development;

9           “(D) includes measurable goals for student  
10          performance and benchmarks for meeting such  
11          goals;

12          “(E) is supported by teachers, principals,  
13          administrators, and other professional staff;

14          “(F) provides for the meaningful involve-  
15          ment of parents and the local community in  
16          planning and implementing school improvement  
17          activities;

18          “(G) uses high quality external technical  
19          support and assistance from an entity, which  
20          may be an institution of higher education, with  
21          experience and expertise in schoolwide reform  
22          and improvement;

23          “(H) includes a plan for the evaluation of  
24          the implementation of school reforms and the  
25          student results achieved; and

1           “(I) identifies how other resources, includ-  
2           ing Federal, State, local, and private resources,  
3           available to the school will be used to coordinate  
4           services to support and sustain the school re-  
5           form effort.

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 the approaches  
9           identified or developed by the Department of Edu-  
10          cation, but may develop its own comprehensive  
11          school reform programs for schoolwide change that  
12          comply with paragraph (2).

13          “(e) EVALUATION AND REPORT.—

14                 “(1) IN GENERAL.—The Secretary shall develop  
15                 a plan for a national evaluation of the programs de-  
16                 veloped pursuant to this section.

17                 “(2) EVALUATION.—This national evaluation  
18                 shall evaluate the implementation and results  
19                 achieved by schools after 3 years of implementing  
20                 comprehensive school reforms, and assess the effec-  
21                 tiveness of comprehensive school reforms in schools  
22                 with diverse characteristics.

23                 “(3) REPORTS.—Prior to the completion of a  
24                 national evaluation, the Secretary shall submit an  
25                 interim report outlining first year implementation

1 activities to the Committees on Education and the  
2 Workforce and Appropriations of the House of Rep-  
3 resentatives and the Committees on Health, Edu-  
4 cation, Labor, and Pensions and Appropriations of  
5 the Senate.

6 **PART G—RURAL EDUCATION**

7 **SEC. 171. RURAL EDUCATION.**

8 Title I is amended by adding at the end the following  
9 new part:

10 **“PART G—RURAL EDUCATION FLEXIBILITY AND**  
11 **ASSISTANCE**

12 **“SEC. 1701. SHORT TITLE.**

13 “This part may be cited as the ‘Rural Education Ini-  
14 tiative Act’.

15 **“SEC. 1702. FINDINGS.**

16 “Congress finds the following:

17 “(1) While there are rural education initiatives  
18 identified at the State and local level, no Federal  
19 education policy focuses on the specific and unique  
20 needs of rural school districts and schools.

21 “(2) Small school districts often cannot use  
22 Federal grant funds distributed by formula because  
23 the formula allocation does not provide enough rev-  
24 enue to carry out the program the grant is intended  
25 to fund.



1           “(3) Rural schools often cannot compete for  
2           Federal funding distributed by competitive grants  
3           because the schools lack the personnel needed to  
4           prepare grant applications and the resources to hire  
5           specialists in the writing of Federal grant proposals.

6           “(4) A critical problem for rural school districts  
7           involves the hiring and retention of qualified admin-  
8           istrators and certified teachers (especially in read-  
9           ing, science, and mathematics). As a result, teachers  
10          in rural schools are almost twice as likely to provide  
11          instruction in three or more subject areas than  
12          teachers in urban schools. Rural schools also face  
13          other tough challenges, such as shrinking local tax  
14          bases, high transportation costs, aging buildings,  
15          limited course offerings, and limited resources.

16           **“Subpart 1—Rural Education Flexibility**

17          **“SEC. 1711. FORMULA GRANT PROGRAM AUTHORIZED.**

18          “(a) ALTERNATIVE USES.—

19           “(1) IN GENERAL.—Notwithstanding any other  
20          provision of law, an eligible local educational agency  
21          may use the applicable funding, that the agency is  
22          eligible to receive from the State educational agency  
23          for a fiscal year, to support local or statewide edu-  
24          cation reform efforts intended to improve the aca-  
25          demic achievement of elementary school and sec-

1       ondary school students and the quality of instruction  
2       provided for the students.

3               “(2) NOTIFICATION.—An eligible local edu-  
4       cational agency shall notify the State educational  
5       agency of the local educational agency’s intention to  
6       use the applicable funding in accordance with para-  
7       graph (1) not later than a date that is established  
8       by the State educational agency for the notification.

9               “(b) ELIGIBILITY.—

10              “(1) IN GENERAL.—A local educational agency  
11       shall be eligible to use the applicable funding in ac-  
12       cordance with subsection (a) if—

13              “(A)(i) the total number of students in av-  
14       erage daily attendance at all of the schools  
15       served by the local educational agency is less  
16       than 600; and

17              “(ii) all of the schools served by the local  
18       educational agency are designated with a school  
19       locale code of 6, 7, or 8 as determined by the  
20       Secretary of Education; or

21              “(B) the agency meets the criteria established  
22       in subparagraph (A)(i) and the Secretary, in accord-  
23       ance with paragraph (2), grants the local edu-  
24       cational agency’s request to waive the criteria de-  
25       scribed in subparagraph (A)(ii).

1           “(2) CERTIFICATION.—The Secretary shall de-  
2           termine whether or not to waive the criteria de-  
3           scribed in paragraph (1)(A)(ii) based on certification  
4           provided by the local educational agency, or the  
5           State educational agency on behalf of the local edu-  
6           cational agency, that the local educational agency is  
7           located in an area defined as rural by a govern-  
8           mental agency of the State.

9           “(c) APPLICABLE FUNDING.—In this section, the  
10          term ‘applicable funding’ means funds provided under  
11          each of part A of title II, title III, title IV, and parts A  
12          and B of title V.

13          “(d) DISBURSEMENT.—Each State educational agen-  
14          cy that receives applicable funding for a fiscal year shall  
15          disburse the applicable funding to local educational agen-  
16          cies for alternative uses under this section for the fiscal  
17          year at the same time that the State educational agency  
18          disburses the applicable funding to local educational agen-  
19          cies that do not intend to use the applicable funding for  
20          such alternative uses for the fiscal year.

21          “(e) SUPPLEMENT NOT SUPPLANT.—Funds used  
22          under this section shall be used to supplement and not  
23          supplant any other Federal, State, or local education  
24          funds that would otherwise be available for the purpose  
25          of this subpart.

1       “(f) SPECIAL RULE.—References in Federal law to  
2 funds for the provisions of law set forth in subsection (c)  
3 may be considered to be references to funds for this sec-  
4 tion.

5       **“SEC. 1712. PROGRAM AUTHORIZED.**

6       “(a) IN GENERAL.—The Secretary is authorized to  
7 award grants to eligible local educational agencies to en-  
8 able the local educational agencies to support local or  
9 statewide education reform efforts intended to improve the  
10 academic achievement of elementary school and secondary  
11 school students and the quality of instruction provided for  
12 the students.

13       “(b) ELIGIBILITY.—

14               “(1) IN GENERAL.—A local educational agency  
15 shall be eligible to receive a grant under this section  
16 if—

17                       “(A)(i) the total number of students in av-  
18 erage daily attendance at all of the schools  
19 served by the local educational agency is less  
20 than 600; and

21                       “(ii) all of the schools served by the local  
22 educational agency are designated with a school  
23 locale code of 6, 7, or 8 as determined by the  
24 Secretary of Education; or

1           “(B) the agency meets the criteria estab-  
2           lished in subparagraph (A)(i) and the Sec-  
3           retary, in accordance with paragraph (2),  
4           grants the local educational agency’s request to  
5           waive the criteria described in subparagraph  
6           (A)(ii).

7           “(2) CERTIFICATION.—The Secretary shall de-  
8           termine whether or not to waive the criteria de-  
9           scribed in paragraph (1)(A)(ii) based on certification  
10          provided by the local educational agency, or the  
11          State educational agency on behalf of the local edu-  
12          cational agency, that the local educational agency is  
13          located in an area defined as rural by a govern-  
14          mental agency of the State.

15          “(c) ALLOCATION.—

16               “(1) IN GENERAL.—Except as provided in para-  
17               graph (3), the Secretary shall award a grant to an  
18               eligible local educational agency for a fiscal year in  
19               an amount equal to the initial amount determined  
20               under paragraph (2) for the fiscal year minus the  
21               total amount received under the provisions of law  
22               described under section 1711(c) for the preceding  
23               fiscal year.

24               “(2) DETERMINATION OF THE INITIAL  
25               AMOUNT.—The initial amount referred to in para-

1 graph (1) is equal to \$100 multiplied by the total  
2 number of students, over 50 students, in average  
3 daily attendance in such eligible agency plus  
4 \$20,000, except that the initial amount may not ex-  
5 ceed \$60,000.

6 “(3) RATABLE ADJUSTMENT.—

7 “(A) IN GENERAL.—If the amount made  
8 available for this subpart for any fiscal year is  
9 not sufficient to pay in full the amounts that  
10 local educational agencies are eligible to receive  
11 under paragraph (1) for such year, the Sec-  
12 retary shall ratably reduce such amounts for  
13 such year.

14 “(B) ADDITIONAL AMOUNTS.—If addi-  
15 tional funds become available for making pay-  
16 ments under paragraph (1) for such fiscal year,  
17 payments that were reduced under subpara-  
18 graph (A) shall be increased on the same basis  
19 as such payments were reduced.

20 “(5) CENSUS DETERMINATION.—

21 “(A) IN GENERAL.—Each local educational  
22 agency desiring a grant under this section shall  
23 conduct a census not later than December 1 of  
24 each year to determine the number of kinder-  
25 garten through grade 12 students in average

1           daily attendance at the schools served by the  
2           local educational agency.

3           “(B) SUBMISSION.—Each local educational  
4           agency shall submit the number described in  
5           subparagraph (A) to the Secretary not later  
6           than March 1 of each year.

7           “(d) DISBURSAL.—The Secretary shall disburse the  
8           funds awarded to a local educational agency under this  
9           section for a fiscal year not later than July 1 of that year.

10          “(e) SPECIAL RULE.—A local educational agency  
11          that is eligible to receive a grant under this subpart for  
12          a fiscal year shall be ineligible to receive funds for such  
13          fiscal year under subpart 2.

14          “(f) SUPPLEMENT NOT SUPPLANT.—Funds made  
15          available under this section shall be used to supplement  
16          and not supplant any other Federal, State or local edu-  
17          cation funds.

18          **“SEC. 1713. ACCOUNTABILITY.**

19          “(a) ACADEMIC ACHIEVEMENT.—

20                  “(1) IN GENERAL.—Each local educational  
21                  agency that uses or receives funds under section  
22                  1711 or 1712 for a fiscal year shall administer an  
23                  assessment consistent with section 1111.

24                  “(2) SPECIAL RULE.—Each local educational  
25                  agency that uses or receives funds under section

1 1711 or 1712 shall use the same assessment de-  
2 scribed in paragraph (1) for each year of partici-  
3 tion in the program under such section.

4 “(b) STATE EDUCATIONAL AGENCY DETERMINATION  
5 REGARDING CONTINUING PARTICIPATION.—Each State  
6 educational agency that receives funding under the provi-  
7 sions of law described in section 1711(c) shall—

8 “(1) after the second year that a local edu-  
9 cational agency participates in a program under sec-  
10 tion 1711 or 1712 and on the basis of the results  
11 of the assessments described in subsection (a), deter-  
12 mine whether the students served by the local edu-  
13 cational agency participating in the program per-  
14 formed in accordance with section 1111; and

15 “(2) only permit those local educational agen-  
16 cies that so participated and met the requirements  
17 of section 1111(b)(2) to continue to so participate.

18 **“Subpart 2—Rural Education Assistance**

19 **“SEC. 1721. PROGRAM AUTHORIZED.**

20 “(a) RESERVATIONS.—From amounts appropriated  
21 under section 1732 for this subpart for a fiscal year, the  
22 Secretary shall reserve  $\frac{1}{2}$  of 1 percent to make awards  
23 to elementary or secondary schools operated or supported  
24 by the Bureau of Indian Affairs to carry out the purpose  
25 of this subpart.



1 “(b) GRANTS TO STATES.—

2 “(1) IN GENERAL.—From amounts appro-  
3 priated under section 1732 for this subpart that are  
4 not reserved under subsection (a), the Secretary  
5 shall award grants for a fiscal year to State edu-  
6 cational agencies that have applications approved  
7 under section 1723 to enable the State educational  
8 agencies to award subgrants to eligible local edu-  
9 cational agencies for local authorized activities de-  
10 scribed in subsection (c)(2).

11 “(2) ALLOCATION.—From amounts appro-  
12 priated for this subpart, the Secretary shall allocate  
13 to each State educational agency for a fiscal year an  
14 amount that bears the same ratio to the amount of  
15 funds appropriated under section 1732 for this sub-  
16 part that are not reserved under subsection (a) as  
17 the number of students in average daily attendance  
18 served by eligible local educational agencies in the  
19 State bears to the number of all such students  
20 served by eligible local educational agencies in all  
21 States for that fiscal year.

22 “(3) DIRECT AWARDS TO SPECIALLY QUALI-  
23 FIED AGENCIES.—

24 “(A) NONPARTICIPATING STATE.—If a  
25 State educational agency elects not to partici-

1           pate in the program under this subpart or does  
2           not have an application approved under section  
3           1723 a specially qualified agency in such State  
4           desiring a grant under this subpart shall apply  
5           directly to the Secretary to receive an award  
6           under this subpart.

7           “(B) DIRECT AWARDS TO SPECIALLY  
8           QUALIFIED AGENCIES.—The Secretary may  
9           award, on a competitive basis, the amount the  
10          State educational agency is eligible to receive  
11          under paragraph (2) directly to specially quali-  
12          fied agencies in the State.

13         “(c) LOCAL AWARDS.—

14                 “(1) ELIGIBILITY.—A local educational agency  
15                 shall be eligible to receive funds under this subpart  
16                 if—

17                         “(A) 20 percent or more of the children  
18                         aged 5 to 17, inclusive, served by the local edu-  
19                         cational agency are from families with incomes  
20                         below the poverty line; and

21                         “(B) all of the schools served by the agen-  
22                         cy are designated with a school code of 6, 7, or  
23                         8 as determined by the Secretary of Education.

1           “(2) USES OF FUNDS.—Grant funds awarded  
2           to local educational agencies or made available to  
3           schools under this subpart shall be used for—

4                   “(A) teacher recruitment and retention, in-  
5                   cluding the use of signing bonuses and other fi-  
6                   nancial incentives;

7                   “(B) teacher professional development, in-  
8                   cluding programs that train teachers to utilize  
9                   technology to improve teaching and to train  
10                  special needs teachers;

11                  “(C) educational technology, including  
12                  software and hardware as described in part B  
13                  of title V;

14                  “(D) parental involvement activities; or

15                  “(E) programs to improve student aca-  
16                  demic achievement.

17 **“SEC. 1722. STATE DISTRIBUTION OF FUNDS.**

18           “(a) AWARD BASIS.—A State educational agency  
19           shall award grants to eligible local educational agencies—

20                   “(1) on a competitive basis; or

21                   “(2) according to a formula based on the num-  
22                  ber of students in average daily attendance served  
23                  by the eligible local educational agencies or schools  
24                  (as appropriate) in the State, as determined by the  
25                  State.

1       “(b) ADMINISTRATIVE COSTS.—A State educational  
2 agency receiving a grant under this subpart may not use  
3 more than 5 percent of the amount of the grant for State  
4 administrative costs.

5 **“SEC. 1723. APPLICATIONS.**

6       “Each State educational agency and specially quali-  
7 fied agency desiring to receive a grant under this subpart  
8 shall submit an application to the Secretary at such time,  
9 in such manner, and accompanied by such information as  
10 the Secretary may require. Such application shall include  
11 specific measurable goals and objectives relating to in-  
12 creased student academic achievement, decreased student  
13 drop-out rates, or such other factors that the State edu-  
14 cational agency or specially qualified agency may choose  
15 to measure.

16 **“SEC. 1724. REPORTS.**

17       “(a) STATE REPORTS.—Each State educational  
18 agency that receives a grant under this subpart shall pro-  
19 vide an annual report to the Secretary. The report shall  
20 describe—

21               “(1) the method the State educational agency  
22       used to award grants to eligible local educational  
23       agencies and to provide assistance to schools under  
24       this subpart;

1           “(2) how local educational agencies and schools  
2 used funds provided under this subpart; and

3           “(3) the degree to which progress has been  
4 made toward meeting the goals and objectives de-  
5 scribed in the application submitted under section  
6 1723.

7           “(b) SPECIALLY QUALIFIED AGENCY REPORT.—  
8 Each specially qualified agency that receives a grant under  
9 this subpart shall provide an annual report to the Sec-  
10 retary. Such report shall describe—

11           “(1) how such agency uses funds provided  
12 under this subpart; and

13           “(2) the degree to which progress has been  
14 made toward meeting the goals and objectives de-  
15 scribed in the application submitted under section  
16 1721(b)(4)(A).

17           “(c) REPORT TO CONGRESS.—The Secretary shall  
18 prepare and submit to the Committee on Education and  
19 the Workforce for the House of Representatives and the  
20 Committee on Health, Education, Labor, and Pensions for  
21 the Senate an annual report. The report shall describe—

22           “(1) the methods the State educational agency  
23 used to award grants to eligible local educational  
24 agencies and to provide assistance to schools under  
25 this subpart;

1           “(2) how eligible local educational agencies and  
2           schools used funds provided under this subpart; and

3           “(3) progress made in meeting specific measur-  
4           able educational goals and objectives.

5   **“SEC. 1725. PERFORMANCE REVIEW.**

6           “Three years after a State educational agency or spe-  
7           cially qualified agency receives funds under this part, the  
8           Secretary shall review the progress of such agency toward  
9           achieving the goals and objectives included in its applica-  
10          tion, to determine whether the agency has made progress  
11          toward meeting such goals and objectives. To review the  
12          performance of each agency, the Secretary shall—

13           “(1) Review the use of funds of such agency  
14           under section 1721(c)(2); and

15           “(2) deny the provision of additional funds in  
16           subsequent fiscal years to an agency only if the Sec-  
17           retary determines, after notice and an opportunity  
18           for a hearing, that the agency’s use of funds has  
19           been inadequate to justify continuation of such fund-  
20           ing.

21   **“SEC. 1726. DEFINITIONS.**

22           “In this subpart—

23           “(1) The term ‘poverty line’ means the poverty  
24           line (as defined by the Office of Management and  
25           Budget, and revised annually in accordance with sec-

1 tion 673(2) of the Community Services Block Grant  
 2 Act (42 U.S.C. 9902(2))) applicable to a family of  
 3 the size involved.

4 “(2) The term ‘specially qualified agency’  
 5 means an eligible local educational agency, located in  
 6 a State that does not participate in a program under  
 7 this subpart in a fiscal year, that may apply directly  
 8 to the Secretary for a grant in such year in accord-  
 9 ance with section 1721(b)(4).

10 **“Subpart 3—General Provisions**

11 **“SEC. 1731. DEFINITION.**

12 “In this part, the term ‘State’ means each of the 50  
 13 States, the District of Columbia, and the Commonwealth  
 14 of Puerto Rico.”

15 **PART H—GENERAL PROVISIONS OF TITLE I**

16 **SEC. 181. GENERAL PROVISIONS.**

17 Title I is amended further by adding at the end the  
 18 following:

19 **“PART H—GENERAL PROVISIONS**

20 **“SEC. 1801. FEDERAL REGULATIONS.**

21 “(a) IN GENERAL.—The Secretary is authorized to  
 22 issue such regulations as are necessary to ensure reason-  
 23 able compliance with this title.

24 “(b) NEGOTIATED RULEMAKING PROCESS.—

1           “(1) IN GENERAL.—Prior to publishing in the  
2 Federal Register proposed regulations to carry out  
3 this title, the Secretary shall obtain the advice and  
4 recommendations of representatives of Federal,  
5 State, and local administrators, parents, teachers,  
6 paraprofessionals, and members of local boards of  
7 education involved with the implementation and op-  
8 eration of programs under this title.

9           “(2) MEETINGS AND ELECTRONIC EX-  
10 CHANGE.—Such advice and recommendation may be  
11 obtained through such mechanisms as regional meet-  
12 ings and electronic exchanges of information.

13           “(3) PROPOSED REGULATIONS.—After obtain-  
14 ing such advice and recommendations, and prior to  
15 publishing proposed regulations, the Secretary  
16 shall—

17           “(A) establish a negotiated rulemaking  
18 process on a minimum of three key issues,  
19 including—

20           “(i) accountability;

21           “(ii) implementation of assessments;

22           and

23           “(iii) use of paraprofessionals;

24           “(B) select individuals to participate in  
25 such process from among individuals or groups



1           which provided advice and recommendations, in-  
2           cluding representation from all geographic re-  
3           gions of the United States; and

4           “(C) prepare a draft of proposed regula-  
5           tions that shall be provided to the individuals  
6           selected by the Secretary under subparagraph  
7           (B) not less than 15 days prior to the first  
8           meeting under such process.

9           “(4) PROCESS.—Such process—

10           “(A) shall be conducted in a timely manner  
11           to ensure that final regulations are issued by  
12           the Secretary not later than 1 year after the  
13           date of the enactment of the No Child Left Be-  
14           hind Act of 2001; and

15           “(B) shall not be subject to the Federal  
16           Advisory Committee Act but shall otherwise fol-  
17           low the provisions of the Negotiated Rule-  
18           making Act of 1990 (5 U.S.C. 561 et seq.).

19           “(5) EMERGENCY SITUATION.—In an emer-  
20           gency situation in which regulations to carry out this  
21           title must be issued within a very limited time to as-  
22           sist State and local educational agencies with the op-  
23           eration of a program under this title, the Secretary  
24           may issue proposed regulations without following  
25           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 1601 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 per-  
17 formance 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.

1           “(2) MEMBERSHIP.—Each such committee  
2 shall include—

3                   “(A) as a majority of its members, rep-  
4 resentatives from local educational agencies;

5                   “(B) administrators, including the admin-  
6 istrators of programs described in other parts  
7 of this title;

8                   “(C) teachers, including vocational edu-  
9 cators;

10                  “(D) parents;

11                  “(E) members of local boards of education;

12                  “(F) representatives of private school chil-  
13 dren; and

14                  “(G) pupil services personnel.

15           “(3) DUTIES.—The duties of such committee  
16 shall include a review, prior to publication, of any  
17 proposed or final State rule or regulation pursuant  
18 to this title. In an emergency situation where such  
19 rule or regulation must be issued within a very lim-  
20 ited time to assist local educational agencies with  
21 the operation of the program under this title, the  
22 State educational agency may issue a regulation  
23 without prior consultation, but shall immediately  
24 thereafter convene the State committee of practi-

1           tioners to review the emergency regulation prior to  
2           issuance in final form.

3   **“SEC. 1804. LOCAL ADMINISTRATIVE COST LIMITATION.**

4           “(a) LOCAL ADMINISTRATIVE COST LIMITATION.—  
5   Each local educational agency may use not more than 4  
6   percent of funds received under part A for administrative  
7   expenses.

8           “(b) REGULATIONS.—The Secretary, after consulting  
9   with State and local officials and other experts in school  
10   finance, shall develop and issue regulations that define the  
11   term administrative cost for purposes of this title. Such  
12   definition shall be consistent with generally accepted ac-  
13   counting principles. The Secretary shall publish final regu-  
14   lations on this section not later than 1 year after the date  
15   of the enactment of the No Child Left Behind Act of 2001.

16   **“SEC. 1805. APPLICABILITY.**

17           “Nothing in this title shall be construed to affect  
18   home schools nor shall any home schooled student be re-  
19   quired to participate in any assessment referenced in this  
20   title.

21   **“SEC. 1806. PRIVATE SCHOOLS.**

22           “Nothing in this title shall be construed to affect any  
23   private school that does not receive funds or services under  
24   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; TEACHER LIABILITY.**

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 quality and  
23 increasing the number of highly qualified teachers in the  
24 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 MENT.—

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) ½ 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) ½ of 1 percent for the Secretary of  
23 the Interior for programs under this part for  
24 professional development activities for teachers,  
25 other staff, and administrators in schools oper-  
26 ated or funded by the Bureau of Indian Affairs.

1           “(2) STATE ALLOTMENTS.—

2                   “(A) HOLD HARMLESS.—

3                           “(i) IN GENERAL.—Subject to sub-  
4 paragraph (B), from the total amount  
5 made available to carry out this subpart  
6 for any fiscal year and not reserved under  
7 paragraph (1), the Secretary shall allot to  
8 each of the 50 States, the District of Co-  
9 lumbia, and the Commonwealth of Puerto  
10 Rico an amount equal to the total amount  
11 that such State received for fiscal year  
12 2001 under—

13                                   “(I) section 2202(b) of this Act  
14 (as in effect on the day before the  
15 date of the enactment of the No Child  
16 Left Behind Act of 2001); and

17                                   “(II) section 306 of the Depart-  
18 ment of Education Appropriations  
19 Act, 2001 (as enacted into law by sec-  
20 tion 1(a)(1) of Public Law 106–554).

21                                   “(ii) NONPARTICIPATING STATES.—In  
22 the case of a State that did not receive any  
23 funds for fiscal year 2001 under one or  
24 both of the provisions referred to in sub-  
25 clauses (I) and (II) of clause (i), the



1 amount allotted to the State under such  
2 clause shall be the total amount that the  
3 State would have received for fiscal year  
4 2001 if it had elected to participate in all  
5 of the programs for which it was eligible  
6 under each of the provisions referred to in  
7 such subclauses.

8 “(iii) RATABLE REDUCTION.—If the  
9 total amount made available to carry out  
10 this subpart for any fiscal year and not re-  
11 served under paragraph (1) is insufficient  
12 to pay the full amounts that all States are  
13 eligible to receive under clause (i) for any  
14 fiscal year, the Secretary shall ratably re-  
15 duce such amounts for such fiscal year.

16 “(B) ALLOTMENT OF ADDITIONAL  
17 FUNDS.—

18 “(i) IN GENERAL.—Subject to clause  
19 (ii), for any fiscal year for which the total  
20 amount made available to carry out this  
21 subpart and not reserved under paragraph  
22 (1) exceeds the total amount made avail-  
23 able to the 50 States, the District of Co-  
24 lumbia, and the Commonwealth of Puerto  
25 Rico for fiscal year 2001 under the au-

1           thorities described in subparagraph (A)(i),  
2           the Secretary shall allot such excess  
3           amount as follows:

4                   “(I) 50 percent of such excess  
5                   amount shall be allotted among such  
6                   States on the basis of their relative  
7                   populations of individuals aged 5  
8                   through 17, as determined by the Sec-  
9                   retary on the basis of the most recent  
10                  satisfactory data.

11                  “(II) 50 percent of such excess  
12                  amount shall be allotted among such  
13                  States in proportion to the number of  
14                  children, aged 5 to 17, who reside  
15                  within the State from families with in-  
16                  comes below the poverty line (as de-  
17                  fined by the Office of Management  
18                  and Budget and revised annually in  
19                  accordance with section 673(2) of the  
20                  Community Services Block Grant Act  
21                  (42 U.S.C. 9902(2)) applicable to a  
22                  family of the size involved for the  
23                  most recent fiscal year for which sat-  
24                  isfactory data are available, compared  
25                  to the number of such individuals who

1                   reside in all such States for that fiscal  
2                   year.

3                   “(ii) EXCEPTION.—No State receiving  
4                   an allotment under clause (i) may receive  
5                   less than  $\frac{1}{2}$  of 1 percent of the total ex-  
6                   cess amount allotted under clause (i).

7                   “(3) REALLOTMENT.—If any State does not  
8                   apply for an allotment under this subsection for any  
9                   fiscal year, the Secretary shall reallocate such amount  
10                  to the remaining States in accordance with this sub-  
11                  section.

12 **“SEC. 2012. WITHIN-STATE ALLOCATIONS.**

13                  “(a) USE OF FUNDS.—Each State receiving a grant  
14                  under this subpart shall use the funds provided under the  
15                  grant in accordance with this section to carry out activities  
16                  for the improvement of teaching and learning.

17                  “(b) RESERVATION OF FUNDS.—

18                         “(1) IN GENERAL.—A State that receives a  
19                         grant under this subpart may reserve not more than  
20                         5 percent of the amount of the funds provided under  
21                         the grant for—

22                                 “(A) one or more of the authorized State  
23                                 activities described in subsection (e); and

24                                 “(B) planning and administration related  
25                                 to carrying out such activities and making sub-

1 grants to local educational agencies under sub-  
2 parts 2 and 3.

3 “(2) LIMITATION ON ADMINISTRATIVE COSTS.—

4 The amount reserved by a State under paragraph  
5 (1)(B) may not exceed 2 percent of the total amount  
6 authorized to be reserved under paragraph (1).

7 “(c) MATH AND SCIENCE PARTNERSHIPS.—The Sec-  
8 retary may make a grant to a State under this subpart  
9 only if the State agrees to distribute at least 15 percent  
10 of the amount of the funds provided under the grant and  
11 not reserved under subsection (b) through a competitive  
12 subgrant process in accordance with subpart 2.

13 “(d) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-  
14 CIES.—

15 “(1) IN GENERAL.—The Secretary may make a  
16 grant to a State under this subpart only if the State  
17 agrees to expend at least 85 percent of the amount  
18 of the funds provided under the grant and not re-  
19 served under subsection (b) for the purpose of mak-  
20 ing subgrants to local educational agencies under  
21 subpart 3.

22 “(2) FORMULA FOR DISTRIBUTION OF SUB-  
23 GRANTS UNDER SUBPART 3.—A State receiving a  
24 grant under this subpart shall distribute the amount

1 described in paragraph (1) through a formula under  
2 which—

3 “(A) 50 percent is allocated to local edu-  
4 cational agencies in accordance with the relative  
5 enrollment in public and private nonprofit ele-  
6 mentary and secondary schools within the  
7 boundaries of such agencies; and

8 “(B) 50 percent is allocated to local edu-  
9 cational agencies in proportion to the number of  
10 children, aged 5 to 17, who reside within the  
11 geographic area served by such agency from  
12 families with incomes below the poverty line (as  
13 defined by the Office of Management and  
14 Budget and revised annually in accordance with  
15 section 673(2) of the Community Services  
16 Block Grant Act (42 U.S.C. 9902(2))) applica-  
17 ble to a family of the size involved for the most  
18 recent fiscal year for which satisfactory data  
19 are available, compared to the number of such  
20 individuals who reside in the geographic areas  
21 served by all the local educational agencies in  
22 the State for that fiscal year.

23 “(e) AUTHORIZED STATE ACTIVITIES.—The author-  
24 ized State activities referred to in subsection (b)(1)(A) are  
25 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 content standards;  
10                  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 experience, such as mentoring pro-  
17                   grams that—

18                           “(i) provide mentoring to beginning  
19                           teachers from veteran teachers with exper-  
20                           tise in the same subject matter that the  
21                           beginning teachers will be teaching;

22                           “(ii) provide mentors time for activi-  
23                           ties such as coaching, observing, and as-  
24                           sisting the teachers who are mentored; and

1           “(iii) use standards or assessments  
2           for guiding beginning teachers that are  
3           consistent with the State’s student achieve-  
4           ment standards and with the requirements  
5           for professional development activities  
6           under section 2033; and

7           “(B) establish, expand, or improve alter-  
8           native routes to State certification of teachers,  
9           especially in the areas of mathematics and  
10          science, for highly qualified individuals with a  
11          baccalaureate degree, including mid-career pro-  
12          fessionals from other occupations, paraprofes-  
13          sionals, former military personnel, and recent  
14          college or university graduates with records of  
15          academic distinction who demonstrate the po-  
16          tential to become highly effective teachers.

17          “(3) Developing and implementing effective  
18          mechanisms to assist local educational agencies and  
19          schools in effectively recruiting and retaining highly  
20          qualified and effective teachers and principals.

21          “(4) Reforming tenure systems and imple-  
22          menting teacher testing and other procedures to ex-  
23          peditiously remove incompetent and ineffective  
24          teachers from the classroom.

1           “(5) Developing enhanced performance systems  
2           to measure the effectiveness of specific professional  
3           development programs and strategies.

4           “(6) Providing technical assistance to local edu-  
5           cational agencies consistent with this part.

6           “(7) Funding projects to promote reciprocity of  
7           teacher certification or licensure between or among  
8           States, except that no reciprocity agreement devel-  
9           oped under this paragraph or developed using funds  
10          provided under this part may lead to the weakening  
11          of any State teaching certification or licensing re-  
12          quirement.

13          “(8) Developing or assisting local educational  
14          agencies or eligible partnerships (as defined in sec-  
15          tion 2026) in the development and utilization of  
16          proven, innovative strategies to deliver intensive pro-  
17          fessional development programs that are both cost-  
18          effective and easily accessible, such as through the  
19          use of technology and distance learning.

20          “(9) Providing assistance to local educational  
21          agencies and eligible partnerships (as defined in sec-  
22          tion 2026) for the development and implementation  
23          of innovative professional development programs  
24          that train teachers to use technology to improve



1 teaching and learning and are consistent with the re-  
2 quirements of section 2033.

3 “(10) Developing or assisting local educational  
4 agencies in developing merit-based performance sys-  
5 tems, rigorous assessments for teachers, and strate-  
6 gies which provide differential and bonus pay for  
7 teachers in high-need subject areas such as reading,  
8 math, and science and in high-poverty schools and  
9 districts.

10 “(f) COORDINATION.—States receiving grants under  
11 section 202 of the Higher Education Act of 1965 shall  
12 coordinate the use of such funds with activities carried out  
13 under this section.

14 **“SEC. 2013. APPLICATIONS BY STATES.**

15 “(a) IN GENERAL.—To be eligible to receive a grant  
16 under this subpart, a State shall submit an application  
17 to the Secretary at such time, in such manner, and con-  
18 taining such information as the Secretary may reasonably  
19 require.

20 “(b) CONTENTS.—Each application under this sec-  
21 tion shall include the following:

22 “(1) A description of how the State will ensure  
23 that a local educational agency receiving a subgrant  
24 under subpart 3 will comply with the requirements  
25 of such subpart.

1           “(2) A plan to ensure all teachers within the  
2 State are fully qualified not later than December 31,  
3 2005.

4           “(3) A description of how the State will coordi-  
5 nate professional development activities authorized  
6 under this part with professional development activi-  
7 ties provided under other Federal, State, and local  
8 programs, including those authorized under title I,  
9 part A of title V, part B of title V, part A of title  
10 III, and (where applicable) the Individuals with Dis-  
11 abilities Education Act and the Carl D. Perkins Vo-  
12 cational and Technical Education Act. The applica-  
13 tion shall also describe the comprehensive strategy  
14 that the State will take as part of such coordination  
15 effort, to ensure that teachers are trained in the uti-  
16 lization of technology so that technology and its ap-  
17 plications are effectively used in the classroom to im-  
18 prove teaching and learning in all curriculum and  
19 content areas, as appropriate.

20           “(4) A description of how the State will encour-  
21 age the development of proven, innovative strategies  
22 to deliver intensive professional development pro-  
23 grams that are both cost-effective and easily acces-  
24 sible, such as through the use of technology and dis-  
25 tance learning.

1           “(5) A description of how the State will ensure  
2           that local educational agencies will comply with the  
3           requirements under section 2033, especially with re-  
4           spect to ensuring the participation of teachers and  
5           parents.

6           “(c) APPLICATION APPROVAL.—A State application  
7           submitted to the Secretary under this section shall be  
8           deemed approved by the Secretary unless the Secretary  
9           makes a written determination, within 90 days after re-  
10          ceiving the application, that the application is in violation  
11          of the provisions of this subpart. The Secretary shall not  
12          finally disapprove a State application except after giving  
13          the State notice and opportunity for a hearing.

14           **“Subpart 2—Math and Science Partnerships**

15           **“SEC. 2021. PURPOSE.**

16           “The purpose of this subpart is to improve the  
17          achievement of students in the areas of mathematics and  
18          science by encouraging States, institutions of higher edu-  
19          cation, and local educational agencies to participate in  
20          programs that—

21           “(1) focus on education and training of mathe-  
22          matics and science teachers that improves teachers’  
23          knowledge and skills and encourages intellectual  
24          growth;

1           “(2) improve mathematics and science teaching  
2           by encouraging institutions of higher education to  
3           assume greater responsibility for improving mathe-  
4           matics and science teacher education through the es-  
5           tablishment of a comprehensive, integrated system of  
6           recruiting, training, and advising such teachers; and

7           “(3) bring mathematics and science teachers in  
8           elementary and secondary schools together with sci-  
9           entists, mathematicians, and engineers to increase  
10          the subject matter knowledge of teachers and im-  
11          prove their teaching skills through the use of sophis-  
12          ticated laboratory equipment and work space, com-  
13          puting facilities, libraries, and other resources that  
14          institutions of higher education are better able to  
15          provide than the schools.

16 **“SEC. 2022. APPLICATION REQUIREMENTS.**

17          “(a) IN GENERAL.—An eligible partnership seeking  
18          to receive a subgrant from a State under this subpart shall  
19          submit an application to the State at such time, in such  
20          manner, and accompanied by such information as the  
21          State may require.

22          “(b) PARTNERSHIP APPLICATION CONTENTS.—Each  
23          such application shall include—

24                  “(1) an assessment of the teacher quality and  
25                  professional development of all the schools and agen-

1       cies participating in the eligible partnership with re-  
2       spect to the teaching and learning of mathematics  
3       and science;

4               “(2) a description of how the activities to be  
5       carried out by the eligible partnership will be aligned  
6       with State content standards in mathematics and  
7       science and with other educational reform activities  
8       that promote student achievement in mathematics  
9       and science;

10              “(3) a description of how the activities to be  
11       carried out by the eligible partnership will be based  
12       on a review of relevant research, and an explanation  
13       of why the activities are expected to improve student  
14       achievement and to strengthen the quality of mathe-  
15       matics and science instructions; and

16              “(4) a description of—

17                      “(A) how the eligible partnership will carry  
18       out the activities described in section 2023(e);  
19       and

20                      “(B) the eligible partnership’s evaluation  
21       and accountability plan described in section  
22       2024.

1 **“SEC. 2023. MATH AND SCIENCE PARTNERSHIP SUB-**  
2 **GRANTS.**

3 “(a) IN GENERAL.—From the amount described in  
4 section 2012(c), the State educational agency, working in  
5 conjunction with the State agency for higher education (if  
6 such agencies are separate), shall award subgrants on a  
7 competitive basis to eligible partnerships to enable such  
8 partnerships to carry out activities described in subsection  
9 (c).

10 “(b) DURATION.—The State shall award subgrants  
11 under this subpart for a period of not less than 2 and  
12 not more than 5 years.

13 “(c) AUTHORIZED ACTIVITIES.—A recipient of funds  
14 provided under this subpart may use the funds for the  
15 following activities related to elementary or secondary  
16 schools:

17 “(1) Establishing and operating mathematics  
18 and science summer professional development work-  
19 shops or institutes for elementary and secondary  
20 teachers that—

21 “(A) shall—

22 “(i) directly relate to the curriculum  
23 and content areas in which the teacher  
24 provides instruction, and focus only sec-  
25 onarily on pedagogy;

1           “(ii) enhance the ability of a teacher  
2           to understand and use the State’s content  
3           standards for mathematics and science and  
4           to select appropriate curricula;

5           “(iii) train teachers to use curricula  
6           that are—

7                   “(I) based on scientific research;

8                   “(II) aligned with State content  
9                   standards; and

10                   “(III) object-centered, experi-  
11                   ment-oriented, and concept- and con-  
12                   tent-based; and

13                   “(iv) provide supplemental assistance  
14                   and follow-up training during the school  
15                   year for summer institute graduates; and

16           “(B) may include—

17                   “(i) programs that provide prospective  
18                   teachers and novice teachers opportunities  
19                   to work under the guidance of experienced  
20                   teachers and college faculty;

21                   “(ii) instruction in the use of data  
22                   and assessments to inform and instruct  
23                   classroom practice;

24                   “(iii) professional development activi-  
25                   ties, including supplemental and follow-up

1 activities, such as distance learning and ac-  
2 tivities that train teachers to utilize tech-  
3 nology in the classroom.

4 “(2) Recruiting to the teaching profession—

5 “(A) students studying mathematics, engi-  
6 neering, and science; or

7 “(B) mathematicians, engineers, and sci-  
8 entists currently working in the field.

9 (3) Designing programs to bring teachers into  
10 contact with working scientists to expand teacher  
11 content knowledge of and research in science and  
12 mathematics.

13 “(d) PRIORITY.—In awarding subgrants under this  
14 subpart, States shall give priority to applications seeking  
15 funding for the activity described in subsection (c)(1).

16 “(e) COORDINATION.—Partnerships receiving grants  
17 under section 203 of the Higher Education Act of 1965  
18 (20 U.S.C. 1023) shall coordinate the use of such funds  
19 with any related activities carried out by such partnership  
20 with funds made available under this subpart.

21 **“SEC. 2024. EVALUATION AND ACCOUNTABILITY PLAN.**

22 “(a) AL.—Each eligible partnership receiving a  
23 subgrant under this subpart shall develop an evaluation  
24 and accountability plan for activities assisted under this  
25 subpart that includes rigorous performance objectives that



1 measure the impact of activities funded under this sub-  
2 part.

3 “(b) CONTENTS.—The plan—

4 “(1) shall include measurable goals to increase  
5 the number of mathematics and science teachers  
6 who participate in content-based professional devel-  
7 opment activities; and

8 “(2) may include objectives and measures for—

9 “(A) improved student achievement on  
10 State mathematics and science assessments;

11 “(B) increased participation by students in  
12 advanced courses in mathematics and science;

13 “(C) increased percentages of elementary  
14 school teachers with academic majors or mi-  
15 nors, or group majors or minors, in mathe-  
16 matics or the sciences; and

17 “(D) increased percentages of secondary  
18 school classes in mathematics and science  
19 taught by teachers with academic majors in  
20 mathematics and science, respectively.

21 **“SEC. 2025. REPORTS; REVOCATION OF SUBGRANTS.**

22 “(a) REPORTS.—Each eligible partnership receiving  
23 a subgrant under this subpart annually shall report to the  
24 State regarding the eligible partnership’s progress in

1 meeting the performance objectives described in section  
2 2024.

3 “(b) REVOCATION.—If the State determines that an  
4 eligible partnership that receives a subgrant under this  
5 subpart for 5 years is not making substantial progress in  
6 meeting the performance objectives described in section  
7 2024 by the end of the third year of the subgrant, the  
8 subgrant payments shall not be made for the fourth and  
9 fifth years.

10 **“SEC. 2026. DEFINITIONS.**

11 “In this subpart:

12 “(1) ELIGIBLE PARTNERSHIP.—The term ‘eligi-  
13 ble partnership’ means a partnership that—

14 “(A) shall include—

15 “(i) a State educational agency;

16 “(ii) a mathematics or science depart-  
17 ment of a private independent institution  
18 of higher education or a State-supported  
19 public institution of higher education; and

20 “(iii) a high need local educational  
21 agency; and

22 “(B) may include—

23 “(i) another institution of higher edu-  
24 cation or the teacher training department  
25 of such an institution;

1                   “(ii) additional local educational agen-  
2                   cies, public charter schools, public or pri-  
3                   vate elementary or secondary schools, or a  
4                   consortium of such schools;

5                   “(iii) a business; or

6                   “(iv) a nonprofit organization of dem-  
7                   onstrated effectiveness, including a mu-  
8                   seum or research institution.

9                   “(2) SUMMER PROFESSIONAL DEVELOPMENT  
10                  WORKSHOP OR INSTITUTE.—The term ‘summer pro-  
11                  fessional development workshop or institute’ means  
12                  a workshop or institute that—

13                   “(A) is conducted during a period of not  
14                   less than 2 weeks;

15                   “(B) includes as a component a program  
16                   that provides direct interaction between stu-  
17                   dents and faculty; and

18                   “(C) provides for follow-up training during  
19                   the academic year that shall be conducted in  
20                   the classroom for a period of not less than 3  
21                   consecutive or nonconsecutive days, except  
22                   that—

23                   “(i) if the workshop or institute is  
24                   conducted during a two-week period, the

1 follow-up training shall be conducted for a  
2 period of at least 4 days; and

3 “(ii) if the follow-up training is for  
4 teachers in rural school districts, it may be  
5 conducted through distance learning.

6 **“Subpart 3—Subgrants to Local Educational**  
7 **Agencies**

8 **“SEC. 2031. LOCAL USE OF FUNDS.**

9 “Each local educational agency that receives a  
10 subgrant under this subpart may use the subgrant to  
11 carry out the following activities:

12 “(1) Initiatives to assist in recruiting and hir-  
13 ing fully qualified teachers who will be assigned  
14 teaching positions within their field, including—

15 “(A) providing signing bonuses or other fi-  
16 nancial incentives, such as differential pay, for  
17 teachers to teach in academic subject areas in  
18 which there exists a shortage of such fully  
19 qualified teachers within a school or the local  
20 educational agency;

21 “(B) establishing programs that—

22 “(i) recruit professionals from other  
23 fields and provide such professionals with  
24 alternative routes to teacher certification;  
25 and

1                   “(ii) provide increased opportunities  
2                   for minorities, individuals with disabilities,  
3                   and other individuals underrepresented in  
4                   the teaching profession; and

5                   “(C) implementing hiring policies that en-  
6                   sure comprehensive recruitment efforts as a  
7                   way to expand the applicant pool, such as  
8                   through identifying teachers certified through  
9                   alternative routes, coupled with a system of in-  
10                  tensive screening designed to hire the most  
11                  qualified applicant.

12                 “(2) Initiatives to promote retention of highly  
13                 qualified teachers and principals, particularly within  
14                 elementary and secondary schools with a high per-  
15                 centage of low-achieving students, including pro-  
16                 grams that provide—

17                         “(A) mentoring to newly hired teachers,  
18                         such as from master teachers;

19                         “(B) incentives, including financial incen-  
20                         tives, to retain teachers who have a record of  
21                         success in helping low-achieving students im-  
22                         prove their academic success; or

23                         “(C) incentives, including financial incen-  
24                         tives, to principals who have a record of improv-  
25                         ing the performance of all students, but par-

1           particularly students from economically disadvan-  
2           tagged families and students from racial and  
3           ethnic minority groups.

4           “(3) Programs and activities that are designed  
5           to improve the quality of the teacher force, such  
6           as—

7                   “(A) innovative professional development  
8                   programs (which may be through partnerships  
9                   including institutions of higher education), in-  
10                  cluding programs that train teachers and prin-  
11                  cipals to utilize technology to improve teaching  
12                  and learning, are consistent with the require-  
13                  ments of section 2033, and are coordinated  
14                  with part B of title V;

15                  “(B) development and utilization of prov-  
16                  en, cost-effective strategies for the implementa-  
17                  tion of professional development activities, such  
18                  as through the utilization of technology and dis-  
19                  tance learning;

20                  “(C) tenure reform;

21                  “(D) merit pay;

22                  “(E) testing of elementary and secondary  
23                  school teachers in the subject areas taught by  
24                  such teachers;

1           “(F) professional development programs  
2 that provide instruction in how to teach chil-  
3 dren with different learning styles, particularly  
4 children with disabilities and children with spe-  
5 cial learning needs (including those who are  
6 gifted and talented);

7           “(G) professional development programs  
8 that provide instruction in how best to dis-  
9 cipline children in the classroom and identify  
10 early and appropriate interventions to help chil-  
11 dren described in subparagraph (F) learn; and

12           “(H) professional development programs  
13 that provide instruction in how to teach char-  
14 acter education in a manner that—

15                   “(i) reflects the values of parents,  
16 teachers, and local communities; and

17                   “(ii) incorporates elements of good  
18 character, including honesty, citizenship,  
19 courage, justice, respect, personal responsi-  
20 bility, and trustworthiness.

21           “(4) Teacher opportunity payments, consistent  
22 with section 2034.

23           “(5) Professional activities designed to improve  
24 the quality of principals.

1           “(6) Hiring fully qualified teachers, including  
2 teachers who become fully qualified through State  
3 and local alternative routes, and special education  
4 teachers, in order to reduce class size.

5 **“SEC. 2032. LOCAL APPLICATIONS.**

6           “(a) IN GENERAL.—A local educational agency seek-  
7 ing to receive a subgrant from a State under this subpart  
8 shall submit an application to the State—

9           “(1) at such time as the State shall require;  
10 and

11           “(2) which is coordinated with other programs  
12 under this Act, or other Acts, as appropriate.

13           “(b) LOCAL APPLICATION CONTENTS.—The local ap-  
14 plication described in subsection (a), shall include, at a  
15 minimum, the following:

16           “(1) An assurance that the local educational  
17 agency will target funds to schools within the juris-  
18 diction of the local educational agency that—

19           “(A) have the lowest proportion of fully  
20 qualified teachers;

21           “(B) have the largest average class size; or

22           “(C) are identified for school improvement  
23 under section 1116(b).

24           “(2) A description of how the local educational  
25 agency will coordinate professional development ac-



1        activities authorized under this subpart with profes-  
2        sional development activities provided through other  
3        Federal, State, and local programs, including those  
4        authorized under title I, part A of title V, part B  
5        of title V, part A of title III, and (where applicable)  
6        the Individuals with Disabilities Education Act and  
7        the Carl D. Perkins Vocational and Technical Edu-  
8        cation Act.

9            “(3) A description of how the local educational  
10        agency will integrate funds under this subpart with  
11        funds received under part B of title V that are used  
12        for professional development to train teachers to uti-  
13        lize technology to improve teaching and learning.

14            “(4) A description of how the local educational  
15        agency has collaborated with teachers, principals,  
16        parents, and administrators in the preparation of  
17        the application.

18        **“SEC. 2033. PROFESSIONAL DEVELOPMENT FOR TEACHERS.**

19            “(a) REQUIREMENTS FOR PROFESSIONAL DEVELOP-  
20        MENT ACTIVITIES.—Professional development activities  
21        under this subpart shall—

22            “(1) support professional development activities  
23        that give teachers, principals, and administrators the  
24        knowledge and skills to provide students with the op-

1 portunity to meet challenging State content stand-  
2 ards and student achievement standards;

3 “(2) support the recruiting, hiring, and training  
4 of fully qualified teachers, including teachers fully  
5 qualified through State and local alternative routes;

6 “(3) advance teacher understanding of effective  
7 instructional strategies based on scientifically based  
8 research for improving student achievement, at a  
9 minimum, in reading or language arts and mathe-  
10 matics;

11 “(4) be directly related to the curriculum and  
12 content areas in which the teacher provides instruc-  
13 tion, except this does not apply to activities that in-  
14 struct in methods of disciplining children;

15 “(5) be designed to enhance the ability of a  
16 teacher to understand and use the State’s standards  
17 for the subject area in which the teacher provides in-  
18 struction;

19 “(6) be tied to scientifically based research  
20 demonstrating the effectiveness of such professional  
21 development activities or programs in increasing stu-  
22 dent achievement or substantially increasing the  
23 knowledge and teaching skills of teachers;

24 “(7) be of sufficient intensity and duration (not  
25 to include 1-day or short-term workshops and con-

1       ferences) to have a positive and lasting impact on  
2       the teacher’s performance in the classroom;

3           “(8) be developed with extensive participation  
4       of teachers, principals, parents, and administrators  
5       of schools to be served under this part;

6           “(9) to the extent appropriate, provide training  
7       for teachers and principals in the use of technology  
8       so that technology and its applications are effectively  
9       used in the classroom to improve teaching and learn-  
10      ing in the curriculum and academic content areas in  
11      which the teachers provide instruction; and

12          “(10) as a whole, be regularly evaluated for  
13      their impact on increased teacher effectiveness and  
14      improved student achievement, with the findings of  
15      such evaluations used to improve the quality of pro-  
16      fessional development.

17      “(b) PROFESSIONAL DEVELOPMENT ACTIVITIES.—  
18      Professional development activities under this subpart  
19      may include—

20          “(1) instruction in the use of data and assess-  
21      ments to inform and instruct classroom practice;

22          “(2) instruction in ways that teachers, prin-  
23      cipals, pupil services personnel, and school adminis-  
24      trators may work more effectively with parents;

1           “(3) the forming of partnerships with institu-  
2           tions of higher education to establish school-based  
3           teacher training programs that provide prospective  
4           teachers and novice teachers with an opportunity to  
5           work under the guidance of experienced teachers and  
6           college faculty;

7           “(4) the creation of programs for paraprofes-  
8           sionals (assisting teachers employed by a local edu-  
9           cational agency receiving assistance under this part)  
10          to obtain the education necessary for such para-  
11          professionals to become licensed and certified teach-  
12          ers; and

13          “(5) instruction in ways to teach special needs  
14          children.

15          “(c) ACCOUNTABILITY.—

16                 “(1) IN GENERAL.—A State shall notify a local  
17                 educational agency that the agency is on notice of  
18                 the possibility that the agency may be subject to the  
19                 requirement in paragraph (3) if, after any fiscal  
20                 year, the State determines that the programs or ac-  
21                 tivities funded by the agency fail to meet the re-  
22                 quirements of subsection (a).

23                 “(2) TECHNICAL ASSISTANCE.—A local edu-  
24                 cational agency that has been put on notice pursu-  
25                 ant to paragraph (1) may request technical assist-

1       ance from the State in order to provide the oppor-  
2       tunity for such local educational agency to comply  
3       with the requirements of subsection (a).

4               “(3) REQUIREMENT TO PROVIDE TEACHER OP-  
5       PORTUNITY PAYMENTS.—A local educational agency  
6       that has been put on notice by the State pursuant  
7       to paragraph (1) during any 2 consecutive fiscal  
8       years shall expend under section 2034 for the suc-  
9       ceeding fiscal year a proportion of the amount made  
10      available to the agency under this subpart equal to  
11      the proportion of such amount expended by the  
12      agency on professional development for the second  
13      fiscal year in which it was put on notice.

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)(3),  
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.

21           “(b) NOTICE TO TEACHERS.—Local educational  
22      agencies distributing funds under this section shall estab-  
23      lish and implement a timely process through which proper  
24      notice of availability of funds will be given to all teachers  
25      within schools identified by the agency and shall develop

1 a process whereby teachers will be specifically rec-  
2 ommended by principals to participate in such program  
3 by virtue of—

4           “(1) their not being fully qualified to teach in  
5           the subject or subjects in which they teach; or

6           “(2) their need for additional assistance to en-  
7           sure that their students make progress toward meet-  
8           ing challenging State content standards and student  
9           achievement standards.

10          “(c) SELECTION OF TEACHERS.—In the event ade-  
11          quate funding is not available to provide payments under  
12          this section to all teachers seeking such assistance, or  
13          identified as needing such assistance pursuant to sub-  
14          section (b), a local educational agency shall establish pro-  
15          cedures for selecting teachers which provide a priority for  
16          those teachers described in paragraph (1) or (2) of sub-  
17          section (b).

18          “(d) ELIGIBLE PROGRAM.—Teachers receiving a pay-  
19          ment under this section shall have the choice of attending  
20          any professional development program that meets the cri-  
21          teria set forth in section 2033(a).

1           **“Subpart 4—Troops-to-Teachers Program**

2   **“SEC. 2041. AUTHORIZATION OF TROOPS-TO-TEACHERS**  
3                   **PROGRAM.**

4           “(a) PROGRAM AUTHORIZED.—The Secretary may  
5 carry out a program (to be known as the ‘Troops-to-  
6 Teachers Program’)—

7                   “(1) to assist eligible members and former  
8 members of the Armed Forces described in section  
9 2042 to obtain certification or licensure as elemen-  
10 tary school teachers, secondary school teachers, or  
11 vocational or technical teachers; and

12                   “(2) to facilitate the employment of such mem-  
13 bers in elementary schools or secondary schools or as  
14 vocational or technical teachers.

15           “(b) ADMINISTRATION OF PROGRAM.—The Secretary  
16 shall enter into a memorandum of agreement with the Sec-  
17 retary of Defense under which the Secretary of Defense,  
18 acting through the Defense Activity for Non-Traditional  
19 Education Support of the Department of Defense, will  
20 perform the actual administration of the Program, other  
21 than section 2045. Using funds appropriated to the Sec-  
22 retary to carry out this subpart, the Secretary shall trans-  
23 fer to the Secretary of Defense such amounts as may be  
24 necessary to administer the Program pursuant to the  
25 memorandum of agreement.

1       “(c) INFORMATION REGARDING PROGRAM.—The  
2 Secretary shall provide to the Secretary of Defense, for  
3 distribution as part of prepreparation counseling provided  
4 under section 1142 of title 10, United States Code, to  
5 members of the Armed Forces described in section 2042,  
6 information regarding the Troops-to-Teachers Program  
7 and applications to participate in the program.

8       “(d) PLACEMENT ASSISTANCE AND REFERRAL  
9 SERVICES.—As part of the Troops-to-Teachers Program,  
10 the Secretary may, with the agreement of the Secretary  
11 of Defense, provide placement assistance and referral serv-  
12 ices regarding employment opportunities with local edu-  
13 cational agencies to members of the Armed Forces who  
14 are discharged or released from active duty under other  
15 than adverse conditions. Unless the member is also se-  
16 lected to participate in the Program under section 2042,  
17 a member receiving placement assistance and referral  
18 services under the authority of this subsection is not eligi-  
19 ble for financial assistance under section 2043.

20 **“SEC. 2042. RECRUITMENT AND SELECTION OF PROGRAM**  
21 **PARTICIPANTS.**

22       “(a) ELIGIBLE MEMBERS.—The following members  
23 and former members of the Armed Forces are eligible for  
24 selection to participate in the Troops-to-Teachers Pro-  
25 gram:



1 “(1) Any member who—

2 “(A) on or after October 1, 1999, becomes  
3 entitled to retired or retainer pay in the manner  
4 provided in title 10 or title 14, United States  
5 Code; or

6 “(B) on or after the date of the enactment  
7 of the No Child Left Behind Act of 2001, has  
8 an approved date of voluntary retirement and,  
9 as of the date the member submits an applica-  
10 tion to participate in the Program, has one year  
11 or less of active duty remaining before retire-  
12 ment.

13 “(2) Any member who, on or after the date of  
14 the enactment of the No Child Left Behind Act of  
15 2001—

16 “(A) is separated or released from active  
17 duty after six or more years of continuous ac-  
18 tive duty immediately before the separation or  
19 release; and

20 “(B) executes a reserve commitment agree-  
21 ment for a period of three years under sub-  
22 section (e)(2).

23 “(3) Any member who, on or after the date of  
24 the enactment of the No Child Left Behind Act of

1 2001, is retired or separated for physical disability  
2 under chapter 61 of title 10, United States Code.

3 “(4) Any member who—

4 “(A) during the period beginning on Octo-  
5 ber 1, 1990, and ending on September 30,  
6 1999, was involuntarily discharged or released  
7 from active duty for purposes of a reduction of  
8 force after six or more years of continuous ac-  
9 tive duty immediately before the discharge or  
10 release; or

11 “(B) applied for the teacher placement  
12 program administered under section 1151 of  
13 title 10, United States Code, before its repeal,  
14 and who satisfied the eligibility criteria specified  
15 in subsection (c) of such section 1151.

16 “(b) SUBMISSION OF APPLICATIONS.—

17 “(1) FORM AND SUBMISSION.—Selection of eli-  
18 gible members and former members of the Armed  
19 Forces to participate in the Troops-to-Teachers Pro-  
20 gram shall be made on the basis of applications sub-  
21 mitted to the Secretary within the time periods spec-  
22 ified in paragraph (2). An application shall be in  
23 such form and contain such information as the Sec-  
24 retary may require.

1           “(2) TIME FOR SUBMISSION.—An application  
2 shall be considered to be submitted on a timely basis  
3 under paragraph (1) if—

4           “(A) in the case of a member or former  
5 member of the Armed Forces described in para-  
6 graph (1), (2), or (3) of subsection (a), the ap-  
7 plication is submitted not later than four years  
8 after the date on which the member is retired  
9 or separated or released from active duty,  
10 whichever applies to the member; or

11           “(B) in the case of a member or former  
12 member described in subsection (a)(4), the ap-  
13 plication is submitted not later than September  
14 30, 2003.

15           “(c) SELECTION CRITERIA.—

16           “(1) ESTABLISHMENT.—Subject to paragraphs  
17 (2) and (3), the Secretary shall prescribe the criteria  
18 to be used to select eligible members and former  
19 members of the Armed Forces to participate in the  
20 Troops-to-Teachers Program.

21           “(2) EDUCATIONAL BACKGROUND.—If a mem-  
22 ber or former member of the Armed Forces de-  
23 scribed in paragraph (1), (2), or (3) of subsection  
24 (a) is applying for assistance for placement as an el-  
25 ementary or secondary school teacher, the Secretary

1 shall require the member to have received a bacca-  
2 laurate or advanced degree from an accredited in-  
3 stitution of higher education. If such a member is  
4 applying for assistance for placement as a vocational  
5 or technical teacher, the Secretary shall require the  
6 member—

7 “(A) to have received the equivalent of one  
8 year of college from an accredited institution of  
9 higher education and have six or more years of  
10 military experience in a vocational or technical  
11 field; or

12 “(B) to otherwise meet the certification or  
13 licensure requirements for a vocational or tech-  
14 nical teacher in the State in which the member  
15 seeks assistance for placement under the Pro-  
16 gram.

17 “(3) HONORABLE SERVICE.—A member or  
18 former member of the Armed Forces is eligible to  
19 participate in the Troops-to-Teachers Program only  
20 if the member’s last period of service in the Armed  
21 Forces was characterized as honorable. If the mem-  
22 ber is selected to participate in the Program before  
23 the retirement of the member or the separation or  
24 release of the member from active duty, the member  
25 may continue to participate in the Program only if,

1       upon the retirement or separation or release from  
2       active duty, the member's last period of service is  
3       characterized as honorable.

4       “(d) SELECTION PRIORITIES.—In selecting eligible  
5       members and former members of the Armed Forces to re-  
6       ceive assistance for placement as elementary or secondary  
7       school teachers or vocational or technical teachers, the  
8       Secretary shall give priority to members who have edu-  
9       cational or military experience in science, mathematics,  
10      special education, or vocational or technical subjects and  
11      agree to seek employment as science, mathematics, or spe-  
12      cial education teachers in elementary or secondary schools  
13      or in other schools under the jurisdiction of a local edu-  
14      cational agency.

15      “(e) OTHER CONDITIONS ON SELECTION.—

16           “(1) SELECTION SUBJECT TO FUNDING.—The  
17      Secretary may not select an eligible member or  
18      former member of the Armed Forces to participate  
19      in the Troops-to-Teachers Program under this sec-  
20      tion and receive financial assistance under section  
21      2043 unless the Secretary has sufficient appropria-  
22      tions for the Program available at the time of the  
23      selection to satisfy the obligations to be incurred by  
24      the United States under section 2043 with respect  
25      to the member.

1           “(2) RESERVE COMMITMENT AGREEMENT.—  
2           The Secretary may not select an eligible member or  
3           former member of the Armed Forces described in  
4           subsection (a)(2)(A) to participate in the Troops-to-  
5           Teachers Program under this section and receive fi-  
6           nancial assistance under section 2043 unless—

7                   “(A) the Secretary notifies the Secretary  
8                   concerned and the member that the Secretary  
9                   has reserved a full stipend or bonus under sec-  
10                  tion 2043 for the member; and

11                   “(B) the member executes a written agree-  
12                  ment with the Secretary concerned to serve as  
13                  a member of the Selected Reserve of a reserve  
14                  component of the Armed Forces for a period of  
15                  three years (in addition to any other reserve  
16                  commitment the member may have).

17   **“SEC. 2043. PARTICIPATION AGREEMENT AND FINANCIAL**  
18                   **ASSISTANCE.**

19           “(a) PARTICIPATION AGREEMENT.—An eligible  
20           member or former member of the Armed Forces selected  
21           to participate in the Troops-to-Teachers Program under  
22           section 2042 and receive financial assistance under this  
23           section shall be required to enter into an agreement with  
24           the Secretary in which the member agrees—

1           “(1) to obtain, within such time as the Sec-  
2           retary may require, certification or licensure as an  
3           elementary school teacher, secondary school teacher,  
4           or vocational or technical teacher; and

5           “(2) to accept an offer of full-time employment  
6           as an elementary school teacher, secondary school  
7           teacher, or vocational or technical teacher for not  
8           less than three school years with a local educational  
9           agency or public charter school, to begin the school  
10          year after obtaining that certification or licensure.

11          “(b) VIOLATION OF PARTICIPATION AGREEMENT;  
12          EXCEPTIONS.—A participant in the Troops-to-Teachers  
13          Program shall not be considered to be in violation of the  
14          participation agreement entered into under subsection (a)  
15          during any period in which the participant—

16               “(1) is pursuing a full-time course of study re-  
17               lated to the field of teaching at an institution of  
18               higher education;

19               “(2) is serving on active duty as a member of  
20               the Armed Forces;

21               “(3) is temporarily totally disabled for a period  
22               of time not to exceed three years as established by  
23               sworn affidavit of a qualified physician;

1           “(4) is unable to secure employment for a pe-  
2           riod not to exceed 12 months by reason of the care  
3           required by a spouse who is disabled;

4           “(5) is seeking and unable to find full-time em-  
5           ployment as a teacher in an elementary or secondary  
6           school or as a vocational or technical teacher for a  
7           single period not to exceed 27 months; or

8           “(6) satisfies the provisions of additional reim-  
9           bursement exceptions that may be prescribed by the  
10          Secretary.

11         “(c) STIPEND FOR PARTICIPANTS.—

12           “(1) STIPEND AUTHORIZED.—Subject to para-  
13          graph (2), the Secretary may pay to a participant in  
14          the Troops-to-Teachers Program selected under sec-  
15          tion 2042 a stipend in an amount up to \$5,000.

16           “(2) LIMITATION.—The total number of sti-  
17          pends that may be paid under paragraph (1) in any  
18          fiscal year may not exceed 3,000.

19         “(d) BONUS FOR PARTICIPANTS.—

20           “(1) BONUS AUTHORIZED.—Subject to para-  
21          graph (2), the Secretary may, in lieu of paying a sti-  
22          pend under subsection (c), pay a bonus of \$10,000  
23          to a participant in the Troops-to-Teachers Program  
24          selected under section 2042 who agrees in the par-  
25          ticipation agreement under subsection (a) to accept



1 full-time employment as an elementary school teach-  
2 er, secondary school teacher, or vocational or tech-  
3 nical teacher for not less than three years in a high  
4 need school.

5 “(2) LIMITATION.—The total number of bo-  
6 nuses that may be paid under paragraph (1) in any  
7 fiscal year may not exceed 1,000.

8 “(3) HIGH NEED SCHOOL DEFINED.—For pur-  
9 poses of this subsection, the term ‘high need school’  
10 means a public elementary school, public secondary  
11 school, or public charter school that meets one or  
12 more of the following criteria:

13 “(A) At least 50 percent of the students  
14 enrolled in the school were children counted  
15 under subsection (c) of section 1124 for pur-  
16 poses of making grants under such section to  
17 local educational agencies, when such counting  
18 was most recently performed.

19 “(B) The school has a large percentage of  
20 students who qualify for assistance under part  
21 B of the Individuals with Disabilities Education  
22 Act (20 U.S.C. 1411 et seq.).

23 “(C) The school meets any other criteria  
24 established by the Secretary in consultation  
25 with the National Assessment Governing Board.

1       “(e) TREATMENT OF STIPEND AND BONUS.—A sti-  
2       pend or bonus paid under this section to a participant in  
3       the Troops-to-Teachers Program shall be taken into ac-  
4       count in determining the eligibility of the participant for  
5       Federal student financial assistance provided under title  
6       IV of the Higher Education Act of 1965 (20 U.S.C. 1070  
7       et seq.).

8       “(f) REIMBURSEMENT UNDER CERTAIN CIR-  
9       CUMSTANCES.—

10       “(1) REIMBURSEMENT REQUIRED.—A partici-  
11       pant in the Troops-to-Teachers Program who is paid  
12       a stipend or bonus under this section shall be re-  
13       quired to repay the stipend or bonus under the fol-  
14       lowing circumstances:

15               “(A) The participant fails to obtain teach-  
16       er certification or licensure or employment as  
17       an elementary school teacher, secondary school  
18       teacher, or vocational or technical teacher as re-  
19       quired by the participation agreement under  
20       subsection (a).

21               “(B) The participant voluntarily leaves, or  
22       is terminated for cause, from employment as an  
23       elementary school teacher, secondary school  
24       teacher, or vocational or technical teacher dur-

1           ing the three years of required service in viola-  
2           tion of the participation agreement.

3           “(C) The participant executed a written  
4           agreement with the Secretary concerned under  
5           section 2042(e)(2) to serve as a member of a  
6           reserve component of the Armed Forces for a  
7           period of three years and fails to complete the  
8           required term of service.

9           “(2) AMOUNT OF REIMBURSEMENT.—A partici-  
10          pant required to reimburse the Secretary for a sti-  
11          pend or bonus paid to the participant under this sec-  
12          tion shall pay an amount that bears the same ratio  
13          to the amount of the stipend or bonus as the  
14          unserved portion of required service bears to the  
15          three years of required service. Any amount owed by  
16          the participant shall bear interest at the rate equal  
17          to the highest rate being paid by the United States  
18          on the day on which the reimbursement is deter-  
19          mined to be due for securities having maturities of  
20          ninety days or less and shall accrue from the day on  
21          which the participant is first notified of the amount  
22          due.

23          “(3) TREATMENT OF OBLIGATION.—The obliga-  
24          tion to reimburse the Secretary under this sub-  
25          section is, for all purposes, a debt owing the United

1 States. A discharge in bankruptcy under title 11,  
2 United States Code, shall not release a participant  
3 from the obligation to reimburse the Secretary.

4 “(4) EXCEPTIONS TO REIMBURSEMENT RE-  
5 QUIREMENT.—A participant shall be excused from  
6 reimbursement under this subsection if the partici-  
7 pant becomes permanently totally disabled as estab-  
8 lished by sworn affidavit of a qualified physician.  
9 The Secretary may also waive reimbursement in  
10 cases of extreme hardship to the participant, as de-  
11 termined by the Secretary.

12 “(g) RELATIONSHIP TO EDUCATIONAL ASSISTANCE  
13 UNDER MONTGOMERY GI BILL.—The receipt by a partici-  
14 ipant in the Troops-to-Teachers Program of a stipend or  
15 bonus under this section shall not reduce or otherwise af-  
16 fect the entitlement of the participant to any benefits  
17 under chapter 30 of title 38, United States Code, or chap-  
18 ter 1606 of title 10, United States Code.

19 **“SEC. 2044. PARTICIPATION BY STATES.**

20 “(a) DISCHARGE OF STATE ACTIVITIES THROUGH  
21 CONSORTIA OF STATES.—The Secretary may permit  
22 States participating in the Troops-to-Teachers Program to  
23 carry out activities authorized for such States under the  
24 Program through one or more consortia of such States.

25 “(b) ASSISTANCE TO STATES.—

1           “(1) GRANTS AUTHORIZED.—Subject to para-  
2           graph (2), the Secretary may make grants to States  
3           participating in the Troops-to-Teachers Program, or  
4           to consortia of such States, in order to permit such  
5           States or consortia of States to operate offices for  
6           purposes of recruiting eligible members and former  
7           members of the Armed Forces for participation in  
8           the Program and facilitating the employment of par-  
9           ticipants in the Program as elementary school teach-  
10          ers, secondary school teachers, and vocational or  
11          technical teachers.

12           “(2) LIMITATION.—The total amount of grants  
13          under paragraph (1) in any fiscal year may not ex-  
14          ceed \$4,000,000.

15 **“SEC. 2045. SUPPORT OF INNOVATIVE PRERETIREMENT**  
16 **TEACHER CERTIFICATION PROGRAMS.**

17           “(a) DEVELOPMENT, IMPLEMENTATION AND DEM-  
18          ONSTRATION.—The Secretary may enter into a memo-  
19          randum of agreement with a State, an institution of high-  
20          er education, or a consortia of States or institutions of  
21          higher education, to develop, implement, and demonstrate  
22          teacher certification programs for members of the Armed  
23          Forces described in section 2042(a)(1)(B) for the purpose  
24          of assisting such members to consider and prepare for a  
25          career as an elementary school teacher, secondary school

1 teacher, or vocational or technical teacher upon their re-  
2 tirement from the Armed Forces.

3 “(b) PROGRAM ELEMENTS.—A teacher certification  
4 program under subsection (a) must—

5 “(1) provide recognition of military experience  
6 and training as related to licensure or certification  
7 requirements;

8 “(2) provide courses of instruction that may be  
9 conducted on or near a military installation;

10 “(3) incorporate alternative approaches to  
11 achieve teacher certification, such as innovative  
12 methods to gaining field-based teaching experiences,  
13 and assessment of background and experience as re-  
14 lated to skills, knowledge, and abilities required of  
15 elementary school teachers, secondary school teach-  
16 ers, or vocational or technical teachers;

17 “(4) provide for courses to also be delivered via  
18 distance education methods; and

19 “(5) address any additional requirements or  
20 specifications as established by the Secretary.

21 “(c) APPLICATION PROCEDURES.—A State or insti-  
22 tution of higher education (or a consortia of States or in-  
23 stitutions of higher education) that has a program leading  
24 to State approved teacher certification programs may sub-  
25 mit a proposal to the Secretary for consideration under

1 subsection (a). The Secretary shall give preference to pro-  
2 posals that provide for a sharing of the costs to carry out  
3 the teacher certification program.

4 “(d) CONTINUATION OF PROGRAMS.—The purpose of  
5 this section is to provide funding to develop, implement,  
6 and demonstrate teacher certification programs under  
7 subsection (a). Upon successful completion of the dem-  
8 onstration phase, the continued operation of the teacher  
9 certification programs shall not be the responsibility of the  
10 Secretary.

11 “(e) FUNDING LIMITATION.—The total amount obli-  
12 gated by the Secretary under this section in any fiscal year  
13 may not exceed \$5,000,000.

14 **“SEC. 2046. REPORTING REQUIREMENTS.**

15 “(a) REPORT REQUIRED.—Not later than March 31  
16 of each year, the Secretary (in consultation with the Sec-  
17 retary of Defense and the Secretary of Transportation)  
18 and the Comptroller General shall each submit to Con-  
19 gress a report on the effectiveness of the Troops-to-Teach-  
20 ers Program in the recruitment and retention of qualified  
21 personnel by local educational agencies and public charter  
22 schools.

23 “(b) ELEMENTS OF REPORT.—The report under sub-  
24 section (a) shall include information on the following:

1           “(1) The number of participants in the Troops-  
2 to-Teachers Program.

3           “(2) The schools in which the participants are  
4 employed.

5           “(3) The grade levels at which the participants  
6 teach.

7           “(4) The subject matters taught by the partici-  
8 pants.

9           “(5) The rates of retention of the participants  
10 by the local educational agencies and public charter  
11 schools employing the participants.

12           “(6) Such other matters as the Secretary or the  
13 Comptroller General, as the case may be, considers  
14 appropriate.

15           “(c) RECOMMENDATIONS.—The report of the Comp-  
16 troller General under this section shall also include any  
17 recommendations of the Comptroller General regarding  
18 any means of improving the Troops-to-Teachers Program,  
19 including means of enhancing the recruitment and reten-  
20 tion of participants in the Program.

21 **“SEC. 2047. DEFINITIONS.**

22           “For purposes of this subpart:

23           “(1) ARMED FORCES.—The term ‘Armed  
24 Forces’ means the Army, Navy, Air Force, Marine  
25 Corps, and Coast Guard.



1           “(2) PROGRAM.—The term ‘Program’ means  
2 the Troops-to-Teachers Program authorized by this  
3 subpart.

4           “(3) RESERVE COMPONENT.—The term ‘reserve  
5 component’ means—

6                   “(A) the Army National Guard of the  
7 United States;

8                   “(B) the Army Reserve;

9                   “(C) the Naval Reserve;

10                   “(D) the Marine Corps Reserve;

11                   “(E) the Air National Guard of the United  
12 States;

13                   “(F) the Air Force Reserve; and

14                   “(G) the Coast Guard Reserve.

15           “(4) SECRETARY CONCERNED.—The term ‘Sec-  
16 retary concerned’ means—

17                   “(A) the Secretary of the Army, with re-  
18 spect to matters concerning a reserve compo-  
19 nent of the Army;

20                   “(B) the Secretary of the Navy, with re-  
21 spect to matters concerning a reserve compo-  
22 nent of the Navy;

23                   “(C) the Secretary of the Air Force, with  
24 respect to matters concerning a reserve compo-  
25 nent of the Air Force; and

1           “(D) the Secretary of Transportation, with  
2           respect to matters concerning the Coast Guard  
3           Reserve.

4                           **“Subpart 5—Funding**

5   **“SEC. 2051. AUTHORIZATIONS OF APPROPRIATIONS.**

6           “(a) IN GENERAL.—For the purpose of carrying out  
7           this part, other than subpart 4, there are authorized to  
8           be appropriated \$2,600,000,000 for fiscal year 2002 and  
9           such sums as may be necessary for each of fiscal years  
10          2003 through 2006.

11          “(b) SUBPART 4.—For the purpose of carrying out  
12          subpart 4, there are authorized to be appropriated  
13          \$30,000,000 for fiscal year 2002 and such sums as may  
14          be necessary for each of fiscal years 2003 through 2006.

15                           **“Subpart 6—General Provisions**

16   **“SEC. 2061. DEFINITIONS.**

17          “For purposes of this part—

18                  “(1) ARTS AND SCIENCES.—The term ‘arts and  
19                  sciences’ means—

20                           “(A) when referring to an organizational  
21                           unit of an institution of higher education, any  
22                           academic unit that offers one or more academic  
23                           majors in disciplines or content areas cor-  
24                           responding to the academic subject matter  
25                           areas in which teachers provide instruction; and

1           “(B) when referring to a specific academic  
2           subject matter area, the disciplines or content  
3           areas in which academic majors are offered by  
4           the arts and sciences organizational unit.

5           “(2) BEGINNING TEACHER.—The term ‘begin-  
6           ning teacher’ means an educator in a public school  
7           who has not yet been teaching 3 full school years.

8           “(3) MENTORING PROGRAM.—The term ‘men-  
9           toring program’ means to provide professional sup-  
10          port and development, instruction, and guidance to  
11          beginning teachers, but does not include a teacher or  
12          individual who begins to work in a supervisory posi-  
13          tion.

14          “(4) PUBLICLY REPORT.—The term ‘publicly  
15          report’, when used with respect to the dissemination  
16          of information, means that the information is made  
17          widely available to the public, including parents and  
18          students, through such means as the Internet and  
19          major print and broadcast media outlets.

20       **“SEC. 2062. PROVISIONS RELATED TO PRIVATE SCHOOLS.**

21          “The provisions of sections 8503 through 8506 apply  
22          to programs under this part.

1       **“PART B—TEACHER LIABILITY PROTECTION**

2       **“SEC. 2101. TEACHER IMMUNITY.**

3           “(a) IMMUNITY.—Notwithstanding any other provi-  
4 sion of law, no school board member of, or teacher or ad-  
5 ministrator in, a local educational agency that receives  
6 funds under this Act shall be liable for monetary damages  
7 in his or her personal capacity for an action that was  
8 taken in carrying out his or her official duties and in-  
9 tended to maintain school discipline, so long as that action  
10 was not prohibited under State or local law and did not  
11 constitute reckless or criminal misconduct.

12          “(b) LIMITATION.—The immunity established under  
13 subsection (a) shall apply only to liability arising under  
14 Federal law.”.

15       **TITLE III—EDUCATION OF LIM-**  
16       **ITED ENGLISH PROFICIENT**  
17       **CHILDREN; INDIAN AND**  
18       **ALASKA NATIVE EDUCATION**

19       **PART A—EDUCATION OF LIMITED ENGLISH**  
20       **PROFICIENT 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 **CHILDREN; INDIAN AND**  
4 **ALASKA NATIVE EDUCATION”.**

5 (b) **SHORT TITLE.**—Section 3101 (20 U.S.C. 6801)  
6 is repealed.

7 (c) **LIMITATION ON AVAILABILITY OF CERTAIN**  
8 **FUNDS FOR SCHOOLS.**—Section 3601 (20 U.S.C. 7001)—

9 (1) is transferred to part B of title V (as  
10 amended by section 501) and inserted after section  
11 5204 (as so amended);

12 (2) is redesignated as section 5205; and

13 (3) is amended by striking “this title” each  
14 place such term appears and inserting “this part”.

15 (d) **LIMITED ENGLISH PROFICIENT CHILDREN.**—  
16 Parts A through E of title III (20 U.S.C. 6811 et seq.)  
17 are amended to read as follows:

18 **“PART A—EDUCATION OF LIMITED ENGLISH**  
19 **PROFICIENT CHILDREN**

20 **“Subpart 1—English Language Education**

21 **“SEC. 3101. SHORT TITLE.**

22 “This subpart may be cited as the ‘English Language  
23 Proficiency and Academic Achievement Act’.

24 **“SEC. 3102. FINDINGS AND PURPOSES.**

25 “(a) **FINDINGS.**—The Congress finds as follows:

1           “(1) English is the common language of the  
2 United States and every citizen and other person re-  
3 siding in the United States should have a command  
4 of the English language in order to develop to their  
5 full potential.

6           “(2) Limited English proficient children, in-  
7 cluding recent immigrant children, must overcome a  
8 number of challenges in receiving an education in  
9 order to participate fully in American society,  
10 including—

11                   “(A) segregated education programs;

12                   “(B) disproportionate and improper place-  
13 ment in special education and other special pro-  
14 grams due to the use of inappropriate evalua-  
15 tion procedures;

16                   “(C) the limited English proficiency of  
17 their own parents, which hinders the parents’  
18 ability to fully participate in the education of  
19 their children; and

20                   “(D) a need for additional teachers and  
21 other staff who are professionally trained and  
22 qualified to serve such children.

23           “(3) States and local educational agencies need  
24 assistance in developing the capacity to provide pro-  
25 grams of instruction that offer and provide an equal

1 educational opportunity to children who need special  
2 assistance because English is not their dominant  
3 language.

4 “(4) Native Americans, including native resi-  
5 dents of the outlying areas, and Native American  
6 languages (as such terms are defined in section 103  
7 of the Native American Languages Act) have a  
8 unique status under Federal law that requires spe-  
9 cial policies within the broad purposes of this sub-  
10 part to serve the educational needs of language mi-  
11 nority students in the United States.

12 “(5) Research, evaluation, and data collection  
13 capabilities in the field of instruction for limited  
14 English proficient children need to be strengthened  
15 so that educators and other staff teaching limited  
16 English proficient children in the classroom can bet-  
17 ter identify and promote programs, program imple-  
18 mentation strategies, and instructional practices that  
19 result in the effective education of limited English  
20 proficient children.

21 “(b) PURPOSES.—The purposes of this part are—

22 “(1) to help ensure that children who are lim-  
23 ited English proficient, including recent immigrant  
24 children, attain English proficiency, develop high lev-  
25 els of academic attainment in English, and meet the

1 same challenging State content standards and chal-  
2 lenging State student achievement standards ex-  
3 pected of all children;

4 “(2) to develop high-quality programs designed  
5 to assist local educational agencies in teaching lim-  
6 ited English proficient children;

7 “(3) to assist local educational agencies to de-  
8 velop and enhance their capacity to provide high-  
9 quality instructional programs designed to prepare  
10 limited English proficient students, including recent  
11 immigrant students, to enter all-English instruc-  
12 tional settings within 3 years; and

13 “(4) to provide State educational agencies and  
14 local educational agencies with the flexibility to im-  
15 plement instructional programs, tied to scientifically  
16 based research, that the agencies believe to be the  
17 most effective for teaching English.

18 **“SEC. 3103. PARENTAL NOTIFICATION AND CONSENT FOR**

19 **ENGLISH LANGUAGE INSTRUCTION.**

20 “(a) NOTIFICATION.—If an eligible entity uses funds  
21 under this subpart to provide English language instruction  
22 to limited English proficient children, the entity shall in-  
23 form a parent or the parents of a child participating in  
24 an English language instruction program for limited



1 English proficient children assisted under this subpart  
2 of—

3 “(1) the reasons for the identification of the  
4 child as being in need of English language instruc-  
5 tion;

6 “(2) the child’s level of English proficiency, how  
7 such level was assessed, and the status of the child’s  
8 academic achievement;

9 “(3) how the English language instruction pro-  
10 gram will specifically help the child acquire English  
11 and meet age-appropriate standards for grade pro-  
12 motion and graduation;

13 “(4) what the specific exit requirements are for  
14 the program;

15 “(5) the expected rate of transition from the  
16 program into a classroom that is not tailored for  
17 limited English proficient children; and

18 “(6) the expected rate of graduation from high  
19 school for the program if funds under this part are  
20 used for children in secondary schools.

21 “(b) CONSENT.—

22 “(1) IN GENERAL.—A parent or the parents of  
23 a limited English proficient child who is identified  
24 for participation in an English language instruction

1 program for limited English proficient children as-  
2 sisted under this subpart shall—

3 “(A) sign a form consenting to the stu-  
4 dent’s placement in such a program prior to  
5 such time as the student is enrolled in the pro-  
6 gram; and

7 “(B) select among methods of instruction,  
8 if more than 1 method is offered in the pro-  
9 gram.

10 “(2) REMOVAL FROM PROGRAM UPON PAREN-  
11 TAL REQUEST.—A parent or the parents of a limited  
12 English proficient child who is participating in an  
13 English language instruction program for limited  
14 English proficient children assisted under this sub-  
15 part shall have the right to have their child imme-  
16 diately removed from the program upon their re-  
17 quest.

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

1           “(1) timely information about English language  
2 instruction programs for limited English proficient  
3 children assisted under this subpart;

4           “(2) if a parent of a participating child so de-  
5 sires, notice of opportunities for regular meetings for  
6 the purpose of formulating and responding to rec-  
7 ommendations from such parents; and

8           “(3) procedural information for removing a  
9 child from a program for limited English proficient  
10 children.

11       “(d) BASIS FOR ADMISSION OR EXCLUSION.—Stu-  
12 dents shall not be admitted to, or excluded from, any fed-  
13 erally-assisted education program on the basis of a sur-  
14 name or language-minority status.

15 **“SEC. 3104. TESTING OF LIMITED ENGLISH PROFICIENT**  
16 **CHILDREN.**

17       “(a) IN GENERAL.—Assessments of limited English  
18 proficient children participating in programs funded under  
19 this subpart, to the extent practicable, shall be in the lan-  
20 guage and form most likely to yield accurate and reliable  
21 information on what such students know and can do in  
22 content areas.

23       “(b) SPECIAL RULE.—Notwithstanding subsection  
24 (a), in the case of an assessment of reading or language  
25 arts of any student who has attended school in the United

1 States (excluding Puerto Rico) for 3 or more consecutive  
2 school years, the assessment shall be in the form of a test  
3 written in English, except that, if the eligible entity deter-  
4 mines, on a case-by-case individual basis, that assessments  
5 in another language and form would likely yield more ac-  
6 curate and reliable information on what such students  
7 know and can do, the eligible entity may assess such stu-  
8 dents in the appropriate language other than English for  
9 1 additional year.

10 **“SEC. 3105. AUTHORIZATIONS OF APPROPRIATIONS.**

11 “For the purpose of carrying out this subpart, there  
12 are authorized to be appropriated \$460,000,000 for fiscal  
13 year 2002 and such sums as may be necessary for each  
14 of the 4 succeeding fiscal years.

15 **“SEC. 3106. FORMULA GRANTS TO STATES.**

16 “(a) IN GENERAL.—In the case of each State that  
17 in accordance with section 3108 submits to the Secretary  
18 an application for a fiscal year, the Secretary shall make  
19 a grant for the year to the State for the purposes specified  
20 in subsection (b). The grant shall consist of the allotment  
21 determined for the State under subsection (c).

22 “(b) PURPOSES OF GRANTS.—

23 “(1) REQUIRED EXPENDITURES.—The Sec-  
24 retary may make a grant under subsection (a) only  
25 if the State involved agrees that the State will ex-

1       pend at least 95 percent of its allotment under sub-  
2       section (c) for the purpose of making subgrants to  
3       eligible entities to provide assistance to limited  
4       English proficient children in accordance with sec-  
5       tion 3109.

6               “(2) AUTHORIZED EXPENDITURES.—Subject to  
7       paragraph (3), a State that receives a grant under  
8       subsection (a) may expend not more than 5 percent  
9       of its allotment under subsection (c) for 1 or more  
10       of the following purposes:

11               “(A) Professional development and activi-  
12       ties that assist personnel in meeting State and  
13       local certification requirements for teaching lim-  
14       ited English proficient children.

15               “(B) Providing scholarships and fellow-  
16       ships to students who agree to teach limited  
17       English proficient children once they graduate.

18               “(C) Planning, administration, and inter-  
19       agency coordination related to the subgrants re-  
20       ferred to in paragraph (1).

21               “(D) Providing technical assistance and  
22       other forms of assistance to local educational  
23       agencies that—

24                       “(i) educate limited English proficient  
25                       children; and

1                   “(ii) are not receiving a subgrant  
2                   from a State under this subpart.

3                   “(E) Providing bonuses to subgrantees  
4                   whose performance has been exceptional in  
5                   terms of the speed with which children enrolled  
6                   in the subgrantee’s programs and activities at-  
7                   tain English language proficiency and meet  
8                   challenging State content standards and chal-  
9                   lenging State student achievement standards.

10                  “(3) LIMITATION ON ADMINISTRATIVE COSTS.—  
11                  In carrying out paragraph (2), a State that receives  
12                  a grant under subsection (a) may expend not more  
13                  than 2 percent of its allotment under subsection (c)  
14                  for the purposes described in paragraph (2)(C).

15                  “(c) DETERMINATION OF ALLOTMENT AMOUNTS.—

16                         “(1) RESERVATIONS.—From the amount appro-  
17                         priated under section 3105 to carry out this subpart  
18                         for each fiscal year, the Secretary shall reserve—

19                                 “(A) .5 percent of such amount for pay-  
20                                 ments to entities that are considered to be local  
21                                 educational agencies under section 3107(a) for  
22                                 activities approved by the Secretary;

23                                 “(B) .5 percent of such amount for pay-  
24                                 ments to outlying areas, to be allotted in ac-  
25                                 cordance with their respective needs for assist-

1           ance under this subpart, as determined by the  
2           Secretary, for activities, approved by the Sec-  
3           retary, consistent with this subpart; and

4           “(C) .5 percent of such amount for pay-  
5           ments to the Commonwealth of Puerto Rico for  
6           activities, approved by the Secretary, consistent  
7           with this subpart.

8           “(2) STATE ALLOTMENTS.—

9           “(A) IN GENERAL.—From the amount ap-  
10          propriated under section 3105 to carry out this  
11          subpart for each fiscal year that remains after  
12          making the reservations described in paragraph  
13          (1), the Secretary shall allot to each State an  
14          amount which bears the same ratio to such  
15          amount as the total number of children who are  
16          limited English proficient and who reside in the  
17          State bears to the total number of such children  
18          residing in all States that, in accordance with  
19          section 3108, submit to the Secretary an appli-  
20          cation for the year.

21          “(B) HOLD HARMLESS AMOUNTS.—For  
22          fiscal year 2002, and for each of the 4 suc-  
23          ceeding fiscal years, notwithstanding subpara-  
24          graph (A), the total amount allotted to each  
25          State under such subparagraph shall be not less

1 than 85 percent of the total amount the State  
2 and entities within the State received for the  
3 previous fiscal year under—

4 “(i) parts A and B of title VII (as  
5 such parts were in effect on the day before  
6 the date of the enactment of the No Child  
7 Left Behind Act of 2001); or

8 “(ii) this subpart.

9 “(C) REALLOCATION.—

10 “(i) IN GENERAL.—If any State does  
11 not submit to the Secretary an application  
12 for a fiscal year, or submits an application  
13 (or any modification to an application)  
14 that the Secretary, after reasonable notice  
15 and opportunity for a hearing, determines  
16 does not satisfy the requirements of this  
17 subpart, the Secretary—

18 “(I) shall endeavor to make that  
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 3109 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 3109(b) and otherwise shall satisfy  
15                  the requirements of section 3109.

16                  “(D) DEFINITION.—In this paragraph, the  
17                  term ‘State’ means each of the 50 States and  
18                  the District of Columbia.

19                  “(3) USE OF STATE DATA FOR DETERMINA-  
20                  TIONS.—For purposes of paragraph (2), any deter-  
21                  mination of the number of children who are limited  
22                  English proficient and reside in a State shall be  
23                  made using the most recent limited English pro-  
24                  ficient school enrollment data available to, and re-  
25                  ported to the Secretary by, the State. The State

1 shall provide assurances to the Secretary that such  
2 data are valid and reliable. In a case described in  
3 paragraph (2)(C), specially qualified agencies apply-  
4 ing for a State's allotment shall satisfy the require-  
5 ments of this paragraph to the maximum extent  
6 practicable.

7           “(4) NO REDUCTION PERMITTED BASED ON  
8 TEACHING METHOD.—The Secretary may not reduce  
9 a State's allotment based on the State's selection of  
10 the immersion method of instruction as its preferred  
11 method of teaching the English language to children  
12 who are limited English proficient.

13 **“SEC. 3107. NATIVE AMERICAN AND ALASKA NATIVE CHIL-**  
14 **DREN IN SCHOOL.**

15           “(a) ELIGIBLE ENTITIES.—For the purpose of car-  
16 rying out programs under this subpart for individuals  
17 served by elementary, secondary, and postsecondary  
18 schools operated predominately for Native American or  
19 Alaska Native children, the following shall be considered  
20 to be a local educational agency:

21           “(1) An Indian tribe.

22           “(2) A tribally sanctioned educational author-  
23 ity.

1           “(3) A Native Hawaiian or Native American  
2 Pacific Islander native language educational organi-  
3 zation.

4           “(4) An elementary or secondary school that is  
5 operated or funded by the Bureau of Indian Affairs,  
6 or a consortium of such schools.

7           “(5) An elementary or secondary school oper-  
8 ated under a contract with or grant from the Bu-  
9 reau of Indian Affairs, in consortium with another  
10 such school or a tribal or community organization.

11           “(6) An elementary or secondary school oper-  
12 ated by the Bureau of Indian Affairs and an institu-  
13 tion of higher education, in consortium with an ele-  
14 mentary or secondary school operated under a con-  
15 tract with or grant from the Bureau of Indian Af-  
16 fairs or a tribal or community organization.

17           “(b) SUBMISSION OF APPLICATIONS FOR ASSIST-  
18 ANCE.—Notwithstanding any other provision of this sub-  
19 part, an entity that is considered to be a local educational  
20 agency under subsection (a), and that desires to submit  
21 an application for Federal financial assistance under this  
22 subpart, shall submit the application to the Secretary. In  
23 all other respects, such an entity shall be eligible for a  
24 grant under this subpart on the same basis as any other  
25 local educational agency.

1 **“SEC. 3108. APPLICATIONS BY STATES.**

2 “For purposes of section 3106, an application sub-  
3 mitted by a State for a grant under such section for a  
4 fiscal year is in accordance with this section if the  
5 application—

6 “(1) describes the process that the State will  
7 use in making subgrants to eligible entities under  
8 this subpart;

9 “(2) contains an agreement that the State—

10 “(A) will provide 1 year of funding for an  
11 application for a subgrant under section 3109  
12 from an eligible entity that describes a program  
13 that, on the day preceding the date of the en-  
14 actment of the No Child Left Behind Act of  
15 2001, was receiving funding under a grant—

16 “(i) awarded by the Secretary under  
17 subpart 1 or 3 of part A of the Bilingual  
18 Education Act (as such Act was in effect  
19 on such day); and

20 “(ii) that was not under its terms due  
21 to expire before a period of 1 year or more  
22 had elapsed; and

23 “(B) after such 1-year extension, will give  
24 special consideration to such applications if the  
25 period of their award would not yet otherwise

1           have expired if the No Child Left Behind Act  
2           of 2001 had not been enacted;

3           “(3) contains an agreement that, in carrying  
4           out this subpart, the State will address the needs of  
5           school systems of all sizes and in all geographic  
6           areas, including rural and urban schools;

7           “(4) contains an agreement that subgrants to  
8           eligible entities under section 3109 shall be of suffi-  
9           cient size and scope to allow such entities to carry  
10          out high quality education programs for limited  
11          English proficient children;

12          “(5) contains an agreement that the State will  
13          coordinate its programs and activities under this  
14          subpart with its other programs and activities under  
15          this Act and other Acts, as appropriate;

16          “(6) contains an agreement that the State—

17                 “(A) shall monitor the progress of students  
18                 enrolled in programs and activities receiving as-  
19                 sistance under this subpart in attaining English  
20                 proficiency and in attaining challenging State  
21                 content standards and challenging State  
22                 achievement standards;

23                 “(B) shall establish standards and bench-  
24                 marks for English language development that

1 are aligned with State content and achievement  
2 standards;

3 “(C) subject to subparagraph (D), after  
4 the 1-year period described in such subpara-  
5 graph, shall withdraw funding from such pro-  
6 grams and activities in cases where 75 percent  
7 of students are not attaining English pro-  
8 ficiency and attaining challenging State content  
9 standards and challenging State achievement  
10 standards after 3 academic years of enrollment  
11 based on the evaluation measures in section  
12 3121(d); and

13 “(D) shall provide technical assistance to  
14 eligible entities that fail to satisfy the criterion  
15 in subparagraph (C) for 1 year prior to the  
16 withdrawal of funding under such subpara-  
17 graph;

18 “(7) 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 section 3109 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           “(8) 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           “(9) contains an agreement that the State will  
10       require eligible entities receiving a grant under this  
11       subpart to use the grant in ways that will build such  
12       recipient’s capacity to continue to offer high-quality  
13       English language instruction and programs which  
14       assist limited English proficient children in attaining  
15       challenging State content standards and challenging  
16       State achievement standards once assistance under  
17       this subpart is no longer available.

18 **“SEC. 3109. SUBGRANTS TO ELIGIBLE ENTITIES.**

19       “(a) PURPOSES OF SUBGRANTS.—A State may make  
20       a subgrant to an eligible entity from funds received by  
21       the State under this subpart only if the entity agrees to  
22       expend the funds to improve the education of limited  
23       English proficient children and their families, through the  
24       acquisition of English and the attainment of challenging  
25       State academic content standards and challenging State

1 achievement standards, using approaches and methodolo-  
2 gies based on scientifically based reading research and  
3 sound research and theory on teaching limited English  
4 proficient children, by—

5           “(1) developing and implementing new English  
6 language and academic content instructional pro-  
7 grams for children who are limited English pro-  
8 ficient, including programs of early childhood edu-  
9 cation and kindergarten through 12th grade edu-  
10 cation;

11           “(2) carrying out highly focused, innovative, lo-  
12 cally designed projects to expand or enhance existing  
13 English language and academic content instruction  
14 programs for limited English proficient children;

15           “(3) implementing, within an individual school,  
16 schoolwide programs for restructuring, reforming,  
17 and upgrading all relevant programs and operations  
18 relating to English language and academic content  
19 instruction for limited English proficient students;  
20 or

21           “(4) implementing, within the entire jurisdic-  
22 tion of a local educational agency, agencywide pro-  
23 grams for restructuring, reforming, and upgrading  
24 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 1 of the  
8 purposes described in subsection (a) by undertaking  
9 1 or more of the following activities to improve the  
10 understanding, and use, of the English language,  
11 based on a child’s learning skills:

12 “(A) Upgrading program objectives and ef-  
13 fective instructional strategies.

14 “(B) Improving the instruction program  
15 for limited English proficient students by iden-  
16 tifying, acquiring, and upgrading curricula, in-  
17 structional materials, educational software, and  
18 assessment procedures.

19 “(C) Providing—

20 “(i) tutorials and academic or voca-  
21 tional education for limited English pro-  
22 ficient children; and

23 “(ii) intensified instruction.

24 “(D) Developing and implementing elemen-  
25 tary or secondary school English language in-

1            instructional programs that are coordinated with  
2            other relevant programs and services.

3            “(E) Providing professional development to  
4            classroom teachers, principals, administrators,  
5            and other school or community-based organiza-  
6            tional personnel to improve the instruction and  
7            assessment of children who are limited English  
8            proficient children.

9            “(F) Improving the English language pro-  
10           proficiency and academic performance of limited  
11           English proficient children.

12           “(G) Improving the instruction of limited  
13           English proficient children by providing for the  
14           acquisition or development of education tech-  
15           nology or instructional materials, access to and  
16           participation in electronic networks for mate-  
17           rials, training and communications, and incor-  
18           poration of such resources in curricula and pro-  
19           grams, such as those funded under this sub-  
20           part.

21           “(H) Developing tutoring programs for  
22           limited English proficient children that provide  
23           early intervention and intensive instruction in  
24           order to improve academic achievement, to in-  
25           crease graduation rates among limited English

1 proficient children, and to prepare students for  
2 transition as soon as possible into classrooms  
3 where instruction is not tailored for limited  
4 English proficient children.

5 “(I) Providing family literacy services and  
6 parent outreach and training activities to lim-  
7 ited English proficient children and their fami-  
8 lies to improve their English language skills and  
9 assist parents in helping their children to im-  
10 prove their academic performance.

11 “(J) Other activities that are consistent  
12 with the purposes of this subpart.

13 “(2) MOVING CHILDREN OUT OF SPECIALIZED  
14 CLASSROOMS.—Any program or activity undertaken  
15 by an eligible entity using a subgrant from a State  
16 under this subpart shall be designed to assist stu-  
17 dents enrolled in the program or activity to attain  
18 English proficiency and meet challenging State con-  
19 tent standards and challenging State achievement  
20 standards as soon as possible, but not later than  
21 after 3 consecutive years of school attendance, and  
22 to move into a classroom where instruction is not  
23 tailored for limited English proficient children.

24 “(c) SELECTION OF METHOD OF INSTRUCTION.—To  
25 receive a subgrant from a State under this subpart, an

1 eligible entity shall select 1 or more methods or forms of  
2 instruction to be used in the programs and activities un-  
3 dertaken by the entity to assist limited English proficient  
4 children to attain English proficiency and meet chal-  
5 lenging State content standards and challenging State stu-  
6 dent achievement standards. Such selection shall be con-  
7 sistent with sections 3134 and 3135.

8 “(d) DURATION OF SUBGRANTS.—The duration of a  
9 subgrant made by a State under this section shall be de-  
10 termined by the State in its discretion.

11 “(e) APPLICATIONS BY ELIGIBLE ENTITIES.—

12 “(1) IN GENERAL.—To receive a subgrant from  
13 a State under this subpart, an eligible entity shall  
14 submit an application to the State at such time, in  
15 such form, and containing such information as the  
16 State may require.

17 “(2) REQUIRED DOCUMENTATION.—The appli-  
18 cation shall—

19 “(A) describe the programs and activities  
20 proposed to be developed, implemented, and ad-  
21 ministered under the subgrant;

22 “(B) describe how the eligible entity will  
23 use the subgrant funds to satisfy the require-  
24 ment in subsection (b)(2);

1           “(C) describe how the eligible entity will  
2 hold elementary schools and secondary schools  
3 accountable for—

4                   “(i) meeting such achievement goals;

5                   and

6                   “(ii) making adequate yearly progress  
7 with limited English proficient students in  
8 the core academic subjects as described in  
9 section 1111(b)(2); and

10           “(D) describe how the eligible entity will  
11 use the disaggregated results of the student as-  
12 sessments required under section 1111(b)(4),  
13 and other measures or indicators available to  
14 the entity, to review annually the progress of  
15 each school served by the agency under this  
16 part and under title I to determine whether the  
17 schools are making the adequate yearly  
18 progress necessary to ensure that limited  
19 English proficient students attending the  
20 schools will meet the State’s proficient level of  
21 performance on the State assessment described  
22 in section 1111(b)(4) within 10 years after the  
23 date of enactment of the No Child Left Behind  
24 Act of 2001.

1           “(3) REQUIREMENTS FOR APPROVAL.—The ap-  
2           plication shall contain assurances that—

3                   “(A) the eligible entity will use qualified  
4                   personnel who have appropriate training and  
5                   professional credentials in teaching English to  
6                   children who are limited English proficient, and  
7                   who are proficient in English, including written  
8                   and oral communication skills;

9                   “(B) if the eligible entity includes 1 or  
10                  more local educational agencies, each such  
11                  agency is complying with section 3103(b) prior  
12                  to, and throughout, each school year;

13                  “(C) the eligible entity annually will assess  
14                  the English proficiency of all children with lim-  
15                  ited English proficiency participating in pro-  
16                  grams funded under this subpart;

17                  “(D) the eligible entity has based its pro-  
18                  posal on scientifically based reading research  
19                  and sound research and theory on teaching lim-  
20                  ited English proficient children;

21                  “(E) the eligible entity has described in the  
22                  application how students enrolled in the pro-  
23                  grams and activities proposed in the application  
24                  will be fluent in English after 3 academic years  
25                  of enrollment;

1           “(F) the eligible entity will ensure that  
2           programs will enable children to speak, read,  
3           write, and comprehend the English language  
4           and meet challenging State content and chal-  
5           lenging State achievement standards; and

6           “(G) the eligible entity is not in violation  
7           of any State law, including State constitutional  
8           law, regarding the education of limited English  
9           proficient children, consistent with sections  
10          3134 and 3135.

11          “(4) QUALITY.—In determining which applica-  
12          tions to select for approval, a State shall consider  
13          the quality of each application and ensure that it is  
14          of sufficient size and scope to meet the purposes of  
15          this subpart.

16       **“SEC. 3110. DISTRIBUTION OF GRANTS TO ELIGIBLE ENTI-**  
17                               **TIES.**

18          “(a) IN GENERAL.—Subject to subsection (b), a  
19          State receiving a grant under this subpart shall distribute  
20          subgrants to eligible entities on a competitive basis.

21          “(b) PRIORITY.—In distributing subgrants to eligible  
22          entities, a State receiving a grant under this subpart shall  
23          give priority to an eligible entity that is, or includes as  
24          a participant, a local educational agency that—

1           “(1) enrolls a large percentage or a large num-  
2           ber of children who are limited English proficient, as  
3           compared to the enrollments of other local edu-  
4           cational agencies that are seeking a subgrant; and

5           “(2) is in need of assistance in order to address  
6           a need brought about through a significant increase,  
7           as compared to the previous 2 years, in the percent-  
8           age or number of children who are limited English  
9           proficient in a school or in the agency, including  
10          schools and agencies in areas with low concentra-  
11          tions of such children.

12                           **“Subpart 2—Administration**

13          **“SEC. 3121. EVALUATIONS.**

14          “(a) IN GENERAL.—Each eligible entity that receives  
15          a subgrant from a State under subpart 1 shall provide  
16          the State, at the conclusion of every second fiscal year  
17          during which the subgrant is received, with an evaluation,  
18          in a form prescribed by the State, of—

19                 “(1) the programs and activities conducted by  
20                 the entity with funds received under subpart 1 dur-  
21                 ing the 2 immediately preceding fiscal years;

22                 “(2) the progress made by students in learning  
23                 the English language and meeting challenging State  
24                 content standards and challenging State student  
25                 achievement standards;



1           “(3) the number and percentage of students in  
2           the programs and activities attaining English lan-  
3           guage proficiency by the end of each school year, as  
4           determined by a valid and reliable assessment of  
5           English proficiency; and

6           “(4) the progress made by students in meeting  
7           challenging State content and challenging State  
8           achievement standards for each of the 2 years after  
9           such students are no longer receiving services under  
10          this part.

11          “(b) USE OF EVALUATION.—An evaluation provided  
12         by an eligible entity under subsection (a) shall be used  
13         by the entity and the State—

14                 “(1) for improvement of programs and activi-  
15                 ties;

16                 “(2) to determine the effectiveness of programs  
17                 and activities in assisting children who are limited  
18                 English proficient to attain English proficiency (as  
19                 measured consistent with subsection (d)) and meet  
20                 challenging State content standards and challenging  
21                 State student achievement standards; and

22                 “(3) in determining whether or not to continue  
23                 funding for specific programs or projects.

1       “(c) EVALUATION COMPONENTS.—An evaluation  
2 provided by an eligible entity under subsection (a) shall  
3 include—

4           “(1) an evaluation of whether students enrolling  
5 in a program or activity conducted by the entity  
6 with funds received under subpart 1—

7           “(A) have attained English proficiency and  
8 are meeting challenging State content stand-  
9 ards and challenging State student achievement  
10 standards; and

11           “(B) have achieved a working knowledge of  
12 the English language that is sufficient to per-  
13 mit them to perform, in English, in a classroom  
14 that is not tailored to limited English proficient  
15 children; and

16           “(2) such other information as the State may  
17 require.

18       “(d) EVALUATION MEASURES.—In prescribing the  
19 form of an evaluation provided by an entity under sub-  
20 section (a), a State shall approve evaluation measures, as  
21 applicable, for use under subsection (c) that are designed  
22 to assess—

23           “(1) oral language proficiency in kindergarten;

24           “(2) oral language proficiency, including speak-  
25 ing and listening skills, in first grade;

1           “(3) both oral language proficiency, including  
2           speaking and listening skills, and reading and writ-  
3           ing proficiency in grades 2 and higher; and

4           “(4) attainment of challenging State achieve-  
5           ment standards.

6   **“SEC. 3122. REPORTING REQUIREMENTS.**

7           “(a) STATES.—Based upon the evaluations provided  
8           to a State under section 3121, each State that receives  
9           a grant under subpart 1 shall prepare and submit every  
10          second year to the Secretary a report on programs and  
11          activities undertaken by the State under such subpart and  
12          the effectiveness of such programs and activities in im-  
13          proving the education provided to children who are limited  
14          English proficient.

15          “(b) SECRETARY.—Every second year, the Secretary  
16          shall prepare and submit to the Committee on Education  
17          and the Workforce of the House of Representatives and  
18          the Committee on Health, Education, Labor, and Pen-  
19          sions of the Senate a report on—

20                 “(1) programs and activities undertaken by  
21                 States under subpart 1 and the effectiveness of such  
22                 programs and activities in improving the education  
23                 provided to children who are limited English pro-  
24                 ficient;

1           “(2) the types of instructional programs used  
2           under subpart 1 to teach limited English proficient  
3           children;

4           “(3) the number of programs or projects, if  
5           any, that were terminated because they were not  
6           able to reach program goals; and

7           “(4) other information gathered from the re-  
8           ports submitted under subsection (a).

9           **“SEC. 3123. COORDINATION WITH RELATED PROGRAMS.**

10          “In order to maximize Federal efforts aimed at serv-  
11          ing the educational needs of children and youth of limited  
12          English proficiency, the Secretary shall coordinate and en-  
13          sure close cooperation with other programs serving lan-  
14          guage-minority and limited English proficient students  
15          that are administered by the Department and other agen-  
16          cies.

17                           **“Subpart 3—General Provisions**

18          **“SEC. 3131. DEFINITIONS.**

19          “For purposes of this part:

20                 “(1) CHILDREN AND YOUTH.—The term ‘chil-  
21                 dren and youth’ means individuals aged 3 through  
22                 21.

23                 “(2) COMMUNITY-BASED ORGANIZATION.—The  
24                 term ‘community-based organization’ means a pri-  
25                 vate nonprofit organization of demonstrated effec-

1 tiveness or Indian tribe or tribally sanctioned edu-  
2 cational authority which is representative of a com-  
3 munity or significant segments of a community and  
4 which provides educational or related services to in-  
5 dividuals in the community. Such term includes a  
6 Native Hawaiian or Native American Pacific Is-  
7 lander native language educational organization.

8 “(3) ELIGIBLE ENTITY.—The term ‘eligible en-  
9 tity’ means—

10 “(A) 1 or more local educational agencies;

11 or

12 “(B) 1 or more local educational agencies  
13 in collaboration with an institution of higher  
14 education, community-based organization, or  
15 State educational agency.

16 “(4) NATIVE HAWAIIAN OR NATIVE AMERICAN  
17 PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL  
18 ORGANIZATION.—The term ‘Native Hawaiian or Na-  
19 tive American Pacific Islander native language edu-  
20 cational organization’ means a nonprofit organiza-  
21 tion with a majority of its governing board and em-  
22 ployees consisting of fluent speakers of the tradi-  
23 tional Native American languages used in their edu-  
24 cational programs and with not less than 5 years

1 successful experience in providing educational serv-  
2 ices in traditional Native American languages.

3 “(5) NATIVE LANGUAGE.—The term ‘native  
4 language’, when used with reference to an individual  
5 who is limited English proficient, means the lan-  
6 guage normally used by such individual.

7 “(6) SPECIALLY QUALIFIED AGENCY.—The  
8 term ‘specially qualified agency’, when used with re-  
9 spect to a fiscal year, means an eligible entity lo-  
10 cated in a State that, for that year—

11 “(A) does not submit to the Secretary an  
12 application under sections 3106(a) and 3108;  
13 or

14 “(B) submits an application (or any modi-  
15 fication to an application) that the Secretary,  
16 after reasonable notice and opportunity for a  
17 hearing, determines does not satisfy the re-  
18 quirements of subpart 1.

19 “(7) TRIBALLY SANCTIONED EDUCATIONAL AU-  
20 THORITY.—The term ‘tribally sanctioned educational  
21 authority’ means—

22 “(A) any department or division of edu-  
23 cation operating within the administrative  
24 structure of the duly constituted governing body  
25 of an Indian tribe; and

1           “(B) any nonprofit institution or organiza-  
2           tion that is—

3                   “(i) chartered by the governing body  
4                   of an Indian tribe to operate a school de-  
5                   scribed in section 3107(a) or otherwise to  
6                   oversee the delivery of educational services  
7                   to members of the tribe; and

8                   “(ii) approved by the Secretary for  
9                   the purpose of carrying out programs  
10                  under subpart 1 for individuals served by  
11                  a school described in section 3107(a).

12 **“SEC. 3132. RULES OF CONSTRUCTION.**

13           “Nothing in subpart 1 shall be construed—

14                   “(1) to prohibit a local educational agency from  
15                   serving limited English proficient children and youth  
16                   simultaneously with students with similar edu-  
17                   cational needs, in the same educational settings  
18                   where appropriate;

19                   “(2) to require a State or a local educational  
20                   agency to establish, continue, or eliminate any par-  
21                   ticular type of instructional program for limited  
22                   English proficient children; or

23                   “(3) to limit the preservation or use of Native  
24                   American languages as defined in the Native Amer-  
25                   ican Languages Act of 1990.

1 **“SEC. 3133. LIMITATION ON FEDERAL REGULATIONS.**

2 “The Secretary shall issue regulations under this part  
3 only to the extent that such regulations are necessary to  
4 ensure compliance with the specific requirements of this  
5 part.

6 **“SEC. 3134. LEGAL AUTHORITY UNDER STATE LAW.**

7 “Nothing in this part shall be construed to negate  
8 or supersede the legal authority, under State law, of any  
9 State agency, State entity, or State public official over  
10 programs that are under the jurisdiction of the State  
11 agency, entity, or official.

12 **“SEC. 3135. CIVIL RIGHTS.**

13 “Nothing in this part shall be construed in a manner  
14 inconsistent with any Federal law guaranteeing a civil  
15 right.

16 **“SEC. 3136. PROGRAMS FOR NATIVE AMERICANS AND**  
17 **PUERTO RICO.**

18 “Programs authorized under subpart 1 that serve  
19 Native American children, Native Pacific Island children,  
20 and children in the Commonwealth of Puerto Rico, not-  
21 withstanding any other provision of subpart 1, may in-  
22 clude programs of instruction, teacher training, cur-  
23 riculum development, evaluation, and testing designed for  
24 Native American children learning and studying Native  
25 American languages and children of limited Spanish pro-  
26 ficiency, except that a primary outcome of programs serv-



1 ing such children shall be increased English proficiency  
2 among such children.”.

3 **SEC. 302. CONFORMING AMENDMENT TO DEPARTMENT OF**  
4 **EDUCATION ORGANIZATION ACT.**

5 (a) IN GENERAL.—The Department of Education  
6 Organization Act is amended by striking “Office of Bilin-  
7 gual Education and Minority Languages Affairs” each  
8 place such term appears in the text and inserting “Office  
9 of Educational Services for Limited English Proficient  
10 Children”.

11 (b) CLERICAL AMENDMENTS.—

12 (1) SECTION 209.—The section heading for sec-  
13 tion 209 of the Department of Education Organiza-  
14 tion Act is amended to read as follows:

15 “OFFICE OF EDUCATIONAL SERVICES FOR LIMITED  
16 ENGLISH PROFICIENT CHILDREN”.

17 (2) SECTION 216.—The section heading for sec-  
18 tion 216 of the Department of Education Organiza-  
19 tion Act is amended to read as follows:

20 **“SEC. 216. OFFICE OF EDUCATIONAL SERVICES FOR LIM-**  
21 **ITED ENGLISH PROFICIENT CHILDREN.”.**

22 (3) TABLE OF CONTENTS.—

23 (A) SECTION 209.—The table of contents  
24 of the Department of Education Organization  
25 Act is amended by amending the item relating  
26 to section 209 to read as follows:

“Sec. 209. Office of Educational Services for Limited English Proficient Children.”.

1                   (B) SECTION 216.—The table of contents  
2                   of the Department of Education Organization  
3                   Act is amended by amending the item relating  
4                   to section 216 to read as follows:

“Sec. 216. Office of Educational Services for Limited English Proficient Children.”.

5                   **PART B—INDIAN AND ALASKA NATIVE**

6                                   **EDUCATION**

7                   **SEC. 311. ELEMENTARY AND SECONDARY EDUCATION ACT**

8                                   **OF 1965.**

9                   (a) IN GENERAL.—Title III (as amended by section  
10 301 of this Act) is further amended by adding at the end  
11 the following new part:

12                   **“PART B—INDIAN AND ALASKA NATIVE**

13                                   **EDUCATION**

14                                   **“Subpart 1—Indian Education**

15                   **“SEC. 3201. FINDINGS.**

16                   “Congress finds that—

17                                   “(1) the Federal Government has a special re-  
18                   sponsibility to ensure that educational programs for  
19                   all American Indian and Alaska Native children and  
20                   adults—

21                                   “(A) are based on high-quality, inter-  
22                   nationally competitive content standards and

1 student performance standards and build on In-  
2 dian culture and the Indian community;

3 “(B) assist local educational agencies, In-  
4 dian tribes, and other entities and individuals in  
5 providing Indian students the opportunity to  
6 achieve such standards; and

7 “(C) meet the unique educational and cul-  
8 turally related academic needs of American In-  
9 dian and Alaska Native students;

10 “(2) since the date of the enactment of the ini-  
11 tial Indian Education Act in 1972, the level of in-  
12 volvement of Indian parents in the planning, devel-  
13 opment, and implementation of educational pro-  
14 grams that affect such parents and their children  
15 has increased significantly, and schools should con-  
16 tinue to foster such involvement;

17 “(3) although the number of Indian teachers,  
18 administrators, and university professors has in-  
19 creased since 1972, teacher training programs are  
20 not recruiting, training, or retraining a sufficient  
21 number of Indian individuals as educators to meet  
22 the needs of a growing Indian student population in  
23 elementary, secondary, vocational, adult, and higher  
24 education;

1           “(4) the dropout rate for Indian students is un-  
2           acceptably high; 9 percent of Indian students who  
3           were eighth graders in 1988 had dropped out of  
4           school by 1990;

5           “(5) during the period from 1980 to 1990, the  
6           percentage of Indian individuals living at or below  
7           the poverty level increased from 24 percent to 31  
8           percent, and the readiness of Indian children to  
9           learn is hampered by the high incidence of poverty,  
10          unemployment, and health problems among Indian  
11          children and their families; and

12          “(6) research related specifically to the edu-  
13          cation of Indian children and adults is very limited,  
14          and much of the research is of poor quality or is fo-  
15          cused on limited local or regional issues.

16 **“SEC. 3202. PURPOSE.**

17          “(a) PURPOSE.—It is the purpose of this subpart to  
18          support the efforts of local educational agencies, Indian  
19          tribes and organizations, postsecondary institutions, and  
20          other entities to meet the unique educational and cul-  
21          turally related academic needs of American Indians and  
22          Alaska Natives, so that such students can achieve to the  
23          same challenging State performance standards expected of  
24          all other students.

1       “(b) PROGRAMS.—this subpart carries out the pur-  
2 pose described in subsection (a) by authorizing programs  
3 of direct assistance for—

4           “(1) meeting the unique educational and cul-  
5 turally related academic needs of American Indians  
6 and Alaska Natives;

7           “(2) the education of Indian children and  
8 adults;

9           “(3) the training of Indian persons as educators  
10 and counselors, and in other professions serving In-  
11 dian people; and

12           “(4) research, evaluation, data collection, and  
13 technical assistance.

14       **“CHAPTER I—FORMULA GRANTS TO**  
15       **LOCAL EDUCATIONAL AGENCIES**

16       **“SEC. 3211. PURPOSE.**

17       “‘It is the purpose of this chapter to support local  
18 educational agencies in their efforts to reform elementary  
19 and secondary school programs that serve Indian students  
20 in order to ensure that such programs—

21           “(1) are based on challenging State content  
22 standards and State student performance standards  
23 that are used for all students; and

1           “(2) are designed to assist Indian students in  
2           meeting those standards and assist the Nation in  
3           reaching the National Education Goals.

4 **“SEC. 3212. GRANTS TO LOCAL EDUCATIONAL AGENCIES.**

5           “(a) IN GENERAL.—

6           “(1) ENROLLMENT REQUIREMENTS.—A local  
7           educational agency shall be eligible for a grant under  
8           this chapter for any fiscal year if the number of In-  
9           dian children eligible under section 3217 and who  
10          were enrolled in the schools of the agency, and to  
11          whom the agency provided free public education,  
12          during the preceding fiscal year—

13                  “(A) was at least 10; or

14                  “(B) constituted not less than 25 percent  
15                  of the total number of individuals enrolled in  
16                  the schools of such agency.

17          “(2) EXCLUSION.—The requirement of para-  
18          graph (1) shall not apply in Alaska, California, or  
19          Oklahoma, or with respect to any local educational  
20          agency located on, or in proximity to, a reservation.

21          “(b) INDIAN TRIBES.—

22                  “(1) IN GENERAL.—If a local educational agen-  
23                  cy that is eligible for a grant under this chapter does  
24                  not establish a parent committee under section  
25                  3214(e)(4) for such grant, an Indian tribe that rep-

1       resents not less than one-half of the eligible Indian  
2       children who are served by such local educational  
3       agency may apply for such grant.

4               “(2) SPECIAL RULE.—The Secretary shall treat  
5       each Indian tribe applying for a grant pursuant to  
6       paragraph (1) as if such Indian tribe were a local  
7       educational agency for purposes of this chapter, ex-  
8       cept that any such tribe is not subject to section  
9       3214(c)(4), section 3218(c), or section 3219.

10 **“SEC. 3213. AMOUNT OF GRANTS.**

11       “(a) AMOUNT OF GRANT AWARDS.—

12               “(1) IN GENERAL.—Except as provided in sub-  
13       section (b) and paragraph (2), the Secretary shall  
14       allocate to each local educational agency which has  
15       an approved application under this chapter an  
16       amount equal to the product of—

17                       “(A) the number of Indian children who  
18                       are eligible under section 3217 and served by  
19                       such agency; and

20                       “(B) the greater of—

21                               “(i) the average per pupil expenditure  
22                               of the State in which such agency is lo-  
23                               cated; or

24                               “(ii) 80 percent of the average per  
25                               pupil expenditure in the United States.

1           “(2) REDUCTION.—The Secretary shall reduce  
2 the amount of each allocation determined under  
3 paragraph (1) in accordance with subsection (e).

4           “(b) MINIMUM GRANT.—

5           “(1) IN GENERAL.—Notwithstanding subsection  
6 (e), a local educational agency or an Indian tribe (as  
7 authorized under section 3212(b)) that is eligible for  
8 a grant under section 3212, and a school that is op-  
9 erated or supported by the Bureau of Indian Affairs  
10 that is eligible for a grant under subsection (d), that  
11 submits an application that is approved by the Sec-  
12 retary, shall, subject to appropriations, receive a  
13 grant under this chapter in an amount that is not  
14 less than \$3,000.

15           “(2) CONSORTIA.—Local educational agencies  
16 may form a consortium for the purpose of obtaining  
17 grants under this chapter.

18           “(3) INCREASE.—The Secretary may increase  
19 the minimum grant under paragraph (1) to not  
20 more than \$4,000 for all grantees if the Secretary  
21 determines such increase is necessary to ensure the  
22 quality of the programs provided.

23           “(c) DEFINITION.—For the purpose of this section,  
24 the term ‘average per pupil expenditure of a State’ means  
25 an amount equal to—



1           “(1) the sum of the aggregate current expendi-  
2           tures of all the local educational agencies in the  
3           State, plus any direct current expenditures by the  
4           State for the operation of such agencies, without re-  
5           gard to the sources of funds from which such local  
6           or State expenditures were made, during the second  
7           fiscal year preceding the fiscal year for which the  
8           computation is made; divided by

9           “(2) the aggregate number of children who  
10          were included in average daily attendance for whom  
11          such agencies provided free public education during  
12          such preceding fiscal year.

13          “(d) SCHOOLS OPERATED OR SUPPORTED BY THE  
14 BUREAU OF INDIAN AFFAIRS.—(1) Subject to subsection  
15 (e), in addition to the grants awarded under subsection  
16 (a), the Secretary shall allocate to the Secretary of the  
17 Interior an amount equal to the product of—

18           “(A) the total number of Indian children en-  
19           rolled in schools that are operated by—

20           “(i) the Bureau of Indian Affairs; or

21           “(ii) an Indian tribe, or an organization  
22           controlled or sanctioned by an Indian tribal  
23           government, for the children of that tribe under  
24           a contract with, or grant from, the Department  
25           of the Interior under the Indian Self-Deter-

1           mination Act or the Tribally Controlled Schools  
2           Act of 1988; and

3           “(B) the greater of—

4                   “(i) the average per pupil expenditure of  
5           the State in which the school is located; or

6                   “(ii) 80 percent of the average per pupil  
7           expenditure in the United States.

8           “(2) Any school described in paragraph (1)(A) that  
9           wishes to receive an allocation under this chapter shall  
10          submit an application in accordance with section 3214,  
11          and shall otherwise be treated as a local educational agen-  
12          cy for the purpose of this chapter, except that such school  
13          shall not be subject to section 3214(c)(4), section 3218(c),  
14          or section 3219.

15          “(e) RATABLE REDUCTIONS.—If the sums appro-  
16          priated for any fiscal year under section 3252(a) are insuf-  
17          ficient to pay in full the amounts determined for local edu-  
18          cational agencies under subsection (a)(1) and for the Sec-  
19          retary of the Interior under subsection (d), each of those  
20          amounts shall be ratably reduced.

21          **“SEC. 3214. APPLICATIONS.**

22               “(a) APPLICATION REQUIRED.—Each local edu-  
23          cational agency that desires to receive a grant under this  
24          chapter shall submit an application to the Secretary at

1 such time, in such manner, and containing such informa-  
2 tion as the Secretary may reasonably require.

3 “(b) COMPREHENSIVE PROGRAM REQUIRED.—Each  
4 application submitted under subsection (a) shall include  
5 a comprehensive program for meeting the needs of Indian  
6 children served by the local educational agency, including  
7 the language and cultural needs of the children, that—

8 “(1) provides programs and activities to meet  
9 the culturally related academic needs of American  
10 Indian and Alaska Native students;

11 “(2)(A) is consistent with State and local plans  
12 under other provisions of this Act; and

13 “(B) includes academic content and student  
14 performance goals for such children, and bench-  
15 marks for attaining such goals, that are based on  
16 the challenging State standards under title I;

17 “(3) explains how Federal, State, and local pro-  
18 grams, especially under title I, will meet the needs  
19 of such students;

20 “(4) demonstrates how funds made available  
21 under this chapter will be used for activities de-  
22 scribed in section 3215;

23 “(5) describes the professional development op-  
24 portunities that will be provided, as needed, to en-  
25 sure that—

1           “(A) teachers and other school profes-  
2           sionals who are new to the Indian community  
3           are prepared to work with Indian children; and

4           “(B) all teachers who will be involved in  
5           programs assisted under this chapter have been  
6           properly trained to carry out such programs;  
7           and

8           “(6) describes how the local educational  
9           agency—

10           “(A) will periodically assess the progress of  
11           all Indian children enrolled in the schools of the  
12           local educational agency, including Indian chil-  
13           dren who do not participate in programs as-  
14           sisted under this chapter, in meeting the goals  
15           described in paragraph (2);

16           “(B) will provide the results of each as-  
17           sessment referred to in subparagraph (A) to—

18           “(i) the committee of parents de-  
19           scribed in subsection (c)(4); and

20           “(ii) the community served by the  
21           local educational agency; and

22           “(C) is responding to findings of any pre-  
23           vious assessments that are similar to the as-  
24           sessments described in subparagraph (A).

1       “(c) ASSURANCES.—Each application submitted  
2 under subsection (a) shall include assurances that—

3           “(1) the local educational agency will use funds  
4 received under this chapter only to supplement the  
5 level of funds that, in the absence of the Federal  
6 funds made available under this chapter, such agen-  
7 cy would make available for the education of Indian  
8 children, and not to supplant such funds;

9           “(2) the local educational agency will submit  
10 such reports to the Secretary, in such form and con-  
11 taining such information, as the Secretary may re-  
12 quire to—

13           “(A) carry out the functions of the Sec-  
14 retary under this chapter; and

15           “(B) determine the extent to which funds  
16 provided to the local educational agency under  
17 this chapter are effective in improving the edu-  
18 cational achievement of Indian students served  
19 by such agency;

20           “(3) the program for which assistance is  
21 sought—

22           “(A) is based on a comprehensive local as-  
23 sessment and prioritization of the unique edu-  
24 cational and culturally related academic needs  
25 of the American Indian and Alaska Native stu-

1           dents to whom the local educational agency is  
2           providing an education;

3           “(B) will use the best available talents and  
4           resources, including individuals from the Indian  
5           community; and

6           “(C) was developed by such agency in open  
7           consultation with parents of Indian children  
8           and teachers, and, if appropriate, Indian stu-  
9           dents from secondary schools, including public  
10          hearings held by such agency to provide the in-  
11          dividuals described in this subparagraph a full  
12          opportunity to understand the program and to  
13          offer recommendations regarding the program;  
14          and

15          “(4) the local educational agency developed the  
16          program with the participation and written approval  
17          of a committee—

18                 “(A) that is composed of, and selected  
19                 by—

20                         “(i) parents of Indian children in the  
21                         local educational agency’s schools and  
22                         teachers; and

23                         “(ii) if appropriate, Indian students  
24                         attending secondary schools;

1           “(B) a majority of whose members are  
2 parents of Indian children;

3           “(C) that sets forth such policies and pro-  
4 cedures, including policies and procedures relat-  
5 ing to the hiring of personnel, as will ensure  
6 that the program for which assistance is sought  
7 will be operated and evaluated in consultation  
8 with, and with the involvement of, parents of  
9 the children, and representatives of the area, to  
10 be served;

11           “(D) with respect to an application de-  
12 scribing a schoolwide program in accordance  
13 with section 3215(c), that has—

14                   “(i) reviewed in a timely fashion the  
15 program; and

16                   “(ii) determined that the program will  
17 not diminish the availability of culturally  
18 related activities for American Indian and  
19 Alaskan Native students; and

20           “(E) that has adopted reasonable bylaws  
21 for the conduct of the activities of the com-  
22 mittee and abides by such bylaws.

23 **“SEC. 3215. AUTHORIZED SERVICES AND ACTIVITIES.**

24           “(a) GENERAL REQUIREMENTS.—Each local edu-  
25 cational agency that receives a grant under this chapter

1 shall use the grant funds, in a manner consistent with the  
2 purpose specified in section 3211, for services and activi-  
3 ties that—

4           “(1) are designed to carry out the comprehen-  
5 sive program of the local educational agency for In-  
6 dian students, and described in the application of  
7 the local educational agency submitted to the Sec-  
8 retary under section 3214(b);

9           “(2) are designed with special regard for the  
10 language and cultural needs of the Indian students;  
11 and

12           “(3) supplement and enrich the regular school  
13 program of such agency.

14           “(b) PARTICULAR ACTIVITIES.—The services and ac-  
15 tivities referred to in subsection (a) may include—

16           “(1) culturally related activities that support  
17 the program described in the application submitted  
18 by the local educational agency;

19           “(2) early childhood and family programs that  
20 emphasize school readiness;

21           “(3) enrichment programs that focus on prob-  
22 lem solving and cognitive skills development and di-  
23 rectly support the attainment of challenging State  
24 content standards and State student performance  
25 standards;



1           “(4) integrated educational services in combina-  
2           tion with other programs that meet the needs of In-  
3           dian children and their families;

4           “(5) career preparation activities to enable In-  
5           dian students to participate in programs such as the  
6           programs supported by the Carl D. Perkins Voca-  
7           tional and Technical Education Act of 1998, includ-  
8           ing programs for tech-prep, mentoring, and appren-  
9           ticeship;

10           “(6) activities to educate individuals concerning  
11           substance abuse and to prevent substance abuse;

12           “(7) the acquisition of equipment, but only if  
13           the acquisition of the equipment is essential to meet  
14           the purposes described in section 3211; and

15           “(8) family literacy services.

16           “(c) SCHOOLWIDE PROGRAMS.—Notwithstanding  
17 any other provision of law, a local educational agency may  
18 use funds made available to such agency under this chap-  
19 ter to support a schoolwide program under section 1114  
20 if—

21           “(1) the committee composed of parents estab-  
22           lished pursuant to section 3214(c)(4) approves the  
23           use of the funds for the schoolwide program; and

24           “(2) the schoolwide program is consistent with  
25           the purposes described in section 3211.

1       “(d) **LIMITATION ON ADMINISTRATIVE COSTS.**—Not  
2 more than 5 percent of the funds provided to a grantee  
3 under this chapter for any fiscal year may be used for  
4 administrative purposes.

5       **“SEC. 3216. INTEGRATION OF SERVICES AUTHORIZED.**

6       “(a) **PLAN.**—An entity receiving funds under this  
7 chapter may submit a plan to the Secretary for the inte-  
8 gration of education and related services provided to In-  
9 dian students.

10       “(b) **COORDINATION OF PROGRAMS.**—Upon the re-  
11 ceipt of an acceptable plan, the Secretary, in cooperation  
12 with each Federal agency providing grants for the provi-  
13 sion of education and related services to the applicant,  
14 shall authorize the applicant to coordinate, in accordance  
15 with such plan, its federally funded education and related  
16 services programs, or portions thereof, serving Indian stu-  
17 dents in a manner that integrates the program services  
18 involved into a single, coordinated, comprehensive pro-  
19 gram and reduces administrative costs by consolidating  
20 administrative functions.

21       “(c) **PROGRAMS AFFECTED.**—The funds that may be  
22 consolidated in a demonstration project under any such  
23 plan referred to in subsection (b) shall include funds for  
24 any Federal program exclusively serving Indian children  
25 or the funds reserved under any program to exclusively

1 serve Indian children under which the applicant is eligible  
2 for receipt of funds under a statutory or administrative  
3 formula for the purposes of providing education and re-  
4 lated services which would be used to serve Indian stu-  
5 dents.

6 “(d) PLAN REQUIREMENTS.—For a plan to be ac-  
7 ceptable pursuant to subsection (b), it shall—

8 “(1) identify the programs or funding sources  
9 to be consolidated;

10 “(2) be consistent with the purposes of this sec-  
11 tion authorizing the services to be integrated in a  
12 demonstration project;

13 “(3) describe a comprehensive strategy which  
14 identifies the full range of potential educational op-  
15 portunities and related services to be provided to as-  
16 sist Indian students to achieve the goals set forth in  
17 this chapter;

18 “(4) describe the way in which services are to  
19 be integrated and delivered and the results expected  
20 from the plan;

21 “(5) identify the projected expenditures under  
22 the plan in a single budget;

23 “(6) identify the local, State, or tribal agency  
24 or agencies to be involved in the delivery of the serv-  
25 ices integrated under the plan;

1           “(7) identify any statutory provisions, regula-  
2           tions, policies, or procedures that the applicant be-  
3           lieves need to be waived in order to implement its  
4           plan;

5           “(8) set forth measures of student achievement  
6           and performance goals designed to be met within a  
7           specified period of time; and

8           “(9) be approved by a parent committee formed  
9           in accordance with section 3214(c)(4), if such a  
10          committee exists.

11          “(e) PLAN REVIEW.—Upon receipt of the plan from  
12          an eligible entity, the Secretary shall consult with the Sec-  
13          retary of each Federal department providing funds to be  
14          used to implement the plan, and with the entity submit-  
15          ting the plan. The parties so consulting shall identify any  
16          waivers of statutory requirements or of Federal depart-  
17          mental regulations, policies, or procedures necessary to en-  
18          able the applicant to implement its plan. Notwithstanding  
19          any other provision of law, the Secretary of the affected  
20          department or departments shall have the authority to  
21          waive any regulation, policy, or procedure promulgated by  
22          that department that has been so identified by the appli-  
23          cant or department, unless the Secretary of the affected  
24          department determines that such a waiver is inconsistent  
25          with the intent of this chapter or those provisions of the

1 statute from which the program involved derives its au-  
2 thority which are specifically applicable to Indian stu-  
3 dents.

4       “(f) PLAN APPROVAL.—Within 90 days after the re-  
5 ceipt of an applicant’s plan by the Secretary, the Secretary  
6 shall inform the applicant, in writing, of the Secretary’s  
7 approval or disapproval of the plan. If the plan is dis-  
8 approved, the applicant shall be informed, in writing, of  
9 the reasons for the disapproval and shall be given an op-  
10 portunity to amend its plan or to petition the Secretary  
11 to reconsider such disapproval.

12       “(g) RESPONSIBILITIES OF DEPARTMENT OF EDU-  
13 CATION.—Not later than 180 days after the date of the  
14 enactment of the No Child Left Behind Act of 2001, the  
15 Secretary of Education, the Secretary of the Interior, and  
16 the head of any other Federal department or agency iden-  
17 tified by the Secretary of Education, shall enter into an  
18 interdepartmental memorandum of agreement providing  
19 for the implementation of the demonstration projects au-  
20 thorized under this section. The lead agency head for a  
21 demonstration program under this section shall be—

22               “(1) the Secretary of the Interior, in the case  
23 of applicant meeting the definition of contract or  
24 grant school under title XI of the Education Amend-  
25 ments of 1978; or

1           “(2) the Secretary of Education, in the case of  
2           any other applicant.

3           “(h) RESPONSIBILITIES OF LEAD AGENCY.—The re-  
4           sponsibilities of the lead agency shall include—

5           “(1) the use of a single report format related  
6           to the plan for the individual project which shall be  
7           used by an eligible entity to report on the activities  
8           undertaken under the project;

9           “(2) the use of a single report format related  
10          to the projected expenditures for the individual  
11          project which shall be used by an eligible entity to  
12          report on all project expenditures;

13          “(3) the development of a single system of Fed-  
14          eral oversight for the project, which shall be imple-  
15          mented by the lead agency; and

16          “(4) the provision of technical assistance to an  
17          eligible entity appropriate to the project, except that  
18          an eligible entity shall have the authority to accept  
19          or reject the plan for providing such technical assist-  
20          ance and the technical assistance provider.

21          “(i) REPORT REQUIREMENTS.—A single report for-  
22          mat shall be developed by the Secretary, consistent with  
23          the requirements of this section. Such report format, to-  
24          gether with records maintained on the consolidated pro-  
25          gram at the local level, shall contain such information as

1 will allow a determination that the eligible entity has com-  
2 plied with the requirements incorporated in its approved  
3 plan, including the demonstration of student achievement,  
4 and will provide assurances to each Secretary that the eli-  
5 gible entity has complied with all directly applicable statu-  
6 tory requirements and with those directly applicable regu-  
7 latory requirements which have not been waived.

8       “(j) NO REDUCTION IN AMOUNTS.—In no case shall  
9 the amount of Federal funds available to an eligible entity  
10 involved in any demonstration project be reduced as a re-  
11 sult of the enactment of this section.

12       “(k) INTERAGENCY FUND TRANSFERS AUTHOR-  
13 IZED.—The Secretary is authorized to take such action  
14 as may be necessary to provide for an interagency transfer  
15 of funds otherwise available to an eligible entity in order  
16 to further the purposes of this section.

17       “(l) ADMINISTRATION OF FUNDS.—

18               “(1) IN GENERAL.—Program funds shall be ad-  
19 ministered in such a manner as to allow for a deter-  
20 mination that funds from specific a program or pro-  
21 grams are spent on allowable activities authorized  
22 under such program, except that the eligible entity  
23 shall determine the proportion of the funds granted  
24 which shall be allocated to such program.

1           “(2) SEPARATE RECORDS NOT REQUIRED.—

2           Nothing in this section shall be construed as requir-  
3           ing the eligible entity to maintain separate records  
4           tracing any services or activities conducted under its  
5           approved plan to the individual programs under  
6           which funds were authorized, nor shall the eligible  
7           entity be required to allocate expenditures among  
8           such individual programs.

9           “(m) OVERAGE.—All administrative costs may be  
10          commingled and participating entities shall be entitled to  
11          the full amount of such costs (under each program or de-  
12          partment’s regulations), and no overage shall be counted  
13          for Federal audit purposes, provided that the overage is  
14          used for the purposes provided for under this section.

15          “(n) FISCAL ACCOUNTABILITY.—Nothing in this  
16          subpart shall be construed so as to interfere with the abil-  
17          ity of the Secretary or the lead agency to fulfill the respon-  
18          sibilities for the safeguarding of Federal funds pursuant  
19          to the Single Audit Act of 1984.

20          “(o) REPORT ON STATUTORY OBSTACLES TO PRO-  
21          GRAM INTEGRATION.—

22                 “(1) PRELIMINARY REPORT.—Not later than 2  
23                 years after the date of the enactment of the No  
24                 Child Left Behind Act of 2001, the Secretary of  
25                 Education shall submit a preliminary report to the



1 Committee on Health, Education, Labor, and Pen-  
2 sions of the Senate and the Committee on Education  
3 and the Workforce of the House of Representatives  
4 on the status of the implementation of the dem-  
5 onstration program authorized under this section.

6 “(2) FINAL REPORT.—Not later than 5 years  
7 after the date of the enactment of the No Child Left  
8 Behind Act of 2001, the Secretary of Education  
9 shall submit a report to the Committee on Health,  
10 Education, Labor, and Pensions of the Senate and  
11 the Committee on Education and the Workforce of  
12 the House of Representatives on the results of the  
13 implementation of the demonstration program au-  
14 thorized under this section. Such report shall iden-  
15 tify statutory barriers to the ability of participants  
16 to integrate more effectively their education and re-  
17 lated services to Indian students in a manner con-  
18 sistent with the purposes of this section.

19 “(p) DEFINITIONS.—For the purposes of this section,  
20 the term ‘Secretary’ means—

21 “(1) the Secretary of the Interior, in the case  
22 of applicant meeting the definition of contract or  
23 grant school under title XI of the Education Amend-  
24 ments of 1978; or

1           “(2) the Secretary of Education, in the case of  
2           any other applicant.

3   **“SEC. 3217. STUDENT ELIGIBILITY FORMS.**

4           “(a) IN GENERAL.—The Secretary shall require that,  
5   as part of an application for a grant under this chapter,  
6   each applicant shall maintain a file, with respect to each  
7   Indian child for whom the local educational agency pro-  
8   vides a free public education, that contains a form that  
9   sets forth information establishing the status of the child  
10  as an Indian child eligible for assistance under this chap-  
11  ter and that otherwise meets the requirements of subsec-  
12  tion (b).

13          “(b) FORMS.—

14                 “(1) IN GENERAL.—The form described in sub-  
15   section (a) shall include—

16                         “(A) either—

17                                 “(i)(I) the name of the tribe or band  
18                                 of Indians (as described in section  
19                                 3251(3)) with respect to which the child  
20                                 claims membership;

21                                 “(II) the enrollment number estab-  
22                                 lishing the membership of the child (if  
23                                 readily available); and

24                                 “(III) the name and address of the  
25                                 organization that maintains updated and

1 accurate membership data for such tribe or  
2 band of Indians; or

3 “(ii) if the child is not a member of  
4 a tribe or band of Indians, the name, the  
5 enrollment number (if readily available),  
6 and the organization (and address thereof)  
7 responsible for maintaining updated and  
8 accurate membership rolls of the tribe of  
9 any parent or grandparent of the child  
10 from whom the child claims eligibility;

11 “(B) a statement of whether the tribe or  
12 band of Indians with respect to which the child,  
13 parent, or grandparent of the child claims mem-  
14 bership is federally recognized;

15 “(C) the name and address of the parent  
16 or legal guardian of the child;

17 “(D) a signature of the parent or legal  
18 guardian of the child that verifies the accuracy  
19 of the information supplied; and

20 “(E) any other information that the Sec-  
21 retary considers necessary to provide an accu-  
22 rate program profile.

23 “(2) MINIMUM INFORMATION.—In order for a  
24 child to be eligible to be counted for the purpose of  
25 computing the amount of a grant award made under

1 section 3213, an eligibility form prepared pursuant  
2 to this section for a child shall include—

3 “(A) the name of the child;

4 “(B) the name of the tribe or band of Indi-  
5 ans (as described in section 3251(3)) with re-  
6 spect to which the child claims eligibility; and

7 “(C) the dated signature of the parent or  
8 guardian of the child.

9 “(3) FAILURE.—The failure of an applicant to  
10 furnish any information described in this subsection  
11 other than the information described in paragraph  
12 (2) with respect to any child shall have no bearing  
13 on the determination of whether the child is an eligi-  
14 ble Indian child for the purposes of determining the  
15 amount of a grant award made under section 3213.

16 “(c) STATUTORY CONSTRUCTION.—Nothing in this  
17 section shall be construed to affect a definition contained  
18 in section 3251.

19 “(d) FORMS AND STANDARDS OF PROOF.—The  
20 forms and the standards of proof (including the standard  
21 of good faith compliance) that were in use during the  
22 1985–1986 academic year to establish the eligibility of a  
23 child for entitlement under the Indian Elementary and  
24 Secondary School Assistance Act shall be the forms and  
25 standards of proof used—

1           “(1) to establish such eligibility; and

2           “(2) to meet the requirements of subsection (a).

3           “(e) DOCUMENTATION.—For purposes of deter-  
4 mining whether a child is eligible to be counted for the  
5 purpose of computing the amount of a grant under section  
6 3213, the membership of the child, or any parent or  
7 grandparent of the child, in a tribe or band of Indians  
8 may be established by proof other than an enrollment  
9 number, notwithstanding the availability of an enrollment  
10 number for a member of such tribe or band. Nothing in  
11 subsection (b) shall be construed to require the furnishing  
12 of an enrollment number.

13          “(f) MONITORING AND EVALUATION REVIEW.—

14           “(1) IN GENERAL.—(A) For each fiscal year, in  
15 order to provide such information as is necessary to  
16 carry out the responsibility of the Secretary to pro-  
17 vide technical assistance under this chapter, the Sec-  
18 retary shall conduct a monitoring and evaluation re-  
19 view of a sampling of the recipients of grants under  
20 this chapter. The sampling conducted under this  
21 subparagraph shall take into account the size of the  
22 local educational agency and the geographic location  
23 of such agency.

24           “(B) A local educational agency may not be  
25 held liable to the United States or be subject to any

1 penalty, by reason of the findings of an audit that  
2 relates to the date of completion, or the date of sub-  
3 mission, of any forms used to establish, before April  
4 28, 1988, the eligibility of a child for entitlement  
5 under the Indian Elementary and Secondary School  
6 Assistance Act.

7 “(2) FALSE INFORMATION.—Any local edu-  
8 cational agency that provides false information in an  
9 application for a grant under this chapter shall—

10 “(A) be ineligible to apply for any other  
11 grant under this subpart; and

12 “(B) be liable to the United States for any  
13 funds that have not been expended.

14 “(3) EXCLUDED CHILDREN.—A student who  
15 provides false information for the form required  
16 under subsection (a) shall not be counted for the  
17 purpose of computing the amount of a grant under  
18 section 3213.

19 “(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—  
20 Notwithstanding any other provision of this section, in  
21 awarding funds under this chapter to a tribal school that  
22 receives a grant or contract from the Bureau of Indian  
23 Affairs, the Secretary shall use only one of the following,  
24 as selected by the school:

1           “(1) A count of the number of students in those  
2 schools certified by the Bureau.

3           “(2) A count of the number of students for  
4 whom the school has eligibility forms that comply  
5 with this section.

6           “(h) TIMING OF CHILD COUNTS.—For purposes of  
7 determining the number of children to be counted in calcu-  
8 lating the amount of a local educational agency’s grant  
9 under this chapter (other than in the case described in  
10 subsection (g)(1)), the local educational agency shall—

11           “(1) establish a date on, or a period not longer  
12 than 31 consecutive days during which, the agency  
13 counts those children, so long as that date or period  
14 occurs before the deadline established by the Sec-  
15 retary for submitting an application under section  
16 3214; and

17           “(2) determine that each such child was en-  
18 rolled, and receiving a free public education, in a  
19 school of the agency on that date or during that pe-  
20 riod, as the case may be.

21 **“SEC. 3218. PAYMENTS.**

22           “(a) IN GENERAL.—Subject to subsections (b) and  
23 (c), the Secretary shall pay to each local educational agen-  
24 cy that submits an application that is approved by the Sec-  
25 retary under this chapter the amount determined under

1 section 3213. The Secretary shall notify the local edu-  
2 cational agency of the amount of the payment not later  
3 than June 1 of the year for which the Secretary makes  
4 the payment.

5       “(b) PAYMENTS TAKEN INTO ACCOUNT BY THE  
6 STATE.—The Secretary may not make a grant under this  
7 chapter to a local educational agency for a fiscal year if,  
8 for such fiscal year, the State in which the local edu-  
9 cational agency is located takes into consideration pay-  
10 ments made under this chapter in determining the eligi-  
11 bility of the local educational agency for State aid, or the  
12 amount of the State aid, with respect to the free public  
13 education of children during such fiscal year or the pre-  
14 ceding fiscal year.

15       “(c) REDUCTION OF PAYMENT FOR FAILURE TO  
16 MAINTAIN FISCAL EFFORT.—

17               “(1) IN GENERAL.—The Secretary may not pay  
18 a local educational agency the full amount of a grant  
19 award determined under section 3213 for any fiscal  
20 year unless the State educational agency notifies the  
21 Secretary, and the Secretary determines that, with  
22 respect to the provision of free public education by  
23 the local educational agency for the preceding fiscal  
24 year, the combined fiscal effort of the local edu-  
25 cational agency and the State, computed on either a



1 per student or aggregate expenditure basis, was not  
2 less than 90 percent of the amount of the combined  
3 fiscal effort, computed on the same basis, for the  
4 second preceding fiscal year.

5 “(2) FAILURE TO MAINTAIN EFFORT.—If, for  
6 any fiscal year, the Secretary determines that a local  
7 educational agency failed to maintain the fiscal ef-  
8 fort of such agency at the level specified in para-  
9 graph (1), the Secretary shall—

10 “(A) reduce the amount of the grant that  
11 would otherwise be made to such agency under  
12 this chapter in the exact proportion of such  
13 agency’s failure to maintain its fiscal effort at  
14 such level; and

15 “(B) not use the reduced amount of the  
16 agency’s expenditures for the preceding year to  
17 determine compliance with paragraph (1) for  
18 any succeeding fiscal year, but shall use the  
19 amount of expenditures that would have been  
20 required to comply with paragraph (1).

21 “(3) WAIVER.—(A) The Secretary may waive  
22 the requirement of paragraph (1), for not more than  
23 1 year at a time, if the Secretary determines that  
24 the failure to comply with such requirement is due  
25 to exceptional or uncontrollable circumstances, such

1 as a natural disaster or a precipitous and unforeseen  
2 decline in the agency's financial resources.

3 “(B) The Secretary shall not use the reduced  
4 amount of such agency's expenditures for the fiscal  
5 year preceding the fiscal year for which a waiver is  
6 granted to determine compliance with paragraph (1)  
7 for any succeeding fiscal year, but shall use the  
8 amount of expenditures that would have been re-  
9 quired to comply with paragraph (1) in the absence  
10 of the waiver.

11 “(d) REALLOCATIONS.—The Secretary may reallo-  
12 cate, in a manner that the Secretary determines will best  
13 carry out the purpose of this chapter, any amounts that—

14 “(1) based on estimates made by local edu-  
15 cational agencies or other information, the Secretary  
16 determines will not be needed by such agencies to  
17 carry out approved programs under this chapter; or

18 “(2) otherwise become available for reallocation  
19 under this chapter.

20 **“SEC. 3219. STATE EDUCATIONAL AGENCY REVIEW.**

21 “Before submitting an application to the Secretary  
22 under section 3214, a local educational agency shall sub-  
23 mit the application to the State educational agency, which  
24 may comment on such application. If the State educational  
25 agency comments on the application, it shall comment on

1 all applications submitted by local educational agencies in  
2 the State and shall provide those comments to the respec-  
3 tive local educational agencies, with an opportunity to re-  
4 spond.

5 **“CHAPTER II—SPECIAL PROGRAMS AND**  
6 **PROJECTS TO IMPROVE EDU-**  
7 **CATIONAL OPPORTUNITIES FOR IN-**  
8 **DIAN CHILDREN**

9 **“SEC. 3221. IMPROVEMENT OF EDUCATIONAL OPPORTUNI-**  
10 **TIES FOR INDIAN CHILDREN.**

11 “(a) PURPOSE.—

12 “(1) IN GENERAL.—It is the purpose of this  
13 section to support projects to develop, test, and dem-  
14 onstrate the effectiveness of services and programs  
15 to improve educational opportunities and achieve-  
16 ment of Indian children.

17 “(2) COORDINATION.—The Secretary shall take  
18 such actions as are necessary to achieve the coordi-  
19 nation of activities assisted under this chapter  
20 with—

21 “(A) other programs funded under this  
22 Act; and

23 “(B) other Federal programs operated for  
24 the benefit of American Indian and Alaska Na-  
25 tive children.

1       “(b) ELIGIBLE ENTITIES.—For the purpose of this  
2 section, the term ‘eligible entity’ means a State edu-  
3 cational agency, local educational agency, Indian tribe, In-  
4 dian organization, federally supported elementary and sec-  
5 ondary school for Indian students, Indian institution, in-  
6 cluding an Indian institution of higher education, or a con-  
7 sortium of such institutions.

8       “(c) GRANTS AUTHORIZED.—

9           “(1) IN GENERAL.—The Secretary shall award  
10 grants to eligible entities to enable such entities to  
11 carry out activities that meet the purpose specified  
12 in subsection (a)(1), including—

13           “(A) innovative programs related to the  
14 educational needs of educationally disadvan-  
15 taged children;

16           “(B) educational services that are not  
17 available to such children in sufficient quantity  
18 or quality, including remedial instruction, to  
19 raise the achievement of Indian children in one  
20 or more of the core academic subjects of  
21 English, mathematics, science, foreign lan-  
22 guages, art, history, and geography;

23           “(C) bilingual and bicultural programs and  
24 projects;

1           “(D) special health and nutrition services,  
2           and other related activities, that address the  
3           unique health, social, and psychological prob-  
4           lems of Indian children;

5           “(E) special compensatory and other pro-  
6           grams and projects designed to assist and en-  
7           courage Indian children to enter, remain in, or  
8           reenter school, and to increase the rate of sec-  
9           ondary school graduation;

10          “(F) comprehensive guidance, counseling,  
11          and testing services;

12          “(G) early childhood and kindergarten pro-  
13          grams, including family-based preschool pro-  
14          grams that emphasize school readiness and pa-  
15          rental skills, and the provision of services to In-  
16          dian children with disabilities;

17          “(H) partnership projects between local  
18          educational agencies and institutions of higher  
19          education that allow secondary school students  
20          to enroll in courses at the postsecondary level to  
21          aid such students in the transition from sec-  
22          ondary school to postsecondary education;

23          “(I) partnership projects between schools  
24          and local businesses for career preparation pro-  
25          grams designed to provide Indian youth with

1 the knowledge and skills such youth need to  
2 make an effective transition from school to a  
3 high-skill, high-wage career;

4 “(J) programs designed to encourage and  
5 assist Indian students to work toward, and gain  
6 entrance into, an institution of higher edu-  
7 cation;

8 “(K) family literacy services; or

9 “(L) other services that meet the purpose  
10 described in subsection (a)(1).

11 “(2) PROFESSIONAL DEVELOPMENT.—Profes-  
12 sional development of teaching professionals and  
13 paraprofessional may be a part of any program as-  
14 sisted under this section.

15 “(d) GRANT REQUIREMENTS AND APPLICATIONS.—

16 “(1) GRANT REQUIREMENTS.—(A) The Sec-  
17 retary may make multiyear grants under this section  
18 for the planning, development, pilot operation, or  
19 demonstration of any activity described in subsection  
20 (c) for a period not to exceed 5 years.

21 “(B) In making multiyear grants under this  
22 section, the Secretary shall give priority to applica-  
23 tions that present a plan for combining two or more  
24 of the activities described in subsection (c) over a  
25 period of more than 1 year.

1           “(C) The Secretary shall make a grant payment  
2           to an eligible entity after the initial year of the  
3           multiyear grant only if the Secretary determines  
4           that the eligible entity has made substantial progress  
5           in carrying out the activities assisted under the  
6           grant in accordance with the application submitted  
7           under paragraph (2) and any subsequent modifica-  
8           tions to such application.

9           “(D)(i) In addition to awarding the multiyear  
10          grants described in subparagraph (A), the Secretary  
11          may award grants to eligible entities for the dissemi-  
12          nation of exemplary materials or programs assisted  
13          under this section.

14          “(ii) The Secretary may award a dissemination  
15          grant under this subparagraph if, prior to awarding  
16          the grant, the Secretary determines that the mate-  
17          rial or program to be disseminated has been ade-  
18          quately reviewed and has demonstrated—

19                  “(I) educational merit; and

20                  “(II) the ability to be replicated.

21          “(2) APPLICATION.—(A) Any eligible entity  
22          that desires to receive a grant under this section  
23          shall submit an application to the Secretary at such  
24          time and in such manner as the Secretary may re-  
25          quire.

1           “(B) Each application submitted to the Sec-  
2           retary under subparagraph (A), other than an appli-  
3           cation for a dissemination grant under paragraph  
4           (1)(D), shall contain—

5                   “(i) a description of how parents of Indian  
6                   children and representatives of Indian tribes  
7                   have been, and will be, involved in developing  
8                   and implementing the activities for which as-  
9                   sistance is sought;

10                   “(ii) assurances that the applicant will par-  
11                   ticipate, at the request of the Secretary, in any  
12                   national evaluation of activities assisted under  
13                   this section;

14                   “(iii) information demonstrating that the  
15                   proposed program is either a research-based  
16                   program (which may be a research-based pro-  
17                   gram that has been modified to be culturally  
18                   appropriate for the students who will be  
19                   served);

20                   “(iv) a description of how the applicant  
21                   will incorporate the proposed services into the  
22                   ongoing school program once the grant period is  
23                   over; and

24                   “(v) such other assurances and informa-  
25                   tion as the Secretary may reasonably require.



1       “(e) ADMINISTRATIVE COSTS.—Not more than 5 per-  
2 cent of the funds provided to a grantee under this chapter  
3 for any fiscal year may be used for administrative pur-  
4 poses.

5       **“SEC. 3222. PROFESSIONAL DEVELOPMENT FOR TEACHERS**  
6                                   **AND EDUCATION PROFESSIONALS.**

7       “(a) PURPOSES.—The purposes of this section are—

8               “(1) to increase the number of qualified Indian  
9 individuals in teaching or other education profes-  
10 sions that serve Indian people;

11              “(2) to provide training to qualified Indian indi-  
12 viduals to enable such individuals to become teach-  
13 ers, administrators, teacher aides, social workers,  
14 and ancillary educational personnel; and

15              “(3) to improve the skills of qualified Indian in-  
16 dividuals who serve in the capacities described in  
17 paragraph (2).

18       “(b) ELIGIBLE ENTITIES.—For the purpose of this  
19 section, the term ‘eligible entity’ means—

20              “(1) an institution of higher education, includ-  
21 ing an Indian institution of higher education;

22              “(2) a State or local educational agency, in con-  
23 sortium with an institution of higher education; and

24              “(3) an Indian tribe or organization, in consor-  
25 tium with an institution of higher education.

1       “(c) PROGRAM AUTHORIZED.—The Secretary is au-  
2 thORIZED to award grants to eligible entities having applica-  
3 tions approved under this section to enable such entities  
4 to carry out the activities described in subsection (d).

5       “(d) AUTHORIZED ACTIVITIES.—

6           “(1) IN GENERAL.—Grant funds under this sec-  
7 tion shall be used to provide support and training  
8 for Indian individuals in a manner consistent with  
9 the purposes of this section. Such activities may in-  
10 clude but are not limited to, continuing programs,  
11 symposia, workshops, conferences, and direct finan-  
12 cial support.

13           “(2) SPECIAL RULES.—(A) For education per-  
14 sonnel, the training received pursuant to a grant  
15 under this section may be inservice or preservice  
16 training.

17           “(B) For individuals who are being trained to  
18 enter any field other than teaching, the training re-  
19 ceived pursuant to a grant under this section shall  
20 be in a program that results in a graduate degree.

21       “(e) APPLICATION.—Each eligible entity desiring a  
22 grant under this section shall submit an application to the  
23 Secretary at such time, in such manner and accompanied  
24 by such information, as the Secretary may reasonably re-  
25 quire.

1       “(f) SPECIAL RULE.—In making grants under this  
2 section, the Secretary—

3               “(1) shall consider the prior performance of the  
4 eligible entity; and

5               “(2) may not limit eligibility to receive a grant  
6 under this section on the basis of—

7                       “(A) the number of previous grants the  
8 Secretary has awarded such entity; or

9                       “(B) the length of any period during which  
10 such entity received such grants.

11       “(g) GRANT PERIOD.—Each grant under this section  
12 shall be awarded for a period of not more than 5 years.

13       “(h) SERVICE OBLIGATION.—

14               “(1) IN GENERAL.—The Secretary shall re-  
15 quire, by regulation, that an individual who receives  
16 training pursuant to a grant made under this  
17 section—

18                       “(A) perform work—

19                               “(i) related to the training received  
20 under this section; and

21                               “(ii) that benefits Indian people; or

22                       “(B) repay all or a prorated part of the as-  
23 sistance received.

24       “(2) REPORTING.—The Secretary shall estab-  
25 lish, by regulation, a reporting procedure under

1 which a grant recipient under this section shall, not  
2 later than 12 months after the date of completion of  
3 the training, and periodically thereafter, provide in-  
4 formation concerning the compliance of such recipi-  
5 ent with the work requirement under paragraph (1).

6 **“CHAPTER III—NATIONAL RESEARCH**  
7 **ACTIVITIES**

8 **“SEC. 3231. NATIONAL ACTIVITIES.**

9 “(a) AUTHORIZED ACTIVITIES.—The Secretary may  
10 use funds made available under section 3252(b) for each  
11 fiscal year to—

12 “(1) conduct research related to effective ap-  
13 proaches for the education of Indian children and  
14 adults;

15 “(2) evaluate federally assisted education pro-  
16 grams from which Indian children and adults may  
17 benefit;

18 “(3) collect and analyze data on the educational  
19 status and needs of Indians; and

20 “(4) carry out other activities that are con-  
21 sistent with the purpose of this subpart.

22 “(b) ELIGIBILITY.—The Secretary may carry out any  
23 of the activities described in subsection (a) directly or  
24 through grants to, or contracts or cooperative agreements  
25 with Indian tribes, Indian organizations, State educational

1 agencies, local educational agencies, institutions of higher  
2 education, including Indian institutions of higher edu-  
3 cation, and other public and private agencies and  
4 institutions.

5 “(c) COORDINATION.—Research activities supported  
6 under this section—

7 “(1) shall be carried out in consultation with  
8 the Office of Educational Research and Improve-  
9 ment to assure that such activities are coordinated  
10 with and enhance the research and development ac-  
11 tivities supported by the Office; and

12 “(2) may include collaborative research activi-  
13 ties which are jointly funded and carried out by the  
14 Office of Indian Education Programs and the Office  
15 of Educational Research and Improvement.

16 **“CHAPTER IV—FEDERAL**  
17 **ADMINISTRATION**

18 **“SEC. 3241. NATIONAL ADVISORY COUNCIL ON INDIAN EDU-**  
19 **CATION.**

20 “(a) MEMBERSHIP.—There is established a National  
21 Advisory Council on Indian Education (hereafter in this  
22 section referred to as the ‘Council’), which shall—

23 “(1) consist of 15 Indian members, who shall  
24 be appointed by the President from lists of nominees

1 furnished, from time-to-time, by Indian tribes and  
2 organizations; and

3 “(2) represent different geographic areas of the  
4 United States.

5 “(b) DUTIES.—The Council shall—

6 “(1) advise the Secretary concerning the fund-  
7 ing and administration (including the development of  
8 regulations and administrative policies and prac-  
9 tices) of any program, including any program estab-  
10 lished under this subpart—

11 “(A) with respect to which the Secretary  
12 has jurisdiction; and

13 “(B)(i) that includes Indian children or  
14 adults as participants; or

15 “(ii) that may benefit Indian children or  
16 adults;

17 “(2) make recommendations to the Secretary  
18 for filling the position of Director of Indian Edu-  
19 cation whenever a vacancy occurs; and

20 “(3) submit to the Congress, not later than  
21 June 30 of each year, a report on the activities of  
22 the Council, including—

23 “(A) any recommendations that the Coun-  
24 cil considers appropriate for the improvement of  
25 Federal education programs that include Indian

1 children or adults as participants, or that may  
2 benefit Indian children or adults; and

3 “(B) recommendations concerning the  
4 funding of any program described in subpara-  
5 graph (A).

6 **“SEC. 3242. PEER REVIEW.**

7 “The Secretary may use a peer review process to re-  
8 view applications submitted to the Secretary under chap-  
9 ter II or III.

10 **“SEC. 3243. PREFERENCE FOR INDIAN APPLICANTS.**

11 “In making grants under chapter II or III, the Sec-  
12 retary shall give a preference to Indian tribes, organiza-  
13 tions, and institutions of higher education under any pro-  
14 gram with respect to which Indian tribes, organizations,  
15 and institutions are eligible to apply for grants.

16 **“SEC. 3244. MINIMUM GRANT CRITERIA.**

17 “The Secretary may not approve an application for  
18 a grant under subpart 2 unless the application is for a  
19 grant that is—

20 “(1) of sufficient size, scope, and quality to  
21 achieve the purpose or objectives of such grant; and

22 “(2) based on relevant research findings.

1                   **“CHAPTER V—DEFINITIONS;**  
2                   **AUTHORIZATIONS OF APPROPRIATIONS**

3                   **“SEC. 3251. DEFINITIONS.**

4                   “For the purposes of this subpart:

5                   “**(1) ADULT.**—The term ‘adult’ means an indi-  
6                   vidual who—

7                   “**(A)** has attained the age of 16 years; or

8                   “**(B)** has attained an age that is greater  
9                   than the age of compulsory school attendance  
10                  under an applicable State law.

11                  “**(2) FREE PUBLIC EDUCATION.**—The term  
12                  ‘free public education’ means education that is—

13                  “**(A)** provided at public expense, under  
14                  public supervision and direction, and without  
15                  tuition charge; and

16                  “**(B)** provided as elementary or secondary  
17                  education in the applicable State or to preschool  
18                  children.

19                  “**(3) INDIAN.**—The term ‘Indian’ means an in-  
20                  dividual who is—

21                  “**(A)** a member of an Indian tribe or band,  
22                  as membership is defined by the tribe or band,  
23                  including—

24                  “**(i)** any tribe or band terminated  
25                  since 1940; and



1                   “(ii) any tribe or band recognized by  
2                   the State in which the tribe or band re-  
3                   sides;

4                   “(B) a descendant, in the first or second  
5                   degree, of an individual described in subpara-  
6                   graph (A);

7                   “(C) considered by the Secretary of the In-  
8                   terior to be an Indian for any purpose;

9                   “(D) an Eskimo, Aleut, or other Alaska  
10                  Native; or

11                  “(E) a member of an organized Indian  
12                  group that received a grant under the Indian  
13                  Education Act of 1988 as it was in effect the  
14                  day preceding the date of the enactment of the  
15                  Improving America’s Schools Act of 1994.

16 **“SEC. 3252. AUTHORIZATIONS OF APPROPRIATIONS.**

17                  “(a) CHAPTER I.—For the purpose of carrying out  
18                  chapter I of this subpart, there are authorized to be appro-  
19                  priated \$92,800,000 for fiscal year 2002, and such sums  
20                  as may be necessary for each of fiscal years 2003 through  
21                  2006.

22                  “(b) CHAPTERS II AND III.—For the purpose of car-  
23                  rying out chapters II and III of this subpart, there are  
24                  authorized to be appropriated \$22,700,000 for fiscal year

1 2002, and such sums as may be necessary for each of the  
2 fiscal years 2003 through 2006.”.

3 (b) SAVINGS PROVISION.—Funds appropriated for  
4 part A of title IX of the Elementary and Secondary Edu-  
5 cation Act of 1965 (as in effect on the day before the date  
6 of the enactment of this Act) shall be available for use  
7 under subpart 1 of part B of title III of such Act, as added  
8 by this section.

9 **SEC. 312. ALASKA NATIVE EDUCATION.**

10 (a) IN GENERAL.—Part B of title III (as added by  
11 section 311 of this Act) is further amended by adding at  
12 the end the following new subpart:

13 **“Subpart 2—Alaska Native Education**

14 **“SEC. 3301. SHORT TITLE.**

15 “This subpart may be cited as the ‘Alaska Native  
16 Educational Equity, Support, and Assistance Act’.

17 **“SEC. 3302. FINDINGS.**

18 “The Congress finds and declares:

19 “(1) The attainment of educational success is  
20 critical to the betterment of the conditions, long-  
21 term well-being and preservation of the culture of  
22 Alaska Natives.

23 “(2) It is the policy of the Federal Government  
24 to encourage the maximum participation by Alaska

1 Natives in the planning and the management of  
2 Alaska Native education programs.

3 “(3) Alaska Native children enter and exit  
4 school with serious educational handicaps.

5 “(4) The educational achievement of Alaska  
6 Native children is far below national norms. In addi-  
7 tion to low Native performance on standardized  
8 tests, Native student dropout rates are high, and  
9 Natives are significantly underrepresented among  
10 holders of baccalaureate degrees in the State of  
11 Alaska. As a result, Native students are being de-  
12 nied their opportunity to become full participants in  
13 society by grade school and high school educations  
14 that are condemning an entire generation to an  
15 underclass status and a life of limited choices.

16 “(5) The programs authorized herein, combined  
17 with expanded Head Start, infant learning and early  
18 childhood education programs, and parent education  
19 programs are essential if educational handicaps are  
20 to be overcome.

21 “(6) The sheer magnitude of the geographic  
22 barriers to be overcome in delivering educational  
23 services in rural and village Alaska should be ad-  
24 dressed through the development and implementa-

1 tion of innovative, model programs in a variety of  
2 areas.

3 “(7) Congress finds that Native children should  
4 be afforded the opportunity to begin their formal  
5 education on a par with their non-Native peers. The  
6 Federal Government should lend support to efforts  
7 developed by and undertaken within the Alaska Na-  
8 tive community to improve educational opportunity  
9 for all students.

10 **“SEC. 3303. PURPOSE.**

11 “It is the purpose of this subpart to—

12 “(1) recognize the unique educational needs of  
13 Alaska Natives;

14 “(2) authorize the development of supplemental  
15 educational programs to benefit Alaska Natives;

16 “(3) supplement existing programs and authori-  
17 ties in the area of education to further the purposes  
18 of this subpart; and

19 “(4) provide direction and guidance to appro-  
20 priate Federal, State and local agencies to focus re-  
21 sources, including resources made available under  
22 this subpart, on meeting the educational needs of  
23 Alaska Natives.

24 **“SEC. 3304. PROGRAM AUTHORIZED.**

25 “(a) GENERAL AUTHORITY.—

1           “(1) PROGRAM AUTHORIZED.—The Secretary is  
2 authorized to make grants to, or enter into contracts  
3 with, Alaska Native organizations, educational enti-  
4 ties with experience in developing or operating Alas-  
5 ka Native programs or programs of instruction con-  
6 ducted in Alaska Native languages, and consortia of  
7 such organizations and entities to carry out pro-  
8 grams that meet the purpose of this subpart.

9           “(2) PERMISSIBLE ACTIVITIES.—Programs  
10 under this subpart may include—

11                   “(A) the development and implementation  
12 of plans, methods, and strategies to improve the  
13 education of Alaska Natives;

14                   “(B) the development of curricula and edu-  
15 cational programs that address the educational  
16 needs of Alaska Native students, including—

17                           “(i) curriculum materials that reflect  
18 the cultural diversity or the contributions  
19 of Alaska Natives;

20                           “(ii) instructional programs that make  
21 use of Native Alaskan languages; and

22                           “(iii) networks that introduce success-  
23 ful programs, materials, and techniques to  
24 urban and rural schools;

1           “(C) professional development activities for  
2 educators, including—

3           “(i) programs to prepare teachers to  
4 address the cultural diversity and unique  
5 needs of Alaska Native students;

6           “(ii) in-service programs to improve  
7 the ability of teachers to meet the unique  
8 needs of Alaska Native students; and

9           “(iii) recruiting and preparing teach-  
10 ers who are Alaska Natives, reside in com-  
11 munities with high concentrations of Alas-  
12 ka Native students, or are likely to succeed  
13 as teachers in isolated, rural communities  
14 and engage in cross-cultural instruction;

15           “(D) the development and operation of  
16 home instruction programs for Alaska Native  
17 preschool children, the purpose of which is to  
18 ensure the active involvement of parents in  
19 their children’s education from the earliest  
20 ages;

21           “(E) family literacy services;

22           “(F) the development and operation of stu-  
23 dent enrichment programs in science and math-  
24 ematics that—

1           “(i) are designed to prepare Alaska  
2           Native students from rural areas, who are  
3           preparing to enter high school, to excel in  
4           science and math; and

5           “(ii) provide appropriate support serv-  
6           ices to the families of such students that  
7           are needed to enable such students to ben-  
8           efit from the program;

9           “(G) research and data collection activities  
10          to determine the educational status and needs  
11          of Alaska Native children and adults;

12          “(H) other research and evaluation activi-  
13          ties related to programs under this subpart;  
14          and

15          “(I) other activities, consistent with the  
16          purposes of this subpart, to meet the edu-  
17          cational needs of Alaska Native children and  
18          adults.

19          “(3) HOME INSTRUCTION PROGRAMS.—Home  
20          instruction programs for Alaska Native preschool  
21          children under paragraph (2)(D) may include—

22                 “(A) programs for parents and their in-  
23                 fants, from prenatal through age three;

24                 “(B) preschool programs; and

1           “(C) training, education, and support for  
2           parents in such areas as reading readiness, ob-  
3           servation, story-telling, and critical thinking.

4           “(b) LIMITATION ON ADMINISTRATIVE COSTS.—Not  
5           more than 5 percent of funds provided to a grantee under  
6           this section for any fiscal year may be used for administra-  
7           tive purposes.

8           “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
9           are authorized to be appropriated \$15,000,000 for fiscal  
10          year 2002, and such sums as may be necessary for each  
11          of the fiscal years 2003 through 2006 to carry out this  
12          subpart.

13          **“SEC. 3305. ADMINISTRATIVE PROVISIONS.**

14          “(a) APPLICATION REQUIRED.—No grant may be  
15          made under this subpart, nor any contract be entered into  
16          under this subpart, unless an application is submitted to  
17          the Secretary in such form, in such manner, and con-  
18          taining such information as the Secretary may determine  
19          necessary to carry out the provisions of this subpart.

20          “(b) APPLICATIONS.—State and local educational  
21          agencies may apply for an award under this subpart only  
22          as subpart of a consortium involving an Alaska Native or-  
23          ganization. This consortium may include other eligible ap-  
24          plicants.



1       “(c) CONSULTATION REQUIRED.—Each applicant for  
2 funding shall provide for ongoing advice from and con-  
3 sultation with representatives of the Alaska Native com-  
4 munity.

5       “(d) LOCAL EDUCATIONAL AGENCY COORDINA-  
6 TION.—Each applicant for an award under this subpart  
7 shall inform each local educational agency serving stu-  
8 dents who would participate in the project about its appli-  
9 cation.

10 **“SEC. 3306. DEFINITIONS.**

11       “For purposes of this subpart—

12               “(1) the term ‘Alaska Native’ has the same  
13 meaning as the term ‘Native’ has in section 3(b) of  
14 the Alaska Native Claims Settlement Act; and

15               “(2) the term ‘Alaska Native organization’  
16 means a federally recognized tribe, consortium of  
17 tribes, regional nonprofit Native association, and  
18 other Alaska Native organizations that—

19                       “(A) has or commits to acquire expertise  
20 in the education of Alaska Natives; and

21                       “(B) has Alaska Natives in substantive  
22 and policy-making positions within the organi-  
23 zation.”.

24       (b) SAVINGS PROVISION.—Funds appropriated for  
25 part C of title IX of the Elementary and Secondary Edu-

1 cation Act of 1965 (as in effect on the day before the date  
2 of the enactment of this Act) shall be available for use  
3 under subpart 2 of part B of title III of such Act, as added  
4 by this section.

5 **SEC. 313. AMENDMENTS TO THE EDUCATION AMENDMENTS**  
6 **OF 1978.**

7 Part B of title XI of the Education Amendments of  
8 1978 (25 U.S.C. 2001 et seq.) is amended to read as fol-  
9 lows:

10 **“PART B—BUREAU OF INDIAN AFFAIRS**  
11 **PROGRAMS**

12 **“SEC. 1120. FINDING AND POLICY.**

13 “(a) **FINDING.**—Congress finds and recognizes that  
14 the Federal Government has the sole responsibility for the  
15 operation and financial support of the Bureau of Indian  
16 Affairs funded school system that it has established on  
17 or near Indian reservations and Indian trust lands  
18 throughout the Nation for Indian children.

19 “(b) **POLICY.**—It is the policy of the United States  
20 to work in full cooperation with Indian tribes toward the  
21 goal of assuring that the programs of the Bureau of In-  
22 dian Affairs funded school system are of the highest qual-  
23 ity and meet the unique educational and cultural needs  
24 of Indian children.

1 **“SEC. 1121. ACCREDITATION AND STANDARDS FOR THE**  
2 **BASIC EDUCATION OF INDIAN CHILDREN IN**  
3 **BUREAU OF INDIAN AFFAIRS SCHOOLS.**

4 “(a) PURPOSE.—The purpose of the standards imple-  
5 mented under this section shall be to afford Indian stu-  
6 dents being served by a school funded by the Bureau of  
7 Indian Affairs the same opportunities as all other students  
8 in the United States to achieve the same challenging State  
9 performance standards expected of all students.

10 “(b) STUDIES AND SURVEYS RELATING TO STAND-  
11 ARDS.—Not later than 1 year after the date of the enact-  
12 ment of the No Child Left Behind Act of 2001, the Sec-  
13 retary, in consultation with the Secretary of Education,  
14 consortia of education organizations, and Indian organiza-  
15 tions and tribes, and making the fullest use possible of  
16 other existing studies, surveys, and plans, shall carry out  
17 by contract with an Indian organization, studies and sur-  
18 veys to establish and revise standards for the basic edu-  
19 cation of Indian children attending Bureau funded  
20 schools. Such studies and surveys shall take into account  
21 factors such as academic needs, local cultural differences,  
22 type and level of language skills, geographic isolation, and  
23 appropriate teacher-student ratios for such children, and  
24 shall be directed toward the attainment of equal edu-  
25 cational opportunity for such children.

1       “(c) REVISION OF MINIMUM ACADEMIC STAND-  
2 ARDS.—

3           “(1) IN GENERAL.—Not later than 2 years  
4 after the date of the enactment of the No Child Left  
5 Behind Act of 2001, the Secretary shall—

6           “(A) propose revisions to the minimum  
7 academic standards published in the Federal  
8 Register on September 9, 1995 (50 Fed. Reg.  
9 174) for the basic education of Indian children  
10 attending Bureau funded schools in accordance  
11 with the purpose described in subsection (a)  
12 and the findings of the studies and surveys con-  
13 ducted under subsection (b);

14           “(B) publish such proposed revisions to  
15 such standards in the Federal Register for the  
16 purpose of receiving comments from the tribes,  
17 tribal school boards, Bureau funded schools,  
18 and other interested parties; and

19           “(C) consistent with the provisions of this  
20 section and section 1131, take such actions as  
21 are necessary to coordinate standards imple-  
22 mented under this section with the Comprehen-  
23 sive School Reform Plan developed by the Bu-  
24 reau and—

1           “(i) with the standards of the im-  
2           provement plans for the States in which  
3           any school operated by the Bureau of In-  
4           dian Affairs is located; or

5           “(ii) in the case where schools oper-  
6           ated by the Bureau are within the bound-  
7           aries of reservation land of one tribe but  
8           within the boundaries of more than one  
9           State, with the standards of the State im-  
10          provement plan of one such State selected  
11          by the tribe.

12           “(2) FURTHER REVISIONS.—Not later than 6  
13          months after the close of the comment period, the  
14          Secretary shall establish final standards, distribute  
15          such standards to all tribes and publish such final  
16          standards in the Federal Register. The Secretary  
17          shall revise such standards periodically as necessary.  
18          Prior to any revision of such final standards, the  
19          Secretary shall distribute such proposed revision to  
20          all the tribes, and publish such proposed revision in  
21          the Federal Register, for the purpose of receiving  
22          comments from the tribes and other interested par-  
23          ties.

24           “(3) APPLICABILITY OF STANDARDS.—Except  
25          as provided in subsection (e), the final standards

1 published under paragraph (2) shall apply to all Bu-  
2 reau funded schools not accredited under subsection  
3 (f), and may also serve as a model for educational  
4 programs for Indian children in public schools.

5 “(4) CONSIDERATIONS WHEN ESTABLISHING  
6 AND REVISING STANDARDS.—In establishing and re-  
7 vising such standards, the Secretary shall take into  
8 account the unique needs of Indian students and  
9 support and reinforcement of the specific cultural  
10 heritage of each tribe.

11 “(d) ALTERNATIVE OR MODIFIED STANDARDS.—The  
12 Secretary shall provide alternative or modified standards  
13 in lieu of the standards established under subsection (c),  
14 where necessary, so that the programs of each school are  
15 in compliance with the minimum accreditation standards  
16 required for schools in the State or region where the school  
17 is located.

18 “(e) WAIVER OF STANDARDS; ALTERNATIVE STAND-  
19 ARDS.—A tribal governing body, or the local school board  
20 so designated by the tribal governing body, shall have the  
21 local authority to waive, in part or in whole, the standards  
22 established under subsections (c) and (d) if such standards  
23 are deemed by such body to be inappropriate. The tribal  
24 governing body or designated school board shall, not later  
25 than 60 days after a waiver under this subsection, submit

1 to the Secretary a proposal for alternative standards that  
2 take into account the specific needs of the tribe’s children.  
3 Such alternative standards shall be established by the Sec-  
4 retary unless specifically rejected by the Secretary for  
5 good cause and in writing to the affected tribes or local  
6 school board, which rejection shall be final and not subject  
7 to review.

8 “(f) ACCREDITATION AND IMPLEMENTATION OF  
9 STANDARDS.—

10 “(1) DEADLINE FOR MEETING STANDARDS.—

11 Not later the second academic year after publication  
12 of the standards, to the extent necessary funding is  
13 provided, all Bureau funded schools shall meet the  
14 standards established under subsections (c) and (d)  
15 or shall be accredited—

16 “(A) by a tribal accrediting body, if the ac-  
17 creditation standards of the tribal accrediting  
18 body have been accepted by formal action of the  
19 tribal governing body and are equal to or ex-  
20 ceed the accreditation standards of the State or  
21 region in which the school is located;

22 “(B) by a regional accreditation agency; or

23 “(C) by State accreditation standards for  
24 the State in which it is located.

1           “(2) DETERMINATION OF STANDARDS TO BE  
2 APPLIED.—The accreditation type or standards ap-  
3 plied for each school shall be determined by the  
4 school board of the school, in consultation with the  
5 Administrator of the school, provided that in the  
6 case where the School Board and the Administrator  
7 fail to agree on the type of accreditation and stand-  
8 ards to apply, the decision of the school board with  
9 the approval of the tribal governing body shall be  
10 final.

11           “(3) ASSISTANCE TO SCHOOL BOARDS.—The  
12 Secretary, through contracts and grants, shall assist  
13 school boards of contract or grant schools in imple-  
14 mentation of the standards established under sub-  
15 sections (c) and (d), if the school boards request  
16 that such standards, in part or in whole, be imple-  
17 mented.

18           “(4) FISCAL CONTROL AND FUND ACCOUNTING  
19 STANDARDS.—The Bureau shall, either directly or  
20 through contract with an Indian organization, estab-  
21 lish a consistent system of reporting standards for  
22 fiscal control and fund accounting for all contract  
23 and grant schools. Such standards shall provide data  
24 comparable to those used by Bureau operated  
25 schools.



1       “(g) ANNUAL PLAN FOR MEETING OF STAND-  
2 ARDS.—Except as provided in subsections (e) and (f), the  
3 Secretary shall begin to implement the standards estab-  
4 lished under this section immediately upon the date of  
5 their establishment. On an annual basis, the Secretary  
6 shall submit to the appropriate committees of Congress,  
7 all Bureau funded schools, and the tribal governing bodies  
8 of such schools a detailed plan to bring all Bureau schools  
9 and contract or grant schools up to the level required by  
10 the applicable standards established under this section.  
11 Such plan shall include detailed information on the status  
12 of each school’s educational program in relation to the ap-  
13 plicable standards established under this section, specific  
14 cost estimates for meeting such standards at each school  
15 and specific timelines for bringing each school up to the  
16 level required by such standards.

17       “(h) CLOSURE OR CONSOLIDATION OF SCHOOLS.—

18               “(1) IN GENERAL.—Except as specifically re-  
19 quired by statute, no school or peripheral dormitory  
20 operated by the Bureau on or after January 1,  
21 1992, may be closed or consolidated or have its pro-  
22 gram substantially curtailed unless done according  
23 to the requirements of this subsection.

24               “(2) EXCEPTIONS.—This subsection shall not  
25 apply—

1           “(A) in those cases where the tribal gov-  
2           erning body, or the local school board concerned  
3           (if so designated by the tribal governing body),  
4           requests closure or consolidation; or

5           “(B) when a temporary closure, consolida-  
6           tion, or substantial curtailment is required by  
7           plant conditions which constitute an immediate  
8           hazard to health and safety.

9           “(3) REGULATIONS.—The Secretary shall, by  
10          regulation, promulgate standards and procedures for  
11          the closure, transfer to another authority, consolida-  
12          tion, or substantial curtailment of Bureau schools, in  
13          accordance with the requirements of this subsection.

14          “(4) NOTICE.—Whenever closure, transfer to  
15          another authority, consolidation, or substantial cur-  
16          tailment of a school is under active consideration or  
17          review by any division of the Bureau or the Depart-  
18          ment of the Interior, the affected tribe, tribal gov-  
19          erning body, and designated local school board, will  
20          be notified immediately, kept fully and currently in-  
21          formed, and afforded an opportunity to comment  
22          with respect to such consideration or review. When  
23          a formal decision is made to close, transfer to an-  
24          other authority, consolidate, or substantially curtail  
25          a school, the affected tribe, tribal governing body,

1 and designated school board shall be notified at least  
2 6 months prior to the end of the school year pre-  
3 ceeding the proposed closure date. Copies of any such  
4 notices and information shall be transmitted prompt-  
5 ly to the appropriate committees of Congress and  
6 published in the Federal Register.

7 “(5) REPORT.—The Secretary shall make a re-  
8 port to the appropriate committees of Congress, the  
9 affected tribe, and the designated school board de-  
10 scribing the process of the active consideration or re-  
11 view referred to in paragraph (4). The report shall  
12 include a study of the impact of such action on the  
13 student population, identify those students with par-  
14 ticular educational and social needs, and ensure that  
15 alternative services are available to such students.  
16 Such report shall include the description of the con-  
17 sultation conducted between the potential service  
18 provider, current service provider, parents, tribal  
19 representatives and the tribe or tribes involved, and  
20 the Director of the Office of Indian Education Pro-  
21 grams within the Bureau regarding such students.

22 “(6) LIMITATION ON CERTAIN ACTIONS.—No  
23 irrevocable action may be taken in furtherance of  
24 any such proposed school closure, transfer to an-  
25 other authority, consolidation, or substantial curtail-

1       ment (including any action which would prejudice  
2       the personnel or programs of such school) prior to  
3       the end of the first full academic year after such re-  
4       port is made.

5               “(7) TRIBAL GOVERNING BODY APPROVAL RE-  
6       QUIRED FOR CERTAIN ACTIONS.—The Secretary may  
7       terminate, contract, transfer to any other authority,  
8       consolidate, or substantially curtail the operation or  
9       facilities of—

10              “(A) any Bureau funded school that is op-  
11              erated on or after of January 1, 1999;

12              “(B) any program of such a school that is  
13              operated on or after January 1, 1999; or

14              “(C) any school board of a school operated  
15              under a grant under the Tribally Controlled  
16              Schools Act of 1988,

17              only if the tribal governing body approves such ac-  
18              tion.

19              “(i) APPLICATION FOR CONTRACTS OR GRANTS FOR  
20       NON-BUREAU FUNDED SCHOOLS OR EXPANSION OF BU-  
21       REAU FUNDED SCHOOLS.—

22              “(1) IN GENERAL.—(A)(i) The Secretary shall  
23              only consider the factors described in subparagraph  
24              (B) in reviewing—

1           “(I) applications from any tribe for the  
2           awarding of a contract or grant for a school  
3           that is not a Bureau funded school; and

4           “(II) applications from any tribe or school  
5           board of any Bureau funded school for—

6                   “(aa) a school which is not a Bureau  
7                   funded school; or

8                   “(bb) the expansion of a Bureau  
9                   funded school which would increase the  
10                  amount of funds received by the Indian  
11                  tribe or school board under section 1127.

12           “(ii) With respect to applications described in  
13           this subparagraph, the Secretary shall give consider-  
14           ation to all the factors described in subparagraph  
15           (B), but no such application shall be denied based  
16           primarily upon the geographic proximity of com-  
17           parable public education.

18           “(B) With respect to applications described in  
19           subparagraph (A) the Secretary shall consider the  
20           following factors relating to the program and serv-  
21           ices that are the subject of the application:

22                   “(i) The adequacy of the facilities or the  
23                   potential to obtain or provide adequate facili-  
24                   ties.

1           “(ii) Geographic and demographic factors  
2           in the affected areas.

3           “(iii) The adequacy of the applicant’s pro-  
4           gram plans or, in the case of a Bureau funded  
5           school, of projected needs analysis done either  
6           by the tribe or the Bureau.

7           “(iv) Geographic proximity of comparable  
8           public education.

9           “(v) The stated needs of all affected par-  
10          ties, including students, families, tribal govern-  
11          ments at both the central and local levels, and  
12          school organizations.

13          “(vi) Adequacy and comparability of pro-  
14          grams already available.

15          “(vii) Consistency of available programs  
16          with tribal educational codes or tribal legisla-  
17          tion on education.

18          “(viii) The history and success of these  
19          services for the proposed population to be  
20          served, as determined from all factors, including  
21          but not limited to standardized examination  
22          performance.

23          “(2) DETERMINATION ON APPLICATION.—(A)  
24          The Secretary shall make a determination of wheth-  
25          er to approve any application described in paragraph

1 (1)(A) not later than 180 days after such applica-  
2 tion is submitted to the Secretary.

3 “(B) If the Secretary fails to make the deter-  
4 mination with respect to an application by the date  
5 described in subparagraph (A), the application shall  
6 be treated as having been approved by the Secretary.

7 “(3) REQUIREMENTS FOR APPLICATIONS.—(A)  
8 Notwithstanding paragraph (2)(B), an application  
9 described in paragraph (1)(A) may be approved by  
10 the Secretary only if—

11 “(i) the application has been approved by  
12 the tribal governing body of the students served  
13 by (or to be served by) the school or program  
14 that is the subject of the application; and

15 “(ii) written evidence of such approval is  
16 submitted with the application.

17 “(B) Each application described in paragraph  
18 (1)(A) shall provide information concerning each of  
19 the factors described in paragraph (1)(B).

20 “(4) DENIAL OF APPLICATIONS.—Whenever the  
21 Secretary makes a determination to deny approval of  
22 any application described in paragraph (1)(A), the  
23 Secretary shall—

1           “(A) state the objections in writing to the  
2           applicant not later 180 days after the applica-  
3           tion is submitted to the Secretary;

4           “(B) provide assistance to the applicant to  
5           overcome stated objections; and

6           “(C) provide the applicant a hearing,  
7           under the same rules and regulations pertaining  
8           to the Indian Self-Determination and Education  
9           Assistance Act and an opportunity to appeal  
10          the objections raised by the Secretary.

11          “(5) EFFECTIVE DATE OF A SUBJECT APPLICA-  
12          TION.—(A) Except as otherwise provided in this  
13          paragraph, the action which is the subject of any ap-  
14          plication described in paragraph (1)(A) that is ap-  
15          proved by the Secretary shall become effective at the  
16          beginning of the academic year following the fiscal  
17          year in which the application is approved, or at an  
18          earlier date determined by the Secretary.

19          “(B) If an application is treated as having been  
20          approved by the Secretary under paragraph (2)(B),  
21          the action that is the subject of the application shall  
22          become effective on the date that is 18 months after  
23          the date on which the application is submitted to the  
24          Secretary, or at an earlier date determined by the  
25          Secretary.



1           “(6) STATUTORY CONSTRUCTION.—Nothing in  
2           this section shall be read so as to preclude the ex-  
3           pansion of grades and related facilities at a Bureau  
4           funded school where such expansion and the mainte-  
5           nance of such expansion is occasioned or paid for  
6           with non-Bureau funds.

7           “(j) GENERAL USE OF FUNDS.—Funds received by  
8           Bureau funded schools from the Bureau of Indian Affairs  
9           and under any program from the Department of Edu-  
10          cation or any other Federal agency for the purpose of pro-  
11          viding education or related services may be used for  
12          schoolwide projects to improve the educational program  
13          for all Indian students.

14          “(k) STUDY ON ADEQUACY OF FUNDS AND FOR-  
15          MULAS.—The Comptroller General shall conduct a study,  
16          in consultation with Indian tribes and local school boards,  
17          to determine the adequacy of funding, and formulas used  
18          by the Bureau to determine funding, for programs oper-  
19          ated by Bureau funded schools, taking into account unique  
20          circumstances applicable to Bureau funded schools, as well  
21          as expenditures for comparable purposes in public schools  
22          nationally. Upon completion of the study, the Secretary  
23          of the Interior shall take such action as necessary to en-  
24          sure distribution of the findings of the study to all affected

1 Indian tribes, local school boards, and associations of local  
2 school boards.

3 **“SEC. 1122. NATIONAL CRITERIA FOR HOME-LIVING SITUA-**  
4 **TIONS.**

5 “(a) IN GENERAL.—The Secretary, in consultation  
6 with the Secretary of Education, Indian organizations and  
7 tribes, and Bureau funded schools, shall revise the na-  
8 tional standards for home-living (dormitory) situations to  
9 include such factors as heating, lighting, cooling, adult-  
10 child ratios, needs for counselors (including special needs  
11 related to off-reservation home-living (dormitory) situa-  
12 tions), therapeutic programs, space, and privacy. Such  
13 standards shall be implemented in Bureau operated  
14 schools, and shall serve as minimum standards for con-  
15 tract or grant schools. Once established, any revisions of  
16 such standards shall be developed according to the re-  
17 quirements established under section 1138A.

18 “(b) IMPLEMENTATION.—The Secretary shall imple-  
19 ment the revised standards established under this section  
20 immediately upon their completion.

21 “(c) PLAN.—At the time of each annual budget sub-  
22 mission for Bureau educational services is presented, the  
23 Secretary shall submit to the appropriate committees of  
24 Congress, the tribes, and the affected schools, and publish  
25 in the Federal Register, a detailed plan to bring all Bu-

1 reau funded schools that provide home-living (dormitory)  
2 situations up to the standards established under this sec-  
3 tion. Such plan shall include a statement of the relative  
4 needs of each Bureau funded home-living (dormitory)  
5 school, projected future needs of each Bureau funded  
6 home-living (dormitory) school, detailed information on  
7 the status of each school in relation to the standards es-  
8 tablished under this section, specific cost estimates for  
9 meeting each standard for each such school, aggregate  
10 cost estimates for bringing all such schools into compli-  
11 ance with the criteria established under this section, and  
12 specific timelines for bringing each school into compliance  
13 with such standards.

14       “(d) WAIVER.—The criteria established under this  
15 section may be waived in the same manner as the stand-  
16 ards provided under section 1121(c) may be waived.

17       “(e) CLOSURE FOR FAILURE TO MEET STANDARDS  
18 PROHIBITED.—No school in operation on or before Janu-  
19 ary 1, 1987 (regardless of compliance or noncompliance  
20 with the criteria established under this section), may be  
21 closed, transferred to another authority, consolidated, or  
22 have its program substantially curtailed for failure to meet  
23 the criteria.

1 **“SEC. 1123. CODIFICATION OF REGULATIONS.**

2       “(a) PART 32 OF TITLE 25 OF CODE OF FEDERAL  
3 REGULATIONS.—The provisions of part 32 of title 25 of  
4 the Code of Federal Regulations, as in effect on January  
5 1, 1987, are incorporated into this Act and shall be treat-  
6 ed as though such provisions are set forth in this sub-  
7 section. Such provisions may be altered only by means of  
8 an Act of Congress. To the extent that such provisions  
9 of part 32 do not conform with this Act or any statutory  
10 provision of law enacted before November 1, 1978, the  
11 provisions of this Act and the provisions of such other  
12 statutory law shall govern.

13       “(b) REGULATION DEFINED.—For purposes of this  
14 part, the term ‘regulation’ means any rules, regulations,  
15 guidelines, interpretations, orders, or requirements of gen-  
16 eral applicability prescribed by any officer or employee of  
17 the executive branch.

18 **“SEC. 1124. SCHOOL BOUNDARIES.**

19       “(a) ESTABLISHMENT BY SECRETARY.—The Sec-  
20 retary shall establish, by regulation, separate geographical  
21 attendance areas for each Bureau funded school.

22       “(b) ESTABLISHMENT BY TRIBAL BODY.—In any  
23 case where there is more than one Bureau funded school  
24 located on an Indian reservation, at the direction of the  
25 tribal governing body, the relevant school boards of the  
26 Bureau funded schools on the reservation may, by mutual

1 consent, establish the relevant attendance areas for such  
2 schools, subject to the approval of the tribal governing  
3 body. Any such boundaries so established shall be accepted  
4 by the Secretary.

5 “(c) BOUNDARY REVISIONS.—

6 “(1) IN GENERAL.—On or after July 1, 2001,  
7 no geographical attendance area shall be revised or  
8 established with respect to any Bureau funded  
9 school unless the tribal governing body or the local  
10 school board concerned (if so designated by the trib-  
11 al governing body) has been afforded—

12 “(A) at least 6 months notice of the inten-  
13 tion of the Bureau to revise or establish such  
14 attendance area; and

15 “(B) the opportunity to propose alternative  
16 boundaries.

17 Any tribe may petition the Secretary for revision of  
18 existing attendance area boundaries. The Secretary  
19 shall accept such proposed alternative or revised  
20 boundaries unless the Secretary finds, after con-  
21 sultation with the affected tribe or tribes, that such  
22 revised boundaries do not reflect the needs of the In-  
23 dian students to be served or do not provide ade-  
24 quate stability to all of the affected programs. The

1 Secretary shall cause such revisions to be published  
2 in the Federal Register.

3 “(2) TRIBAL RESOLUTION DETERMINATION.—

4 Nothing in this section shall be interpreted as deny-  
5 ing a tribal governing body the authority, on a con-  
6 tinuing basis, to adopt a tribal resolution allowing  
7 parents the choice of the Bureau funded school their  
8 children may attend, regardless of the attendance  
9 boundaries established under this section.

10 “(d) FUNDING RESTRICTIONS.—The Secretary shall  
11 not deny funding to a Bureau funded school for any eligi-  
12 ble Indian student attending the school solely because that  
13 student’s home or domicile is outside of the geographical  
14 attendance area established for that school under this sec-  
15 tion. No funding shall be made available without tribal au-  
16 thorization to enable a school to provide transportation for  
17 any student to or from the school and a location outside  
18 the approved attendance area of the school.

19 “(e) RESERVATION AS BOUNDARY.—In any case  
20 where there is only one Bureau funded program located  
21 on an Indian reservation, the attendance area for the pro-  
22 gram shall be the boundaries (established by treaty, agree-  
23 ment, legislation, court decisions, or executive decisions  
24 and as accepted by the tribe) of the reservation served,

1 and those students residing near the reservation shall also  
2 receive services from such program.

3       “(f) OFF-RESERVATION HOME-LIVING (DORMITORY)  
4 SCHOOLS.—Notwithstanding any geographical attendance  
5 areas, attendance at off-reservation home-living (dor-  
6 mitory) schools shall include students requiring special  
7 emphasis programs to be implemented at each off-reserva-  
8 tion home-living (dormitory) school. Such attendance shall  
9 be coordinated between education line officers, the family,  
10 and the referring and receiving programs.

11 **“SEC. 1125. FACILITIES CONSTRUCTION.**

12       “(a) COMPLIANCE WITH HEALTH AND SAFETY  
13 STANDARDS.—The Secretary shall immediately begin to  
14 bring all schools, dormitories, and other Indian education-  
15 related facilities operated by the Bureau or under contract  
16 or grant with the Bureau into compliance with all applica-  
17 ble tribal, Federal, or State health and safety standards,  
18 whichever provides greater protection (except that the  
19 tribal standards to be applied shall be no greater than any  
20 otherwise applicable Federal or State standards), with sec-  
21 tion 504 of the Rehabilitation Act of 1973, and with the  
22 Americans with Disabilities Act of 1990. Nothing in this  
23 section shall require termination of the operations of any  
24 facility which does not comply with such provisions and

1 which is in use on the date of the enactment of the No  
2 Child Left Behind Act of 2001.

3 “(b) COMPLIANCE PLAN.—At the time that the an-  
4 nual budget request for Bureau educational services is  
5 presented, the Secretary shall submit to the appropriate  
6 committees of Congress a detailed plan to bring all facili-  
7 ties covered under subsection (a) of this section into com-  
8 pliance with the standards referred to in subsection (a).  
9 Such plan shall include detailed information on the status  
10 of each facility’s compliance with such standards, specific  
11 cost estimates for meeting such standards at each school,  
12 and specific timelines for bringing each school into compli-  
13 ance with such standards.

14 “(c) CONSTRUCTION PRIORITIES.—

15 “(1) SYSTEM TO ESTABLISH PRIORITIES.—On  
16 an annual basis the Secretary shall submit to the  
17 appropriate committees of Congress and cause to be  
18 published in the Federal Register, the system used  
19 to establish priorities for replacement and construc-  
20 tion projects for Bureau funded schools and home-  
21 living schools, including boarding schools and dor-  
22 mitories. At the time any budget request for edu-  
23 cation is presented, the Secretary shall publish in  
24 the Federal Register and submit with the budget re-



1       quest the current list of all Bureau funded school  
2       construction priorities.

3               “(2) LONG-TERM CONSTRUCTION AND RE-  
4       PLACEMENT LIST.—In addition to the plan sub-  
5       mitted under subsection (b), the Secretary shall—

6                       “(A) not later than 18 months after the  
7       date of the enactment of the No Child Left Be-  
8       hind Act of 2001, establish a long-term con-  
9       struction and replacement list for all Bureau  
10      funded schools;

11                      “(B) using the list prepared under sub-  
12      paragraph (A), propose a list for the orderly re-  
13      placement of all Bureau funded education-re-  
14      lated facilities over a period of 40 years to en-  
15      able planning and scheduling of budget re-  
16      quests;

17                      “(C) cause the list prepared under sub-  
18      section (B) to be published in the Federal Reg-  
19      ister and allow a period of not less than 120  
20      days for public comment;

21                      “(D) make such revisions to the list pre-  
22      pared under subparagraph (B) as are appro-  
23      priate based on the comments received; and

24                      “(E) cause the final list to be published in  
25      the Federal Register.

1           “(3) EFFECT ON OTHER LIST.—Nothing in this  
2 section shall be construed as interfering with or  
3 changing in any way the construction priority list as  
4 it exists on the date of the enactment of the No  
5 Child Left Behind Act of 2001.

6           “(d) HAZARDOUS CONDITION AT BUREAU  
7 SCHOOL.—

8           “(1) CLOSURE OR CONSOLIDATION.—A Bureau  
9 funded school may be closed or consolidated, and the  
10 programs of a Bureau funded school may be sub-  
11 stantially curtailed by reason of plant conditions  
12 that constitute an immediate hazard to health and  
13 safety only if a health and safety officer of the Bu-  
14 reau determines that such conditions exist at the  
15 Bureau funded school.

16           “(2) INSPECTION.—(A) After making a deter-  
17 mination described in paragraph (1), the Bureau  
18 health and safety officer shall conduct an inspection  
19 of the condition of such plant accompanied by an ap-  
20 propriate tribal, county, municipal, or State health  
21 and safety officer in order to determine whether con-  
22 ditions at such plant constitute an immediate hazard  
23 to health and safety. Such inspection shall be com-  
24 pleted by not later than the date that is 30 days  
25 after the date on which the action described in para-

1 graph (1) is taken. No further negative action may  
2 be taken unless the findings are concurred in by the  
3 second, non-Bureau of Indian Affairs inspector.

4 “(B) If the health and safety officer conducting  
5 the inspection of a plant required under subpara-  
6 graph (A) determines that conditions at the plant do  
7 not constitute an immediate hazard to health and  
8 safety, any consolidation or curtailment that was  
9 made under paragraph (1) shall immediately cease  
10 and any school closed by reason of conditions at the  
11 plant shall be reopened immediately.

12 “(C) If a Bureau funded school is temporarily  
13 closed or consolidated or the programs of a Bureau  
14 funded school are substantially curtailed under this  
15 subsection and the Secretary determines that the  
16 closure, consolidation, or curtailment will exceed 1  
17 year, the Secretary shall submit to the Congress, by  
18 not later than 6 months after the date on which the  
19 closure, consolidation, or curtailment was initiated, a  
20 report which sets forth the reasons for such tem-  
21 porary actions, the actions the Secretary is taking to  
22 eliminate the conditions that constitute the hazard,  
23 and an estimated date by which such actions will be  
24 concluded.

25 “(e) FUNDING REQUIREMENT.—

1           “(1) DISTRIBUTION OF FUNDS.—Beginning  
2 with the fiscal year following the year of the date of  
3 the enactment of the No Child Left Behind Act of  
4 2001, all funds appropriated for the operations and  
5 maintenance of Bureau funded schools shall be dis-  
6 tributed by formula to the schools. No funds from  
7 this account may be retained or segregated by the  
8 Bureau to pay for administrative or other costs of  
9 any facilities branch or office, at any level of the Bu-  
10 reau.

11           “(2) REQUIREMENTS FOR CERTAIN USES.—No  
12 funds shall be withheld from the distribution to the  
13 budget of any school operated under contract or  
14 grant by the Bureau for maintenance or any other  
15 facilities or road related purpose, unless such school  
16 has consented, as a modification to the contract or  
17 in writing for grants schools, to the withholding of  
18 such funds, including the amount thereof, the pur-  
19 pose for which the funds will be used, and the  
20 timeline for the services to be provided. The school  
21 may, at the end of any fiscal year, cancel an agree-  
22 ment under this paragraph upon giving the Bureau  
23 30 days notice of its intent to do so.

24           “(f) NO REDUCTION IN FEDERAL FUNDING.—Noth-  
25 ing in this section shall be construed to diminish any Fed-

1 eral funding due to the receipt by the school of funding  
2 for facilities improvement or construction from a State or  
3 any other source.

4 **“SEC. 1126. BUREAU OF INDIAN AFFAIRS EDUCATION FUNC-**  
5 **TIONS.**

6 “(a) FORMULATION AND ESTABLISHMENT OF POL-  
7 ICY AND PROCEDURE; SUPERVISION OF PROGRAMS AND  
8 EXPENDITURES.—The Secretary shall vest in the Assist-  
9 ant Secretary for Indian Affairs all functions with respect  
10 to formulation and establishment of policy and procedure  
11 and supervision of programs and expenditures of Federal  
12 funds for the purpose of Indian education administered  
13 by the Bureau. The Assistant Secretary shall carry out  
14 such functions through the Director of the Office of Indian  
15 Education Programs.

16 “(b) DIRECTION AND SUPERVISION OF PERSONNEL  
17 OPERATIONS.—Not later than 6 months after the date of  
18 the enactment of the No Child Left Behind Act of 2001,  
19 the Director of the Office of Indian Education Programs  
20 shall direct and supervise the operations of all personnel  
21 directly and substantially involved in the provision of edu-  
22 cation services by the Bureau, including school or institu-  
23 tion custodial or maintenance personnel, facilities manage-  
24 ment, contracting, procurement, and finance personnel.  
25 The Assistant Secretary for Indian Affairs shall coordi-

1 nate the transfer of functions relating to procurement,  
2 contracts, operation, and maintenance of schools and  
3 other support functions to the Director.

4 “(c) EVALUATION OF PROGRAMS; SERVICES AND  
5 SUPPORT FUNCTIONS; TECHNICAL AND COORDINATING  
6 ASSISTANCE.—Education personnel who are under the di-  
7 rection and supervision of the Director of the Office of  
8 Indian Education Programs in accordance with the first  
9 sentence of subsection (b) shall—

10 “(1) monitor and evaluate Bureau education  
11 programs;

12 “(2) provide all services and support functions  
13 for education programs with respect to personnel  
14 matters involving staffing actions and functions; and

15 “(3) provide technical and coordinating assist-  
16 ance in areas such as procurement, contracting,  
17 budgeting, personnel, curriculum, and operation and  
18 maintenance of school facilities.

19 “(d) CONSTRUCTION, IMPROVEMENT, OPERATION,  
20 AND MAINTENANCE OF FACILITIES.—

21 “(1) PLAN FOR CONSTRUCTION.—The Assistant  
22 Secretary shall submit in the annual budget a  
23 plan—

24 “(A) for school facilities to be constructed  
25 under section 1125(c);

1           “(B) for establishing priorities among  
2 projects and for the improvement and repair of  
3 educational facilities, which together shall form  
4 the basis for the distribution of appropriated  
5 funds; and

6           “(C) for capital improvements to be made  
7 over the five succeeding years.

8           “(2) PROGRAM FOR OPERATION AND MAINTENANCE.—  
9

10           “(A) ESTABLISHMENT.—The Assistant  
11 Secretary shall establish a program, including  
12 the distribution of appropriated funds, for the  
13 operation and maintenance of education facilities. Such program shall include—  
14

15           “(i) a method of computing the  
16 amount necessary for each educational facility;  
17

18           “(ii) similar treatment of all Bureau  
19 funded schools;

20           “(iii) a notice of an allocation of appropriated funds from the Director of the  
21 Office of Indian Education Programs directly to the education line officers and appropriate  
22 school officials;  
23  
24

1           “(iv) a method for determining the  
2           need for, and priority of, facilities repair  
3           and maintenance projects, both major and  
4           minor. In making such determination, the  
5           Assistant Secretary shall cause to be con-  
6           ducted a series of meetings at the agency  
7           and area level with representatives of the  
8           Bureau funded schools in those areas and  
9           agencies to receive comment on the lists  
10          and prioritization of such projects; and

11           “(v) a system for the conduct of rou-  
12          tine preventive maintenance.

13          “(B) LOCAL SUPERVISORS.—The appro-  
14          priate education line officers shall make ar-  
15          rangements for the maintenance of education  
16          facilities with the local supervisors of the Bu-  
17          reau maintenance personnel. The local super-  
18          visors of Bureau maintenance personnel shall  
19          take appropriate action to implement the deci-  
20          sions made by the appropriate education line of-  
21          ficers, except that no funds under this chapter  
22          may be authorized for expenditure unless such  
23          appropriate education line officer is assured  
24          that the necessary maintenance has been, or  
25          will be, provided in a reasonable manner.



1           “(3) IMPLEMENTATION.—The requirements of  
2           this subsection shall be implemented as soon as  
3           practicable after the date of the enactment of the No  
4           Child Left Behind Act of 2001.

5           “(e) ACCEPTANCE OF GIFTS AND BEQUESTS.—Not-  
6           withstanding any other provision of law, the Director shall  
7           promulgate guidelines for the establishment of mecha-  
8           nisms for the acceptance of gifts and bequests for the use  
9           and benefit of particular schools or designated Bureau op-  
10          erated education programs, including, where appropriate,  
11          the establishment and administration of trust funds.  
12          When a Bureau operated program is the beneficiary of  
13          such a gift or bequest, the Director shall make provisions  
14          for monitoring its use and shall report to the appropriate  
15          committees of Congress the amount and terms of such gift  
16          or bequest, the manner in which such gift or bequest shall  
17          be used, and any results achieved by such action.

18          “(f) FUNCTIONS CLARIFIED.—For the purpose of  
19          this section, the term ‘functions’ includes powers and du-  
20          ties.

21          **“SEC. 1127. ALLOTMENT FORMULA.**

22          “(a) FACTORS CONSIDERED; REVISION TO REFLECT  
23          STANDARDS.—

24                  “(1) FORMULA.—The Secretary shall establish,  
25          by regulation adopted in accordance with section

1 1138A, a formula for determining the minimum an-  
2 nual amount of funds necessary to sustain each Bu-  
3 reau funded school. In establishing such formula,  
4 the Secretary shall consider—

5 “(A) the number of eligible Indian stu-  
6 dents served and total student population of the  
7 school;

8 “(B) special cost factors, such as—

9 “(i) the isolation of the school;

10 “(ii) the need for special staffing,  
11 transportation, or educational programs;

12 “(iii) food and housing costs;

13 “(iv) maintenance and repair costs as-  
14 sociated with the physical condition of the  
15 educational facilities;

16 “(v) special transportation and other  
17 costs of isolated and small schools;

18 “(vi) the costs of home-living (dor-  
19 mitory) arrangements, where determined  
20 necessary by a tribal governing body or  
21 designated school board;

22 “(vii) costs associated with greater  
23 lengths of service by education personnel;

1                   “(viii) the costs of therapeutic pro-  
2                   grams for students requiring such pro-  
3                   grams; and

4                   “(ix) special costs for gifted and tal-  
5                   ented students;

6                   “(C) the cost of providing academic serv-  
7                   ices which are at least equivalent to those pro-  
8                   vided by public schools in the State in which  
9                   the school is located; and

10                  “(D) such other relevant factors as the  
11                  Secretary determines are appropriate.

12                  “(2) REVISION OF FORMULA.—Upon the estab-  
13                  lishment of the standards required in sections 1121  
14                  and 1122, the Secretary shall revise the formula es-  
15                  tablished under this subsection to reflect the cost of  
16                  funding such standards. Not later than January 1,  
17                  2003, the Secretary shall review the formula estab-  
18                  lished under this section and shall take such steps  
19                  as are necessary to increase the availability of coun-  
20                  seling and therapeutic programs for students in off-  
21                  reservation home-living (dormitory) schools and  
22                  other Bureau operated residential facilities. Concur-  
23                  rent with such action, the Secretary shall review the  
24                  standards established under section 1122 to be cer-  
25                  tain that adequate provision is made for parental no-

1       tification regarding, and consent for, such counseling  
2       and therapeutic programs.

3       “(b) PRO RATA ALLOTMENT.—Notwithstanding any  
4 other provision of law, Federal funds appropriated for the  
5 general local operation of Bureau funded schools shall be  
6 allotted pro rata in accordance with the formula estab-  
7 lished under subsection (a).

8       “(c) ANNUAL ADJUSTMENT; RESERVATION OF  
9 AMOUNT FOR SCHOOL BOARD ACTIVITIES.—

10           “(1) ANNUAL ADJUSTMENT.—For fiscal year  
11 2003, and for each subsequent fiscal year, the Sec-  
12 retary shall adjust the formula established under  
13 subsection (a) to ensure that the formula does the  
14 following:

15           “(A) Uses a weighted unit of 1.2 for each  
16 eligible Indian student enrolled in the seventh  
17 and eighth grades of the school in considering  
18 the number of eligible Indian students served  
19 by the school.

20           “(B) Considers a school with an enroll-  
21 ment of less than 50 eligible Indian students as  
22 having an average daily attendance of 50 eligi-  
23 ble Indian students for purposes of imple-  
24 menting the adjustment factor for small  
25 schools.

1           “(C) Takes into account the provision of  
2 residential services on less than a 9-month basis  
3 at a school when the school board and super-  
4 visor of the school determine that a less than  
5 9-month basis will be implemented for the  
6 school year involved.

7           “(D) Uses a weighted unit of 2.0 for each  
8 eligible Indian student that—

9                   “(i) is gifted and talented; and

10                   “(ii) is enrolled in the school on a full-  
11 time basis,

12 in considering the number of eligible Indian  
13 students served by the school.

14           “(E) Uses a weighted unit of 0.25 for each  
15 eligible Indian student who is enrolled in a  
16 yearlong credit course in an Indian or Native  
17 language as part of the regular curriculum of a  
18 school, in considering the number of eligible In-  
19 dian students served by such school. The ad-  
20 justment required under this subparagraph  
21 shall be used for such school after—

22                   “(i) the certification of the Indian or  
23 Native language curriculum by the school  
24 board of such school to the Secretary, to-  
25 gether with an estimate of the number of

1 full-time students expected to be enrolled  
 2 in the curriculum in the second school year  
 3 for which the certification is made; and

4 (ii) the funds appropriated for allot-  
 5 ment under this section are designated by  
 6 the appropriations Act appropriating such  
 7 funds as the amount necessary to imple-  
 8 ment such adjustment at such school with-  
 9 out reducing allotments made under this  
 10 section to any school by virtue of such ad-  
 11 justment.

12 “(2) RESERVATION OF AMOUNT.—

13 “(A) IN GENERAL.—From the funds allot-  
 14 ted in accordance with the formula established  
 15 under subsection (a) for each Bureau school,  
 16 the local school board of such school may re-  
 17 serve an amount which does not exceed the  
 18 greater of—

19 “(i) \$8,000; or

20 “(ii) the lesser of—

21 “(I) \$15,000; or

22 “(II) 1 percent of such allotted  
 23 funds,

24 for school board activities for such school, in-  
 25 cluding (notwithstanding any other provision of

1 law) meeting expenses and the cost of member-  
2 ship in, and support of, organizations engaged  
3 in activities on behalf of Indian education.

4 “(B) TRAINING.—Each school board shall  
5 see that each new member of the school board  
6 receives, within 12 months of the individual’s  
7 assuming a position on the school board, 40  
8 hours of training relevant to that individual’s  
9 service on the board. Such training may include  
10 legal issues pertaining to schools funded by the  
11 Bureau, legal issues pertaining to school  
12 boards, ethics, and other topics deemed appro-  
13 priate by the school board.

14 “(d) RESERVATION OF AMOUNT FOR EMER-  
15 GENCIES.—The Secretary shall reserve from the funds  
16 available for distribution for each fiscal year under this  
17 section an amount which, in the aggregate, shall equal 1  
18 percent of the funds available for such purpose for that  
19 fiscal year. Such funds shall be used, at the discretion of  
20 the Director of the Office of Indian Education Programs,  
21 to meet emergencies and unforeseen contingencies affect-  
22 ing the education programs funded under this section.  
23 Funds reserved under this subsection may only be ex-  
24 pended for education services or programs, including  
25 emergency repairs of educational facilities, at a schoolsite

1 (as defined by section 5204(e)(2) of the Tribally Con-  
2 trolled Schools Act of 1988). Funds reserved under this  
3 subsection shall remain available without fiscal year limi-  
4 tation until expended. However, the aggregate amount  
5 available from all fiscal years may not exceed 1 percent  
6 of the current year funds. Whenever, the Secretary makes  
7 funds available under this subsection, the Secretary shall  
8 report such action to the appropriate committees of Con-  
9 gress within the annual budget submission.

10 “(e) SUPPLEMENTAL APPROPRIATIONS.—Supple-  
11 mental appropriations enacted to meet increased pay costs  
12 attributable to school level personnel shall be distributed  
13 under this section.

14 “(f) ELIGIBLE INDIAN STUDENT DEFINED.—For the  
15 purpose of this section, the term ‘eligible Indian student’  
16 means a student who—

17 “(1) is a member of or is at least one-fourth de-  
18 gree Indian blood descendant of a member of an In-  
19 dian tribe which is eligible for the special programs  
20 and services provided by the United States through  
21 the Bureau because of their status as Indians; and

22 “(2) resides on or near an Indian reservation or  
23 meets the criteria for attendance at a Bureau off-  
24 reservation home-living (dormitory) school.

25 “(g) TUITION.—



1           “(1) IN GENERAL.—An eligible Indian student  
2           may not be charged tuition for attendance at a Bu-  
3           reau school or contract or grant school. A student  
4           attending a Bureau school under paragraph (2)(C)  
5           may not be charged tuition for attendance at such  
6           a school.

7           “(2) ATTENDANCE OF NON-INDIAN STUDENTS  
8           AT BUREAU SCHOOLS.—The Secretary may permit  
9           the attendance at a Bureau school of a student who  
10          is not an eligible Indian student if—

11                 “(A) the Secretary determines that the  
12                 student’s attendance will not adversely affect  
13                 the school’s program for eligible Indian stu-  
14                 dents because of cost, overcrowding, or violation  
15                 of standards or accreditation;

16                 “(B) the school board consents;

17                 “(C) the student is a dependent of a Bu-  
18                 reau, Indian Health Service, or tribal govern-  
19                 ment employee who lives on or near the  
20                 schoolsite; or

21                 “(D) a tuition is paid for the student that  
22                 is not more than that charged by the nearest  
23                 public school district for out-of-district stu-  
24                 dents, and shall be in addition to the school’s  
25                 allocation under this section.

1           “(3) ATTENDANCE OF NON-INDIAN STUDENTS  
2           AT CONTRACT AND GRANT SCHOOLS.—The school  
3           board of a contract or grant school may permit stu-  
4           dents who are not eligible Indian students under this  
5           subsection to attend its contract school or grant  
6           school and any tuition collected for those students  
7           shall be in addition to funding received under this  
8           section.

9           “(h) FUNDS AVAILABLE WITHOUT FISCAL YEAR  
10          LIMITATION.—Notwithstanding any other provision of  
11          law, at the election of the school board of a Bureau school  
12          made at any time during the fiscal year, a portion equal  
13          to not more than 15 percent of the funds allocated with  
14          respect to a school under this section for any fiscal year  
15          shall remain available to the school for expenditure with-  
16          out fiscal year limitation. The Assistant Secretary shall  
17          take steps as may be necessary to implement this provi-  
18          sion.

19          “(i) STUDENTS AT RICHFIELD DORMITORY, RICH-  
20          FIELD, UTAH.—Tuition for out-of-State Indian students  
21          in home-living (dormitory) arrangements at the Richfield  
22          dormitory in Richfield, Utah, who attend Sevier County  
23          high schools in Richfield, Utah, shall be paid from the In-  
24          dian school equalization program funds authorized in this  
25          section and section 1130 at a rate not to exceed the

1 amounts per weighted student unit for that year for the  
2 instruction of such students. No additional administrative  
3 cost funds shall be added to the grant.

4 **“SEC. 1128. ADMINISTRATIVE COST GRANTS.**

5       “(a) GRANTS; EFFECT UPON APPROPRIATED  
6 AMOUNTS.—

7               “(1) GRANTS.—Subject to the availability of  
8 appropriated funds, the Secretary shall provide  
9 grants to each tribe or tribal organization operating  
10 a contract school or grant school in the amount de-  
11 termined under this section with respect to the tribe  
12 or tribal organization for the purpose of paying the  
13 administrative and indirect costs incurred in oper-  
14 ating contract or grant schools, provided that no  
15 school operated as a stand-alone institution shall re-  
16 ceive less than \$200,000 per year for these pur-  
17 poses, in order to—

18                       “(A) enable tribes and tribal organizations  
19 operating such schools, without reducing direct  
20 program services to the beneficiaries of the pro-  
21 gram, to provide all related administrative over-  
22 head services and operations necessary to meet  
23 the requirements of law and prudent manage-  
24 ment practice; and

1           “(B) carry out other necessary support  
2           functions which would otherwise be provided by  
3           the Secretary or other Federal officers or em-  
4           ployees, from resources other than direct pro-  
5           gram funds, in support of comparable Bureau  
6           operated programs.

7           “(2)       EFFECT       UPON       APPROPRIATED  
8           AMOUNTS.—Amounts appropriated to fund the  
9           grants provided under this section shall be in addi-  
10          tion to, and shall not reduce, the amounts appro-  
11          priated for the program being administered by the  
12          contract or grant school.

13          “(b) DETERMINATION OF GRANT AMOUNT.—

14               “(1) IN GENERAL.—The amount of the grant  
15               provided to each tribe or tribal organization under  
16               this section for each fiscal year shall be determined  
17               by applying the administrative cost percentage rate  
18               of the tribe or tribal organization to the aggregate  
19               of the Bureau elementary and secondary functions  
20               operated by the tribe or tribal organization for which  
21               funds are received from or through the Bureau. The  
22               administrative cost percentage rate determined  
23               under subsection (c) does not apply to other pro-  
24               grams operated by the tribe or tribal organization.

1           “(2) DIRECT COST BASE FUNDS.—The Sec-  
2       retary shall—

3           “(A) reduce the amount of the grant deter-  
4       mined under paragraph (1) to the extent that  
5       payments for administrative costs are actually  
6       received by an Indian tribe or tribal organiza-  
7       tion under any Federal education program in-  
8       cluded in the direct cost base of the tribe or  
9       tribal organization; and

10          “(B) take such actions as may be nec-  
11       essary to be reimbursed by any other depart-  
12       ment or agency of the Federal Government for  
13       the portion of grants made under this section  
14       for the costs of administering any program for  
15       Indians that is funded by appropriations made  
16       to such other department or agency.

17       “(c) ADMINISTRATIVE COST PERCENTAGE RATE.—

18          “(1) IN GENERAL.—For purposes of this sec-  
19       tion, the administrative cost percentage rate for a  
20       contract or grant school for a fiscal year is equal to  
21       the percentage determined by dividing—

22           “(A) the sum of—

23           “(i) the amount equal to—

1                   “(I) the direct cost base of the  
2                   tribe or tribal organization for the fis-  
3                   cal year, multiplied by

4                   “(II) the minimum base rate;  
5                   plus

6                   “(ii) the amount equal to—

7                   “(I) the standard direct cost  
8                   base; multiplied by

9                   “(II) the maximum base rate; by

10                  “(B) the sum of—

11                  “(i) the direct cost base of the tribe or  
12                  tribal organization for the fiscal year; plus

13                  “(ii) the standard direct cost base.

14                  “(2) ROUNDING.—The administrative cost per-  
15                  centage rate shall be determined to the  $\frac{1}{100}$  of a  
16                  decimal point.

17                  “(d) COMBINING FUNDS.—

18                  “(1) IN GENERAL.—Funds received by a tribe  
19                  or contract or grant school as grants under this sec-  
20                  tion for tribal elementary or secondary educational  
21                  programs may be combined by the tribe or contract  
22                  or grant school into a single administrative cost ac-  
23                  count without the necessity of maintaining separate  
24                  funding source accounting.

1           “(2) INDIRECT COST FUNDS.—Indirect cost  
2 funds for programs at the school which share com-  
3 mon administrative services with tribal elementary  
4 or secondary educational programs may be included  
5 in the administrative cost account described in para-  
6 graph (1).

7           “(e) AVAILABILITY OF FUNDS.—Funds received as  
8 grants under this section with respect to tribal elementary  
9 or secondary education programs shall remain available to  
10 the contract or grant school without fiscal year limitation  
11 and without diminishing the amount of any grants other-  
12 wise payable to the school under this section for any fiscal  
13 year beginning after the fiscal year for which the grant  
14 is provided.

15           “(f) TREATMENT OF FUNDS.—Funds received as  
16 grants under this section for Bureau funded programs op-  
17 erated by a tribe or tribal organization under a contract  
18 or agreement shall not be taken into consideration for pur-  
19 poses of indirect cost underrecovery and overrecovery de-  
20 terminations by any Federal agency for any other funds,  
21 from whatever source derived.

22           “(g) TREATMENT OF ENTITY OPERATING OTHER  
23 PROGRAMS.—In applying this section and section 105 of  
24 the Indian Self-Determination and Education Assistance

1 Act with respect to an Indian tribe or tribal organization  
2 that—

3           “(1) receives funds under this section for ad-  
4 ministrative costs incurred in operating a contract or  
5 grant school or a school operated under the Tribally  
6 Controlled Schools Act of 1988; and

7           “(2) operates one or more other programs  
8 under a contract or grant provided under the Indian  
9 Self-Determination and Education Assistance Act,

10 the Secretary shall ensure that the Indian tribe or tribal  
11 organization is provided with the full amount of the ad-  
12 ministrative costs that are associated with operating the  
13 contract or grant school, and of the indirect costs, that  
14 are associated with all of such other programs, provided  
15 that funds appropriated for implementation of this section  
16 shall be used only to supply the amount of the grant re-  
17 quired to be provided by this section.

18           “(h) DEFINITIONS.—For purposes of this section:

19           “(1) ADMINISTRATIVE COST.—(A) The term  
20 ‘administrative cost’ means the costs of necessary  
21 administrative functions which—

22           “(i) the tribe or tribal organization incurs  
23 as a result of operating a tribal elementary or  
24 secondary educational program;



1           “(ii) are not customarily paid by com-  
2           parable Bureau operated programs out of direct  
3           program funds; and

4           “(iii) are either—

5                   “(I) normally provided for comparable  
6           Bureau programs by Federal officials  
7           using resources other than Bureau direct  
8           program funds; or

9                   “(II) are otherwise required of tribal  
10           self-determination program operators by  
11           law or prudent management practice.

12           “(B) The term ‘administrative cost’ may  
13           include—

14                   “(i) contract or grant (or other agreement)  
15           administration;

16                   “(ii) executive, policy, and corporate lead-  
17           ership and decisionmaking;

18                   “(iii) program planning, development, and  
19           management;

20                   “(iv) fiscal, personnel, property, and pro-  
21           curement management;

22                   “(v) related office services and record  
23           keeping; and

24                   “(vi) costs of necessary insurance, audit-  
25           ing, legal, safety and security services.

1           “(2) BUREAU ELEMENTARY AND SECONDARY  
2           FUNCTIONS.—The term ‘Bureau elementary and sec-  
3           ondary functions’ means—

4                   “(A) all functions funded at Bureau  
5           schools by the Office;

6                   “(B) all programs—

7                           “(i) funds for which are appropriated  
8                           to other agencies of the Federal Govern-  
9                           ment; and

10                           “(ii) which are administered for the  
11                           benefit of Indians through Bureau schools;  
12                           and

13                   “(C) all operation, maintenance, and repair  
14           funds for facilities and government quarters  
15           used in the operation or support of elementary  
16           and secondary education functions for the ben-  
17           efit of Indians, from whatever source derived.

18           “(3) DIRECT COST BASE.—(A) Except as other-  
19           wise provided in subparagraph (B), the direct cost  
20           base of a tribe or tribal organization for the fiscal  
21           year is the aggregate direct cost program funding  
22           for all tribal elementary or secondary educational  
23           programs operated by the tribe or tribal organization  
24           during—

1           “(i) the second fiscal year preceding such  
2           fiscal year; or

3           “(ii) if such programs have not been oper-  
4           ated by the tribe or tribal organization during  
5           the two preceding fiscal years, the first fiscal  
6           year preceding such fiscal year.

7           “(B) In the case of Bureau elementary or sec-  
8           ondary education functions which have not pre-  
9           viously been operated by a tribe or tribal organiza-  
10          tion under contract, grant, or agreement with the  
11          Bureau, the direct cost base for the initial year shall  
12          be the projected aggregate direct cost program fund-  
13          ing for all Bureau elementary and secondary func-  
14          tions to be operated by the tribe or tribal organiza-  
15          tion during that fiscal year.

16          “(4) MAXIMUM BASE RATE.—The term ‘max-  
17          imum base rate’ means 50 percent.

18          “(5) MINIMUM BASE RATE.—The term ‘min-  
19          imum base rate’ means 11 percent.

20          “(6) STANDARD DIRECT COST BASE.—The term  
21          ‘standard direct cost base’ means \$600,000.

22          “(7) TRIBAL ELEMENTARY OR SECONDARY  
23          EDUCATIONAL PROGRAMS.—The term ‘tribal elemen-  
24          tary or secondary educational programs’ means all  
25          Bureau elementary and secondary functions, to-

1       gether with any other Bureau programs or portions  
2       of programs (excluding funds for social services that  
3       are appropriated to agencies other than the Bureau  
4       and are expended through the Bureau, funds for  
5       major subcontracts, construction, and other major  
6       capital expenditures, and unexpended funds carried  
7       over from prior years) which share common adminis-  
8       trative cost functions, that are operated directly by  
9       a tribe or tribal organization under a contract,  
10      grant, or agreement with the Bureau.

11      “(i) STUDIES FOR DETERMINATION OF FACTORS AF-  
12      FECTING COSTS; BASE RATES LIMITS; STANDARD DI-  
13      RECT COST BASE; REPORT TO CONGRESS.—

14           “(1) STUDIES.—Not later than 120 days after  
15      the date of the enactment of the No Child Left Be-  
16      hind Act of 2001, the Director of the Office of In-  
17      dian Education Programs shall—

18           “(A) conduct such studies as may be need-  
19      ed to establish an empirical basis for deter-  
20      mining relevant factors substantially affecting  
21      required administrative costs of tribal elemen-  
22      tary and secondary education programs, using  
23      the formula set forth in subsection (c); and

24           “(B) conduct a study to determine—

1           “(i) a maximum base rate which ensures  
2           that the amount of the grants provided under  
3           this section will provide adequate (but not ex-  
4           cessive) funding of the administrative costs of  
5           the smallest tribal elementary or secondary edu-  
6           cational programs;

7           “(ii) a minimum base rate which ensures  
8           that the amount of the grants provided under  
9           this section will provide adequate (but not ex-  
10          cessive) funding of the administrative costs of  
11          the largest tribal elementary or secondary edu-  
12          cational programs; and

13          “(iii) a standard direct cost base which is  
14          the aggregate direct cost funding level for which  
15          the percentage determined under subsection (c)  
16          will—

17                 “(I) be equal to the median between  
18                 the maximum base rate and the minimum  
19                 base rate; and

20                 “(II) ensure that the amount of the  
21                 grants provided under this section will pro-  
22                 vide adequate (but not excessive) funding  
23                 of the administrative costs of tribal ele-  
24                 mentary or secondary educational pro-  
25                 grams closest to the size of the program.

1           “(2) GUIDELINES.—The studies required under  
2 paragraph (1) shall—

3           “(A) be conducted in full consultation (in  
4 accordance with section 1131) with—

5           “(i) the tribes and tribal organizations  
6 that are affected by the application of the  
7 formula set forth in subsection (c); and

8           “(ii) all national and regional Indian  
9 organizations of which such tribes and  
10 tribal organizations are typically members;

11          “(B) be conducted onsite with a represent-  
12 ative statistical sample of the tribal elementary  
13 or secondary educational programs under a con-  
14 tract entered into with a nationally reputable  
15 public accounting and business consulting firm;

16          “(C) take into account the availability of  
17 skilled labor; commodities, business and auto-  
18 matic data processing services, related Indian  
19 preference and Indian control of education re-  
20 quirements, and any other market factors found  
21 substantially to affect the administrative costs  
22 and efficiency of each such tribal elementary or  
23 secondary educational program studied in order  
24 to assure that all required administrative activi-  
25 ties can reasonably be delivered in a cost effec-

1           tive manner for each such program, given an  
2           administrative cost allowance generated by the  
3           values, percentages, or other factors found in  
4           the studies to be relevant in such formula;

5           “(D) identify, and quantify in terms of  
6           percentages of direct program costs, any gen-  
7           eral factors arising from geographic isolation,  
8           or numbers of programs administered, inde-  
9           pendent of program size factors used to com-  
10          pute a base administrative cost percentage in  
11          such formula; and

12          “(E) identify any other incremental cost  
13          factors substantially affecting the costs of re-  
14          quired administrative cost functions at any of  
15          the tribal elementary or secondary educational  
16          programs studied and determine whether the  
17          factors are of general applicability to other such  
18          programs, and (if so) how the factors may ef-  
19          fectively be incorporated into such formula.

20          “(3) CONSULTATION WITH INSPECTOR GEN-  
21          ERAL.—In carrying out the studies required under  
22          this subsection, the Director shall obtain the input  
23          of, and afford an opportunity to participate to, the  
24          Inspector General of the Department of the Interior.

1           “(4) CONSIDERATION OF DELIVERY OF ADMIN-  
2           ISTRATIVE SERVICES.—Determinations described in  
3           paragraph (2)(C) shall be based on what is prac-  
4           ticable at each location studied, given prudent man-  
5           agement practice, irrespective of whether required  
6           administrative services were actually or fully deliv-  
7           ered at these sites, or whether other services were  
8           delivered instead, during the period of the study.

9           “(5) REPORT.—Upon completion of the studies  
10          conducted under paragraph (1), the Director shall  
11          submit to Congress a report on the findings of the  
12          studies, together with determinations based upon  
13          such studies that would affect the definitions set  
14          forth under subsection (e) that are used in the for-  
15          mula set forth in subsection (e).

16          “(6) PROJECTION OF COSTS.—The Secretary  
17          shall include in the Bureau’s justification for each  
18          appropriations request beginning in the first fiscal  
19          year after the completion of the studies conducted  
20          under paragraph (1), a projection of the overall  
21          costs associated with the formula set forth in sub-  
22          section (e) for all tribal elementary or secondary  
23          education programs which the Secretary expects to  
24          be funded in the fiscal year for which the appropria-  
25          tions are sought.



1           “(7) DETERMINATION OF PROGRAM SIZE.—For  
2 purposes of this subsection, the size of tribal elemen-  
3 tary or secondary educational programs is deter-  
4 mined by the aggregate direct cost program funding  
5 level for all Bureau funded programs which share  
6 common administrative cost functions.

7           “(j) AUTHORIZATION OF APPROPRIATIONS.—

8           “(1) IN GENERAL.—There are authorized to be  
9 appropriated such sums as necessary to carry out  
10 this section.

11           “(2) REDUCTIONS.—If the total amount of  
12 funds necessary to provide grants to tribes and trib-  
13 al organizations in the amounts determined under  
14 subsection (b) for a fiscal year exceeds the amount  
15 of funds appropriated to carry out this section for  
16 such fiscal year, the Secretary shall reduce the  
17 amount of each grant determined under subsection  
18 (b) for such fiscal year by an amount that bears the  
19 same relationship to such excess as the amount of  
20 such grants determined under subsection (b) bears  
21 to the total of all grants determined under sub-  
22 section (b) section for all tribes and tribal organiza-  
23 tions for such fiscal year.

24           “(k) APPLICABILITY TO SCHOOLS OPERATING  
25 UNDER TRIBALLY CONTROLLED SCHOOLS ACT OF

1 1988.—The provisions of this section shall also apply to  
2 those schools operating under the Tribally Controlled  
3 Schools Act of 1988.

4 **“SEC. 1129. DIVISION OF BUDGET ANALYSIS.**

5       “(a) ESTABLISHMENT.—Not later than 12 months  
6 after the date of the enactment of the No Child Left Be-  
7 hind Act of 2001, the Secretary shall establish within the  
8 Office of Indian Education Programs a Division of Budget  
9 Analysis (hereinafter referred to as the ‘Division’). Such  
10 Division shall be under the direct supervision and control  
11 of the Director of the Office.

12       “(b) FUNCTIONS.—In consultation with the tribal  
13 governing bodies and tribal school boards, the Director of  
14 the Office, through the Division, shall conduct studies,  
15 surveys, or other activities to gather demographic informa-  
16 tion on Bureau funded schools and project the amount  
17 necessary to provide Indian students in such schools the  
18 educational program set forth in this part.

19       “(c) ANNUAL REPORTS.—Not later than the date  
20 that the Assistant Secretary for Indian Affairs makes the  
21 annual budget submission, for each fiscal year after the  
22 date of the enactment of the No Child Left Behind Act  
23 of 2001, the Director of the Office shall submit to the  
24 appropriate committees of Congress (including the Appro-  
25 priations committees), all Bureau funded schools, and the

1 tribal governing bodies of such schools, a report which  
2 shall contain—

3 “(1) projections, based upon the information  
4 gathered pursuant to subparagraph (b) and any  
5 other relevant information, of amounts necessary to  
6 provide Indian students in Bureau funded schools  
7 the educational program set forth in this part;

8 “(2) a description of the methods and formulas  
9 used to calculate the amounts projected pursuant to  
10 paragraph (1); and

11 “(3) such other information as the Director of  
12 the Office considers appropriate.

13 “(d) USE OF REPORTS.—The Director of the Office  
14 and the Assistant Secretary for Indian Affairs shall use  
15 the annual report required by subsection (c) when pre-  
16 paring their annual budget submissions.

17 **“SEC. 1130. UNIFORM DIRECT FUNDING AND SUPPORT.**

18 “(a) ESTABLISHMENT OF SYSTEM AND FORWARD  
19 FUNDING.—

20 “(1) IN GENERAL.—The Secretary shall estab-  
21 lish, by regulation adopted in accordance with sec-  
22 tion 1138, a system for the direct funding and sup-  
23 port of all Bureau funded schools. Such system shall  
24 allot funds in accordance with section 1127. All

1 amounts appropriated for distribution under this  
2 section may be made available under paragraph (2).

3 “(2) TIMING FOR USE OF FUNDS.—(A) For the  
4 purposes of affording adequate notice of funding  
5 available pursuant to the allotments made under sec-  
6 tion 1127, amounts appropriated in an appropria-  
7 tions Act for any fiscal year shall become available  
8 for obligation by the affected schools on July 1 of  
9 the fiscal year in which such amounts are appro-  
10 priated without further action by the Secretary, and  
11 shall remain available for obligation through the suc-  
12 ceeding fiscal year.

13 “(B) The Secretary shall, on the basis of the  
14 amount appropriated in accordance with this  
15 paragraph—

16 “(i) publish, not later than July 1 of the  
17 fiscal year for which the funds are appro-  
18 priated, allotments to each affected school made  
19 under section 1127 of 85 percent of such ap-  
20 propriation; and

21 “(ii) publish, not later than September 30  
22 of such fiscal year, the allotments to be made  
23 under section 1127 of the remaining 15 percent  
24 of such appropriation, adjusted to reflect the  
25 actual student attendance.

1           “(3) LIMITATION.—(A) Notwithstanding any  
2 other provision of law or regulation, the supervisor  
3 of a Bureau funded school may expend an aggregate  
4 of not more than \$50,000 of the amount allotted the  
5 school under section 1127 to acquire materials, sup-  
6 plies, equipment, services, operation, and mainte-  
7 nance for the school without competitive bidding if—

8                   “(i) the cost for any single item purchased  
9 does not exceed \$15,000;

10                   “(ii) the school board approves the pro-  
11 curement;

12                   “(iii) the supervisor certifies that the cost  
13 is fair and reasonable;

14                   “(iv) the documents relating to the pro-  
15 curement executed by the supervisor or other  
16 school staff cite this paragraph as authority for  
17 the procurement; and

18                   “(v) the transaction is documented in a  
19 journal maintained at the school clearly identi-  
20 fying when the transaction occurred, what was  
21 acquired and from whom, the price paid, the  
22 quantities acquired, and any other information  
23 the supervisor or school board considers rel-  
24 evant.

1           “(B) Not later than 6 months after the date of  
2           the enactment of the No Child Left Behind Act of  
3           2001, the Secretary shall cause to be sent to each  
4           supervisor of a Bureau operated program and school  
5           board chairperson, the education line officer or offi-  
6           cers of each agency and area, and the Bureau Divi-  
7           sion in charge of procurement, at both the local and  
8           national levels, notice of this paragraph.

9           “(C) The Director shall be responsible for de-  
10          termining the application of this paragraph, includ-  
11          ing the authorization of specific individuals to carry  
12          out this paragraph, and shall be responsible for the  
13          provision of guidelines on the use of this paragraph  
14          and adequate training on such guidelines.

15          “(4) EFFECT OF SEQUESTRATION ORDER.—If a  
16          sequestration order issued under the Balanced  
17          Budget and Emergency Deficit Control Act of 1985  
18          reduces the amount of funds available for allotment  
19          under section 1127 for any fiscal year by more than  
20          7 percent of the amount of funds available for allot-  
21          ment under such section during the preceding fiscal  
22          year—

23                   “(A) to fund allotments under section  
24                   1127, the Secretary, notwithstanding any other  
25                   law, may use—

1           “(i) funds appropriated for the oper-  
2           ation of any Bureau school that is closed  
3           or consolidated; and

4           “(ii) funds appropriated for any pro-  
5           gram that has been curtailed at any Bu-  
6           reau school; and

7           “(B) the Secretary may waive the applica-  
8           tion of the provisions of section 1121(h) with  
9           respect to the closure or consolidation of a  
10          school, or the curtailment of a program at a  
11          school, during such fiscal year if the funds de-  
12          scribed in clauses (i) and (ii) of subparagraph  
13          (A) with respect to such school are used to fund  
14          allotments made under section 1127 for such  
15          fiscal year.

16          “(b) LOCAL FINANCIAL PLANS FOR EXPENDITURE  
17          OF FUNDS.—

18                 “(1) PLAN REQUIRED.—In the case of all Bu-  
19          reau operated schools, allotted funds shall be ex-  
20          pended on the basis of local financial plans which  
21          ensure meeting the accreditation requirements or  
22          standards for the school established pursuant to sec-  
23          tion 1121 and which shall be prepared by the local  
24          school supervisor in active consultation with the local  
25          school board for each school. The local school board

1 for each school shall have the authority to ratify, re-  
2 ject, or amend such financial plan, and expenditures  
3 thereunder, and, on its own determination or in re-  
4 sponse to the supervisor of the school, to revise such  
5 financial plan to meet needs not foreseen at the time  
6 of preparation of the financial plan.

7 “(2) The supervisor—

8 “(A) shall put into effect the decisions of  
9 the school board;

10 “(B) shall provide the appropriate local  
11 union representative of the education employees  
12 with copies of proposed draft financial plans  
13 and all amendments or modifications thereto, at  
14 the same time such copies are submitted to the  
15 local school board; and

16 “(C) may appeal any such action of the  
17 local school board to the appropriate education  
18 line officer of the Bureau agency by filing a  
19 written statement describing the action and the  
20 reasons the supervisor believes such action  
21 should be overturned. A copy of such statement  
22 shall be submitted to the local school board and  
23 such board shall be afforded an opportunity to  
24 respond, in writing, to such appeal. After re-  
25 viewing such written appeal and response, the



1           appropriate education line officer may, for good  
2           cause, overturn the action of the local school  
3           board. The appropriate education line officer  
4           shall transmit the determination of such appeal  
5           in the form of a written opinion to such board  
6           and to such supervisor identifying the reasons  
7           for overturning such action.

8           “(c) USE OF SELF-DETERMINATION GRANTS  
9 FUNDS.—Funds for self-determination grants under sec-  
10 tion 103(a)(2) of the Indian Self-Determination and Edu-  
11 cation Assistance Act shall not be used for providing tech-  
12 nical assistance and training in the field of education by  
13 the Bureau unless such services are provided in accord-  
14 ance with a plan, agreed to by the tribe or tribes affected  
15 and the Bureau, under which control of education pro-  
16 grams is intended to be transferred to such tribe or tribes  
17 within a specific period of time negotiated under such  
18 agreement. The Secretary may approve applications for  
19 funding tribal divisions of education and development of  
20 tribal codes of education from funds appropriated pursu-  
21 ant to section 104(a) of such Act.

22           “(d) TECHNICAL ASSISTANCE AND TRAINING.—In  
23 the exercise of its authority under this section, a local  
24 school board may request technical assistance and training  
25 from the Secretary, and the Secretary shall, to the great-

1 est extent possible, provide such services, and make appro-  
2 priate provisions in the budget of the Office for such serv-  
3 ices.

4 “(e) SUMMER PROGRAM OF ACADEMIC AND SUPPORT  
5 SERVICES.—

6 “(1) IN GENERAL.—A financial plan under sub-  
7 section (b) for a school may include, at the discre-  
8 tion of the local administrator and the school board  
9 of such school, a provision for a summer program of  
10 academic and support services for students of the  
11 school. Any such program may include activities re-  
12 lated to the prevention of alcohol and substance  
13 abuse. The Assistant Secretary for Indian Affairs  
14 shall provide for the utilization of any such school  
15 facility during any summer in which such utilization  
16 is requested.

17 “(2) USE OF OTHER FUNDS.—Notwithstanding  
18 any other provision of law, funds authorized under  
19 the Act of April 16, 1934, and this Act may be used  
20 to augment the services provided in each summer  
21 program at the option, and under the control, of the  
22 tribe or Indian controlled school receiving such  
23 funds.

24 “(3) TECHNICAL ASSISTANCE AND PROGRAM  
25 COORDINATION.—The Assistant Secretary for Indian

1       Affairs, acting through the Director of the Office,  
2       shall provide technical assistance and coordination  
3       for any program described in paragraph (1) and  
4       shall, to the extent possible, encourage the coordina-  
5       tion of such programs with any other summer pro-  
6       grams that might benefit Indian youth, regardless of  
7       the funding source or administrative entity of any  
8       such program.

9       “(f) COOPERATIVE AGREEMENTS.—

10           “(1) IN GENERAL.—From funds allotted to a  
11       Bureau school under section 1127, the Secretary  
12       shall, if specifically requested by the tribal governing  
13       body (as defined in section 1141), implement any co-  
14       operative agreement entered into between the tribe,  
15       the Bureau school board, and the local public school  
16       district which meets the requirements of paragraph  
17       (2) and involves the school. The tribe, the Bureau  
18       school board, and the local public school district  
19       shall determine the terms of the agreement. Such  
20       agreement may encompass coordination of all or any  
21       part of the following:

22           “(A) Academic program and curriculum,  
23       unless the Bureau school is currently accredited  
24       by a State or regional accrediting entity and  
25       would not continue to be so accredited.

1           “(B) Support services, including procure-  
2           ment and facilities maintenance.

3           “(C) Transportation.

4           “(2) EQUAL BENEFIT AND BURDEN.—Each  
5           agreement entered into pursuant to the authority  
6           provided in paragraph (1) shall confer a benefit  
7           upon the Bureau school commensurate with the bur-  
8           den assumed, though this requirement shall not be  
9           construed so as to require equal expenditures or an  
10          exchange of similar services.

11          “(g) PRODUCT OR RESULT OF STUDENT  
12          PROJECTS.—Notwithstanding any other provision of law,  
13          where there is agreement on action between the super-  
14          intendent and the school board of a Bureau funded school,  
15          the product or result of a project conducted in whole or  
16          in major part by a student may be given to that student  
17          upon the completion of such project.

18          “(h) NOT CONSIDERED FEDERAL FUNDS FOR  
19          MATCHING REQUIREMENTS.—Notwithstanding any other  
20          provision of law, funds received by a Bureau funded school  
21          under this part shall not be considered Federal funds for  
22          the purposes of meeting a matching funds requirement for  
23          any Federal program.

1 **“SEC. 1131. POLICY FOR INDIAN CONTROL OF INDIAN EDU-**  
2 **CATION.**

3 “(a) FACILITATION OF INDIAN CONTROL.—It shall  
4 be the policy of the Secretary and the Bureau, in carrying  
5 out the functions of the Bureau, to facilitate tribal control  
6 of Indian affairs in all matters relating to education.

7 “(b) CONSULTATION WITH TRIBES.—

8 “(1) IN GENERAL.—All actions under this Act  
9 shall be done with active consultation with tribes.

10 “(2) REQUIREMENTS.—The consultation re-  
11 quired under paragraph (1) means a process involv-  
12 ing the open discussion and joint deliberation of all  
13 options with respect to potential issues or changes  
14 between the Bureau and all interested parties. Dur-  
15 ing such discussions and joint deliberations, inter-  
16 ested parties (including tribes and school officials)  
17 shall be given an opportunity to present issues in-  
18 cluding proposals regarding changes in current prac-  
19 tices or programs which will be considered for future  
20 action by the Bureau. All interested parties shall be  
21 given an opportunity to participate and discuss the  
22 options presented or to present alternatives, with the  
23 views and concerns of the interested parties given ef-  
24 fect unless the Secretary determines, from informa-  
25 tion available from or presented by the interested  
26 parties during one or more of the discussions and

1 deliberations, that there is a substantial reason for  
2 another course of action. The Secretary shall submit  
3 to any Member of Congress, within 18 days of the  
4 receipt of a written request by such Member, a writ-  
5 ten explanation of any decision made by the Sec-  
6 retary which is not consistent with the views of the  
7 interested parties.

8 **“SEC. 1132. INDIAN EDUCATION PERSONNEL.**

9 “(a) IN GENERAL.—Chapter 51, subchapter III of  
10 chapter 53, and chapter 63 of title 5, United States Code,  
11 relating to classification, pay and leave, respectively, and  
12 the sections of such title relating to the appointment, pro-  
13 motion, hours of work, and removal of civil service employ-  
14 ees, shall not apply to educators or to education positions  
15 (as defined in subsection (p)).

16 “(b) REGULATIONS.—Not later than 60 days after  
17 the date of the enactment of the No Child Left Behind  
18 Act of 2001, the Secretary shall prescribe regulations to  
19 carry out this section. Such regulations shall include—

20 “(1) the establishment of education positions;

21 “(2) the establishment of qualifications for edu-  
22 cators and education personnel;

23 “(3) the fixing of basic compensation for edu-  
24 cators and education positions;

25 “(4) the appointment of educators;

1 “(5) the discharge of educators;

2 “(6) the entitlement of educators to compensa-  
3 tion;

4 “(7) the payment of compensation to educators;

5 “(8) the conditions of employment of educators;

6 “(9) the leave system for educators;

7 “(10) the annual leave and sick leave for edu-  
8 cators; and

9 “(11) such matters as may be appropriate.

10 “(c) QUALIFICATIONS OF EDUCATORS.—

11 “(1) REQUIREMENTS.—In prescribing regula-  
12 tions to govern the qualifications of educators, the  
13 Secretary shall require—

14 “(A)(i) that lists of qualified and inter-  
15 viewed applicants for education positions be  
16 maintained in each agency and area office of  
17 the Bureau from among individuals who have  
18 applied at the agency or area level for an edu-  
19 cation position or who have applied at the na-  
20 tional level and have indicated in such applica-  
21 tion an interest in working in certain areas or  
22 agencies; and

23 “(ii) that a list of qualified and interviewed  
24 applicants for education positions be main-  
25 tained in the Office from among individuals

1 who have applied at the national level for an  
2 education position and who have expressed in-  
3 terest in working in an education position any-  
4 where in the United States;

5 “(B) that a local school board shall have  
6 the authority to waive on a case-by-case basis,  
7 any formal education or degree qualifications  
8 established by regulation pursuant to subsection  
9 (b)(2), in order for a tribal member to be hired  
10 in an education position to teach courses on  
11 tribal culture and language and that subject to  
12 subsection (e)(2), a determination by a school  
13 board that such a person be hired shall be insti-  
14 tuted supervisor; and

15 “(C) that it shall not be a prerequisite to  
16 the employment of an individual in an edu-  
17 cation position at the local level that such indi-  
18 vidual’s name appear on the national list main-  
19 tained pursuant to subparagraph (A)(ii) or that  
20 such individual has applied at the national level  
21 for an education position.

22 “(2) EXCEPTION FOR CERTAIN TEMPORARY EM-  
23 PLOYMENT.—The Secretary may authorize the tem-  
24 porary employment in an education position of an  
25 individual who has not met the certification stand-



1 ards established pursuant to regulations, if the Sec-  
2 retary determines that failure to do so would result  
3 in that position remaining vacant.

4 “(d) HIRING OF EDUCATORS.—

5 “(1) REQUIREMENTS.—In prescribing regula-  
6 tions to govern the appointment of educators, the  
7 Secretary shall require—

8 “(A)(i) that educators employed in a Bu-  
9 reau operated school (other than the supervisor  
10 of the school) shall be hired by the supervisor  
11 of the school. In cases where there are no quali-  
12 fied applicants available, such supervisor may  
13 consult the national list maintained pursuant to  
14 subsection (c)(1)(A)(ii);

15 “(ii) each school supervisor shall be hired  
16 by the education line officer of the agency office  
17 of the Bureau in which the school is located;

18 “(iii) educators employed in an agency of-  
19 fice of the Bureau shall be hired by the super-  
20 intendent for education of the agency office;  
21 and

22 “(iv) each education line officer and edu-  
23 cators employed in the Office of the Director of  
24 Indian Education Programs shall be hired by  
25 the Director;

1           “(B) that before an individual is employed  
2           in an education position in a school by the su-  
3           pervisor of a school (or with respect to the posi-  
4           tion of supervisor, by the appropriate agency  
5           education line officer), the local school board  
6           for the school shall be consulted. A determina-  
7           tion by such school board that such individual  
8           should or should not be so employed shall be in-  
9           stituted by the supervisor (or with respect to  
10          the position of supervisor, by the agency super-  
11          intendent for education);

12          “(C) that before an individual may be em-  
13          ployed in an education position at the agency  
14          level, the appropriate agency school board shall  
15          be consulted, and that a determination by such  
16          school board that such individual should or  
17          should not be employed shall be instituted by  
18          the agency superintendent for education; and

19          “(D) that before an individual may be em-  
20          ployed in an education position in the Office of  
21          the Director (other than the position of Direc-  
22          tor), the national school boards representing all  
23          Bureau schools shall be consulted.

24          “(2) INFORMATION REGARDING APPLICATION  
25          AT NATIONAL LEVEL.—Any individual who applies

1 at the local level for an education position shall state  
2 on such individual's application whether or not such  
3 individual has applied at the national level for an  
4 education position in the Bureau. If such individual  
5 is employed at the local level, such individual's name  
6 shall be immediately forwarded to the Secretary,  
7 who shall, as soon as practicable but in no event in  
8 more than 30 days, ascertain the accuracy of the  
9 statement made by such individual pursuant to the  
10 first sentence of this paragraph. Notwithstanding  
11 subsection (e), if the individual's statement is found  
12 to have been false, such individual, at the Sec-  
13 retary's discretion, may be disciplined or discharged.  
14 If the individual has applied at the national level for  
15 an education position in the Bureau, the appoint-  
16 ment of such individual at the local level shall be  
17 conditional for a period of 90 days, during which pe-  
18 riod the Secretary may appoint a more qualified in-  
19 dividual (as determined by the Secretary) from the  
20 list maintained at the national level pursuant to sub-  
21 section (c)(1)(A)(ii) to the position to which such in-  
22 dividual was appointed.

23 “(3) STATUTORY CONSTRUCTION.—Except as  
24 expressly provided, nothing in this section shall be  
25 construed as conferring upon local school boards au-

1       thority over, or control of, educators at Bureau  
2       funded schools or the authority to issue management  
3       decisions.

4       “(e) DISCHARGE AND CONDITIONS OF EMPLOYMENT  
5 OF EDUCATORS.—

6               “(1) REGULATIONS.—In prescribing regulations  
7       to govern the discharge and conditions of employ-  
8       ment of educators, the Secretary shall require—

9                       “(A) that procedures be established for the  
10       rapid and equitable resolution of grievances of  
11       educators;

12                      “(B) that no educator may be discharged  
13       without notice of the reasons therefore and op-  
14       portunity for a hearing under procedures that  
15       comport with the requirements of due process;  
16       and

17                      “(C) that educators employed in Bureau  
18       schools be notified 30 days prior to the end of  
19       the school year whether their employment con-  
20       tract will be renewed for the following year.

21               “(2) PROCEDURES FOR DISCHARGE.—The su-  
22       pervisor of a Bureau school may discharge (subject  
23       to procedures established under paragraph (1)(B))  
24       for cause (as determined under regulations pre-  
25       scribed by the Secretary) any educator employed in

1 such school. Upon giving notice of proposed dis-  
2 charge to an educator, the supervisor involved shall  
3 immediately notify the local school board for the  
4 school of such action. A determination by the local  
5 school board that such educator shall not be dis-  
6 charged shall be followed by the supervisor. The su-  
7 pervisor shall have the right to appeal such action  
8 to the education line officer of the appropriate agen-  
9 cy office of the Bureau. Upon such an appeal, the  
10 agency education line officer may, for good cause  
11 and in writing to the local school board, overturn the  
12 determination of the local school board with respect  
13 to the employment of such individual.

14 “(3) RECOMMENDATIONS OF SCHOOL BOARDS  
15 FOR DISCHARGE.—Each local school board for a Bu-  
16 reau school shall have the right—

17 “(A) to recommend to the supervisor of  
18 such school that an educator employed in the  
19 school be discharged; and

20 “(B) to recommend to the education line  
21 officer of the appropriate agency office of the  
22 Bureau and to the Director of the Office, that  
23 the supervisor of the school be discharged.

24 “(f) APPLICABILITY OF INDIAN PREFERENCE  
25 LAWS.—

1           “(1) IN GENERAL.—Notwithstanding any provi-  
2           sion of the Indian preference laws, such laws shall  
3           not apply in the case of any personnel action under  
4           this section respecting an applicant or employee not  
5           entitled to Indian preference if each tribal organiza-  
6           tion concerned grants a written waiver of the appli-  
7           cation of such laws with respect to such personnel  
8           action and states that such waiver is necessary. This  
9           paragraph shall not relieve the Bureau’s responsi-  
10          bility to issue timely and adequate announcements  
11          and advertisements concerning any such personnel  
12          action if such action is intended to fill a vacancy (no  
13          matter how such vacancy is created).

14           “(2) TRIBAL ORGANIZATION DEFINED.—For  
15          purposes of this subsection, the term ‘tribal organi-  
16          zation’ means—

17                   “(A) the recognized governing body of any  
18                   Indian tribe, band, nation, pueblo, or other or-  
19                   ganized community, including a Native village  
20                   (as defined in section 3(c) of the Alaska Native  
21                   Claims Settlement Act); or

22                   “(B) in connection with any personnel ac-  
23                   tion referred to in this subsection, any local  
24                   school board as defined in section 1141 which  
25                   has been delegated by such governing body the

1 authority to grant a waiver under this sub-  
2 section with respect to personnel action.

3 “(3) INDIAN PREFERENCE LAW DEFINED.—The  
4 term ‘Indian preference laws’ means section 12 of  
5 the Act of June 18, 1934, or any other provision of  
6 law granting a preference to Indians in promotions  
7 and other personnel actions. Such term shall not in-  
8 clude section 7(b) of the Indian Self-Determination  
9 and Education Assistance Act.

10 “(g) COMPENSATION OR ANNUAL SALARY.—

11 “(1) IN GENERAL.—(A) Except as otherwise  
12 provided in this section, the Secretary shall fix the  
13 basic compensation for educators and education po-  
14 sitions at rates in effect under the General Schedule  
15 for individuals with comparable qualifications, and  
16 holding comparable positions, to whom chapter 51 of  
17 title 5, United States Code, is applicable or on the  
18 basis of the Federal Wage System schedule in effect  
19 for the locality, and for the comparable positions,  
20 the rates of compensation in effect for the senior ex-  
21 ecutive service.

22 “(B) The Secretary shall establish the rate of  
23 basic compensation, or annual salary rates, for the  
24 positions of teachers and counselors (including dor-  
25 mitory counselors and home-living counselors) at the

1 rates of basic compensation applicable (on the date  
2 of the enactment of the No Child Left Behind Act  
3 of 2001 and thereafter) to comparable positions in  
4 the overseas schools under the Defense Department  
5 Overseas Teachers Pay Act. The Secretary shall  
6 allow the local school boards authority to implement  
7 only the aspects of the Defense Department Over-  
8 seas Teacher pay provisions that are considered es-  
9 sential for recruitment and retention. Implementa-  
10 tion of such provisions shall not be construed to re-  
11 quire the implementation of the Act in its entirety.

12 “(C)(i) Beginning with the fiscal year following  
13 the date of the enactment of the No Child Left Be-  
14 hind Act of 2001, each school board may set the  
15 rate of compensation or annual salary rate for teach-  
16 ers and counselors (including academic counselors)  
17 who are new hires at the school and who have not  
18 worked at the school on the date of implementation  
19 of this provision, at rates consistent with the rates  
20 paid for individuals in the same positions, with the  
21 same tenure and training, in any other school within  
22 whose boundaries the Bureau school lies. In in-  
23 stances where the adoption of such rates cause a re-  
24 duction in the payment of compensation from that  
25 which was in effect for the fiscal year following the



1 date of the enactment of the No Child Left Behind  
2 Act of 2001, the new rate may be applied to the  
3 compensation of employees of the school who worked  
4 at the school on of the date of the enactment of that  
5 Act by applying those rates to each contract renewal  
6 such that the reduction takes effect in three equal  
7 installments. Where adoption of such rates lead to  
8 an increase in the payment of compensation from  
9 that which was in effect for the fiscal year following  
10 the date of the enactment of the No Child Left Be-  
11 hind Act of 2001, the school board may make such  
12 rates applicable at the next contract renewal such  
13 that either—

14 “(I) the increase occurs in its entirety; or

15 “(II) the increase is applied in three equal  
16 installments.

17 “(ii) The establishment of rates of basic com-  
18 pensation and annual salary rates under subpara-  
19 graphs (B) and (C) shall not preclude the use of  
20 regulations and procedures used by the Bureau prior  
21 to April 28, 1988, in making determinations regard-  
22 ing promotions and advancements through levels of  
23 pay that are based on the merit, education, experi-  
24 ence, or tenure of the educator.

1           “(D) The establishment of rates of basic com-  
2           pensation and annual salary rates under subpara-  
3           graphs (B) and (C) shall not affect the continued  
4           employment or compensation of an educator who  
5           was employed in an education position on October  
6           31, 1979, and who did not make an election under  
7           subsection (p) is in effect on January 1, 1990.

8           “(2) POST-DIFFERENTIAL RATES.—(A) The  
9           Secretary may pay a post-differential rate not to ex-  
10          ceed 25 percent of the rate of basic compensation,  
11          on the basis of conditions of environment or work  
12          which warrant additional pay as a recruitment and  
13          retention incentive.

14          “(B)(i) Upon the request of the supervisor and  
15          the local school board of a Bureau school, the Sec-  
16          retary shall grant the supervisor of the school au-  
17          thorization to provide one or more post-differentials  
18          under subparagraph (A) unless the Secretary deter-  
19          mines for clear and convincing reasons (and advises  
20          the board in writing of those reasons) that certain  
21          of the requested post-differentials should be dis-  
22          approved or decreased because there is no disparity  
23          of compensation for the involved employees or posi-  
24          tions in the Bureau school, as compared with the  
25          nearest public school, that is either—

1           “(I) at least 5 percent; or

2           “(II) less than 5 percent and affects the  
3 recruitment or retention of employees at the  
4 school.

5           “(ii) A request under clause (i) shall be deemed  
6 granted at the end of the 60th day after the request  
7 is received in the Central Office of the Bureau un-  
8 less before that time the request is approved, ap-  
9 proved with modification, or disapproved by the Sec-  
10 retary.

11           “(iii) The Secretary or the supervisor of a Bu-  
12 reau school may discontinue or decrease a post-dif-  
13 ferential authorized under this subparagraph at the  
14 beginning of a school year if—

15           “(I) the local school board requests that  
16 such differential be discontinued or decreased;  
17 or

18           “(II) the Secretary or the supervisor deter-  
19 mines for clear and convincing reasons (and ad-  
20 vises the board in writing of those reasons) that  
21 there is no disparity of compensation that  
22 would affect the recruitment or retention of em-  
23 ployees at the school after the differential is  
24 discontinued or decreased.

1           “(iv) On or before February 1 of each year, the  
2           Secretary shall submit to Congress a report describ-  
3           ing the requests and grants of authority under this  
4           subparagraph during the previous year and listing  
5           the positions contracted under those grants of au-  
6           thority.

7           “(h) LIQUIDATION OF REMAINING LEAVE UPON  
8           TERMINATION.—Upon termination of employment with  
9           the Bureau, any annual leave remaining to the credit of  
10          an individual within the purview of this section shall be  
11          liquidated in accordance with sections 5551(a) and 6306  
12          of title 5, United States Code, except that leave earned  
13          or accrued under regulations prescribed pursuant to sub-  
14          section (b)(10) of this section shall not be so liquidated.

15          “(i) TRANSFER OF REMAINING SICK LEAVE UPON  
16          TRANSFER, PROMOTION, OR REEMPLOYMENT.—In the  
17          case of any educator who is transferred, promoted, or re-  
18          appointed, without break in service, to a position in the  
19          Federal Government under a different leave system, any  
20          remaining leave to the credit of such person earned or  
21          credited under the regulations prescribed pursuant to sub-  
22          section (b)(10) shall be transferred to such person’s credit  
23          in the employing agency on an adjusted basis in accord-  
24          ance with regulations which shall be prescribed by the Of-  
25          fice of Personnel Management.

1           “(j) INELIGIBILITY FOR EMPLOYMENT OF VOLUN-  
2 TARIPLY TERMINATED EDUCATORS.—An educator who vol-  
3 untarily terminates employment with the Bureau before  
4 the expiration of the existing employment contract be-  
5 tween such educator and the Bureau shall not be eligible  
6 to be employed in another education position in the Bu-  
7 reau during the remainder of the term of such contract.

8           “(k) DUAL COMPENSATION.—In the case of any edu-  
9 cator employed in an education position described in sub-  
10 section (l)(1)(A) who—

11                   “(1) is employed at the close of a school year;

12                   “(2) agrees in writing to serve in such position  
13 for the next school year; and

14                   “(3) is employed in another position during the  
15 recess period immediately preceding such next school  
16 year, or during such recess period receives additional  
17 compensation referred to in section 5533 of title 5,  
18 United States Code, relating to dual compensation,  
19 shall not apply to such educator by reason of any such  
20 employment during a recess period for any receipt of addi-  
21 tional compensation.

22           “(l) VOLUNTARY SERVICES.—Notwithstanding sec-  
23 tion 1342 of title 31, United States Code, the Secretary  
24 may, subject to the approval of the local school board con-  
25 cerned, accept voluntary services on behalf of Bureau

1 schools. Nothing in this part shall be construed to require  
2 Federal employees to work without compensation or to  
3 allow the use of volunteer services to displace or replace  
4 Federal employees. An individual providing volunteer serv-  
5 ices under this section is a Federal employee only for pur-  
6 poses of chapter 81 of title 5, United States Code, and  
7 chapter 171 of title 28, United States Code.

8 “(m) PRORATION OF PAY.—

9 “(1) ELECTION OF EMPLOYEE.—Notwith-  
10 standing any other provision of law, including laws  
11 relating to dual compensation, the Secretary, at the  
12 election of the employee, shall prorate the salary of  
13 an employee employed in an education position for  
14 the academic school year over the entire 12-month  
15 period. Each educator employed for the academic  
16 school year shall annually elect to be paid on a 12-  
17 month basis or for those months while school is in  
18 session. No educator shall suffer a loss of pay or  
19 benefits, including benefits under unemployment or  
20 other Federal or federally assisted programs, be-  
21 cause of such election.

22 “(2) CHANGE OF ELECTION.—During the  
23 course of such year the employee may change elec-  
24 tion once.

1           “(3) LUMP SUM PAYMENT.—That portion of  
2 the employee’s pay which would be paid between  
3 academic school years may be paid in a lump sum  
4 at the election of the employee.

5           “(4) DEFINITIONS.—For purposes of this sub-  
6 section, the terms ‘educator’ and ‘education position’  
7 have the meanings contained in paragraphs (1) and  
8 (2) of subsection (o). This subsection applies to  
9 those individuals employed under the provisions of  
10 section 1132 of this title or title 5, United States  
11 Code.

12           “(n) EXTRACURRICULAR ACTIVITIES.—

13           “(1) STIPEND.—Notwithstanding any other  
14 provision of law, the Secretary may provide, for each  
15 Bureau area, a stipend in lieu of overtime premium  
16 pay or compensatory time off. Any employee of the  
17 Bureau who performs additional activities to provide  
18 services to students or otherwise support the school’s  
19 academic and social programs may elect to be com-  
20 pensated for all such work on the basis of the sti-  
21 pend. Such stipend shall be paid as a supplement to  
22 the employee’s base pay.

23           “(2) ELECTION NOT TO RECEIVE STIPEND.—If  
24 an employee elects not to be compensated through  
25 the stipend established by this subsection, the appro-

1        appropriate provisions of title 5, United States Code, shall  
2        apply.

3            “(3) APPLICABILITY OF SUBSECTION.—This  
4        subsection applies to all Bureau employees, whether  
5        employed under section 1132 of this title or title 5,  
6        United States Code.

7            “(o) DEFINITIONS.—For the purpose of this  
8        section—

9            “(1) EDUCATION POSITION.—The term ‘edu-  
10        cation position’ means a position in the Bureau the  
11        duties and responsibilities of which—

12            “(A) are performed on a school-year basis  
13        principally in a Bureau school and involve—

14            “(i) classroom or other instruction or  
15        the supervision or direction of classroom or  
16        other instruction;

17            “(ii) any activity (other than teach-  
18        ing) which requires academic credits in  
19        educational theory and practice equal to  
20        the academic credits in educational theory  
21        and practice required for a bachelor’s de-  
22        gree in education from an accredited insti-  
23        tution of higher education;

24            “(iii) any activity in or related to the  
25        field of education notwithstanding that



1 academic credits in educational theory and  
2 practice are not a formal requirement for  
3 the conduct of such activity; or

4 “(iv) support services at, or associated  
5 with, the site of the school; or

6 “(B) are performed at the agency level of  
7 the Bureau and involve the implementation of  
8 education-related programs other than the posi-  
9 tion for agency superintendent for education.

10 “(2) EDUCATOR.—The term ‘educator’ means  
11 an individual whose services are required, or who is  
12 employed, in an education position.

13 “(p) COVERED INDIVIDUALS; ELECTION.—This sec-  
14 tion shall apply with respect to any educator hired after  
15 November 1, 1979 (and to any educator who elected for  
16 coverage under that provision after November 1, 1979)  
17 and to the position in which such individual is employed.  
18 The enactment of this section shall not affect the contin-  
19 ued employment of an individual employed on October 31,  
20 1979 in an education position, or such person’s right to  
21 receive the compensation attached to such position.

22 **“SEC. 1133. COMPUTERIZED MANAGEMENT INFORMATION**  
23 **SYSTEM.**

24 “(a) ESTABLISHMENT OF SYSTEM.—Not later than  
25 July 1, 2003, the Secretary shall establish within the Of-

1 fice, a computerized management information system,  
2 which shall provide processing and information to the Of-  
3 fice. The information provided shall include information  
4 regarding—

5           “(1) student enrollment;

6           “(2) curriculum;

7           “(3) staffing;

8           “(4) facilities;

9           “(5) community demographics;

10          “(6) student assessment information;

11          “(7) information on the administrative and pro-  
12          gram costs attributable to each Bureau program, di-  
13          vided into discreet elements;

14          “(8) relevant reports;

15          “(9) personnel records;

16          “(10) finance and payroll; and

17          “(11) such other items as the Secretary deems  
18          appropriate.

19          “(b) IMPLEMENTATION OF SYSTEM.—Not later than  
20          July 1, 2004, the Secretary shall complete implementation  
21          of such a system at each field office and Bureau funded  
22          school.

1 **“SEC. 1134. UNIFORM EDUCATION PROCEDURES AND PRAC-**  
2 **TICES.**

3 “The Secretary shall cause the various divisions of  
4 the Bureau to formulate uniform procedures and practices  
5 with respect to such concerns of those divisions as relate  
6 to education, and shall report such practices and proce-  
7 dures to the Congress.

8 **“SEC. 1135. RECRUITMENT OF INDIAN EDUCATORS.**

9 “The Secretary shall institute a policy for the recruit-  
10 ment of qualified Indian educators and a detailed plan to  
11 promote employees from within the Bureau. Such plan  
12 shall include opportunities for acquiring work experience  
13 prior to actual work assignment.

14 **“SEC. 1136. BIENNIAL REPORT; AUDITS.**

15 “(a) BIENNIAL REPORTS.—The Secretary shall sub-  
16 mit to each appropriate committee of Congress, all Bureau  
17 funded schools, and the tribal governing bodies of such  
18 schools, a detailed biennial report on the state of education  
19 within the Bureau and any problems encountered in In-  
20 dian education during the 2-year period covered by the  
21 report. Such report shall contain suggestions for the im-  
22 provement of the Bureau educational system and for in-  
23 creasing tribal or local Indian control of such system. Such  
24 report shall also include the current status of tribally con-  
25 trolled community colleges. The annual budget submission  
26 for the Bureau’s education programs shall include—

1           “(1) information on the funds provided to pre-  
2           viously private schools under section 208 of the In-  
3           dian Self-Determination and Education Assistance  
4           Act, and recommendations with respect to the future  
5           use of such funds;

6           “(2) the needs and costs of operations and  
7           maintenance of tribally controlled community col-  
8           leges eligible for assistance under the Tribally Con-  
9           trolled Community College Assistance Act of 1978  
10          and recommendations with respect to meeting such  
11          needs and costs; and

12          “(3) the plans required by sections 1121 (g),  
13          1122(e), and 1125(b).

14          “(b) FINANCIAL AND COMPLIANCE AUDITS.—The  
15          Inspector General of the Department of the Interior shall  
16          establish a system to ensure that financial and compliance  
17          audits are conducted of each Bureau operated school at  
18          least once in every 3 years. Audits of Bureau schools shall  
19          be based upon the extent to which such school has com-  
20          plied with its local financial plan under section 1130.

21          **“SEC. 1137. RIGHTS OF INDIAN STUDENTS.**

22          ““The Secretary shall prescribe such rules and regula-  
23          tions as are necessary to ensure the constitutional and civil  
24          rights of Indian students attending Bureau funded  
25          schools, including such students’ right to privacy under

1 the laws of the United States, such students' right to free-  
2 dom of religion and expression, and such students' right  
3 to due process in connection with disciplinary actions, sus-  
4 pensions, and expulsions.

5 **“SEC. 1138. REGULATIONS.**

6       “(a) IN GENERAL.—The Secretary is authorized to  
7 issue only such regulations as are necessary to ensure  
8 compliance with the specific provision of this Act. The Sec-  
9 retary shall publish proposed regulations in the Federal  
10 Register, shall provide a period of not less than 90 days  
11 for public comment thereon, and shall place in parentheses  
12 after each regulatory section the citation to any statutory  
13 provision providing authority to promulgate such regu-  
14 latory provision.

15       “(b) MISCELLANEOUS.—

16           “(1) CONSTRUCTION.—The provisions of this  
17 Act shall supersede any conflicting provisions of law  
18 (including any conflicting regulations) in effect on  
19 the day before the date of the enactment of this Act  
20 and the Secretary is authorized to repeal any regula-  
21 tion inconsistent with the provisions of this Act.

22           “(2) LEGAL AUTHORITY TO BE STATED.—Reg-  
23 ulations issued to implement this Act shall contain,  
24 immediately following each substantive provision of  
25 such regulations, citations to the particular section

1 or sections of statutory law or other legal authority  
2 upon which provision is based.

3 **“SEC. 1138A. REGIONAL MEETINGS AND NEGOTIATED**  
4 **RULEMAKING.**

5 “(a) MEETINGS.—

6 “(1) IN GENERAL.—The Secretary shall obtain  
7 tribal involvement in the development of proposed  
8 regulations under this part and the Tribally Con-  
9 trolled Schools Act of 1988. The Secretary shall ob-  
10 tain the advice of and recommendations from rep-  
11 resentatives of Indian tribes with Bureau funded  
12 schools on their reservations, Indian tribes whose  
13 children attend Bureau funded off-reservation board-  
14 ing schools, school boards, administrators or employ-  
15 ees of Bureau funded schools, and parents and  
16 teachers of students enrolled in Bureau funded  
17 schools.

18 “(2) ISSUES.—The Secretary shall provide for a  
19 comprehensive discussion and exchange of informa-  
20 tion concerning the implementation of this part and  
21 the Tribally Controlled Schools Act of 1988 through  
22 such mechanisms as regional meetings and electronic  
23 exchanges of information. The Secretary shall take  
24 into account the information received through such  
25 mechanisms in the development of proposed regula-

1 tions and shall publish a summary of such informa-  
2 tion in the Federal Register together with such pro-  
3 posed regulations.

4 “(b) DRAFT REGULATIONS.—

5 “(1) IN GENERAL.—After obtaining the advice  
6 and recommendations described in subsection (a)(1)  
7 and before publishing proposed regulations in the  
8 Federal Register, the Secretary shall prepare draft  
9 regulations implementing this part and the Tribally  
10 Controlled Schools Act of 1988 and shall submit  
11 such regulations to a negotiated rulemaking process.  
12 Participants in the negotiations process shall be cho-  
13 sen by the Secretary from individuals nominated by  
14 the entities described in subsection (a)(1). To the  
15 maximum extent possible, the Secretary shall ensure  
16 that the tribal representative membership chosen  
17 pursuant to the preceding sentence reflects the pro-  
18 portionate share of students from tribes served by  
19 the Bureau funded school system. The negotiation  
20 process shall be conducted in a timely manner in  
21 order that the final regulations may issued by the  
22 Secretary no later than 18 months after the enact-  
23 ment of this section.

24 “(2) NOTIFICATION TO CONGRESS.—If draft  
25 regulations implementing this part and the Tribally

1 Controlled Schools Act of 1988 are not issued in  
2 final form by the deadline provided in paragraph  
3 (1), the Secretary shall notify the appropriate com-  
4 mittees of Congress of which draft regulations were  
5 not issued in final form by the deadline and the rea-  
6 son such final regulations were not issued.

7 “(3) EXPANSION OF NEGOTIATED RULE-  
8 MAKING.—All regulations pertaining to this part and  
9 the Tribally Controlled Schools Act of 1988 that are  
10 promulgated after the date of the enactment of this  
11 subsection shall be subject to a negotiated rule-  
12 making (including the selection of the regulations to  
13 be negotiated), unless the Secretary determines that  
14 applying such a requirement with respect to given  
15 regulations is impracticable, unnecessary, or con-  
16 trary to the public interest (within the meaning of  
17 section 553(b)(3)(B) of title 5), and publishes the  
18 basis for such determination in the Federal Register  
19 at the same time as the proposed regulations in  
20 question are first published. All published proposed  
21 regulations shall conform to agreements resulting  
22 from such negotiated rulemaking unless the Sec-  
23 retary reopens the negotiated rulemaking process or  
24 provides a written explanation to the participants in  
25 that process why the Secretary has decided to depart



1 from such agreements. Such negotiated rulemaking  
2 shall be conducted in accordance with the provisions  
3 of subsection (a), and the Secretary shall ensure  
4 that a clear and reliable record of agreements  
5 reached during the negotiation process is main-  
6 tained.

7 “(c) APPLICABILITY OF FEDERAL ADVISORY COM-  
8 MITTEE ACT.—The Federal Advisory Committee Act shall  
9 apply to activities carried out under this section.

10 **“SEC. 1139. EARLY CHILDHOOD DEVELOPMENT PROGRAM.**

11 “(a) IN GENERAL.—The Secretary shall provide  
12 grants to tribes, tribal organizations, and consortia of  
13 tribes and tribal organizations to fund early childhood de-  
14 velopment programs that are operated by such tribes, or-  
15 ganizations, or consortia.

16 “(b) AMOUNT OF GRANTS.—

17 “(1) IN GENERAL.—The total amount of the  
18 grants provided under subsection (a) with respect to  
19 each tribe, tribal organization, or consortium of  
20 tribes or tribal organizations for each fiscal year  
21 shall be equal to the amount which bears the same  
22 relationship to the total amount appropriated under  
23 the authority of subsection (g) for such fiscal year  
24 (less amounts provided under subsection (f)) as—

1           “(A) the total number of children under 6  
2 years of age who are members of—

3           “(i) such tribe;

4           “(ii) the tribe that authorized such  
5 tribal organization; or

6           “(iii) any tribe that—

7           “(I) is a member of such consor-  
8 tium; or

9           “(II) authorizes any tribal orga-  
10 nization that is a member of such con-  
11 sortium; bears to

12           “(B) the total number of all children under  
13 6 years of age who are members of any tribe  
14 that—

15           “(i) is eligible to receive funds under  
16 subsection (a);

17           “(ii) is a member of a consortium that  
18 is eligible to receive such funds; or

19           “(iii) authorizes a tribal organization  
20 that is eligible to receive such funds.

21           “(2) LIMITATION.—No grant may be provided  
22 under subsection (a)—

23           “(A) to any tribe that has less than 500  
24 members;

1           “(B) to any tribal organization which is  
2 authorized—

3           “(i) by only one tribe that has less  
4 than 500 members; or

5           “(ii) by one or more tribes that have  
6 a combined total membership of less than  
7 500 members; or

8           “(C) to any consortium composed of tribes,  
9 or tribal organizations authorized by tribes,  
10 that have a combined total tribal membership of  
11 less than 500 members.

12       “(c) APPLICATION.

13           “(1) IN GENERAL.—A grant may be provided  
14 under subsection (a) to a tribe, tribal organization,  
15 or consortia of tribes and tribal organizations only  
16 if the tribe, organization, or consortia submits to the  
17 Secretary an application for the grant at such time  
18 and in such form as the Secretary shall prescribe.

19           “(2) CONTENTS.—Applications submitted under  
20 paragraph (1) shall set forth the early childhood de-  
21 velopment program that the applicant desires to op-  
22 erate.

23       “(d) REQUIREMENT OF PROGRAMS FUNDED.—The  
24 early childhood development programs that are funded by  
25 grants provided under subsection (a)—

1           “(1) shall coordinate existing programs and  
2           may provide services that meet identified needs of  
3           parents and children under 6 years of age which are  
4           not being met by existing programs, including—

5                   “(A) prenatal care;

6                   “(B) nutrition education;

7                   “(C) health education and screening;

8                   “(D) family literacy services;

9                   “(E) educational testing; and

10                  “(F) other educational services;

11                 “(2) may include instruction in the language,  
12                 art, and culture of the tribe; and

13                 “(3) shall provide for periodic assessment of the  
14                 program.

15                 “(e) COORDINATION OF FAMILY LITERACY PRO-  
16                 GRAMS.—Family literacy programs operated under this  
17                 section and other family literacy programs operated by the  
18                 Bureau of Indian Affairs shall be coordinated with family  
19                 literacy programs for Indian children under part B of title  
20                 I of the Elementary and Secondary Education Act of 1965  
21                 in order to avoid duplication and to encourage the dissemi-  
22                 nation of information on quality family literacy programs  
23                 serving Indians.

24                 “(f) ADMINISTRATIVE COSTS.—The Secretary shall,  
25                 out of funds appropriated under subsection (g), include

1 in the grants provided under subsection (a) amounts for  
2 administrative costs incurred by the tribe, tribal organiza-  
3 tion, or consortium of tribes in establishing and maintain-  
4 ing the early childhood development program.

5 “(g) AUTHORIZATION OF APPROPRIATIONS.—For the  
6 purpose of carrying out the provisions of this section,  
7 there are authorized to be appropriated \$10,000,000 for  
8 fiscal year 2002 and such sums as may be necessary for  
9 each of the fiscal years 2003, 2004, 2005, and 2006.

10 **“SEC. 1140. TRIBAL DEPARTMENTS OR DIVISIONS OF EDU-**  
11 **CATION.**

12 “(a) IN GENERAL.—Subject to the availability of ap-  
13 propriations, the Secretary shall provide grants and tech-  
14 nical assistance to tribes for the development and oper-  
15 ation of tribal departments of education for the purpose  
16 of planning and coordinating all educational programs of  
17 the tribe.

18 “(b) GRANTS.—Grants provided under this section  
19 shall—

20 “(1) be based on applications from the gov-  
21 erning body of the tribe;

22 “(2) reflect factors such as geographic and pop-  
23 ulation diversity;

24 “(3) facilitate tribal control in all matters relat-  
25 ing to the education of Indian children on Indian

1       reservations (and on former Indian reservations in  
2       Oklahoma);

3           “(4) provide for the development of coordinated  
4       educational programs on Indian reservations (and on  
5       former Indian reservations in Oklahoma) (including  
6       all preschool, elementary, secondary, and higher or  
7       vocational educational programs funded by tribal,  
8       Federal, or other sources) by encouraging tribal ad-  
9       ministrative support of all Bureau funded edu-  
10      cational programs as well as encouraging tribal co-  
11      operation and coordination with all educational pro-  
12      grams receiving financial support from State agen-  
13      cies, other Federal agencies, or private entities;

14          “(5) provide for the development and enforce-  
15      ment of tribal educational codes, including tribal  
16      educational policies and tribal standards applicable  
17      to curriculum, personnel, students, facilities, and  
18      support programs; and

19          “(6) otherwise comply with regulations for  
20      grants under section 103(a) of the Indian Self-De-  
21      termination and Educational Assistance Act that are  
22      in effect on the date that application for such grants  
23      are made.

24      “(c) PRIORITIES.—

1           “(1) IN GENERAL.—In making grants under  
2 this section, the Secretary shall give priority to any  
3 application that—

4           “(A) includes assurances from the majority  
5 of Bureau funded schools located within the  
6 boundaries of the reservation of the applicant  
7 that the tribal department of education to be  
8 funded under this section will provide coordi-  
9 nating services and technical assistance to all of  
10 such schools, including the submission to each  
11 applicable agency of a unified application for  
12 funding for all of such schools which provides  
13 that—

14           “(i) no administrative costs other  
15 than those attributable to the individual  
16 programs of such schools will be associated  
17 with the unified application; and

18           “(ii) the distribution of all funds re-  
19 ceived under the unified application will be  
20 equal to the amount of funds provided by  
21 the applicable agency to which each of  
22 such schools is entitled under law;

23           “(B) includes assurances from the tribal  
24 governing body that the tribal department of  
25 education funded under this section will admin-

1           ister all contracts or grants (except those cov-  
2           ered by the other provisions of this title and the  
3           Tribally Controlled Community College Assist-  
4           ance Act of 1978) for education programs ad-  
5           ministered by the tribe and will coordinate all  
6           of the programs to the greatest extent possible;

7           “(C) includes assurances for the moni-  
8           toring and auditing by or through the tribal de-  
9           partment of education of all education pro-  
10          grams for which funds are provided by contract  
11          or grant to ensure that the programs meet the  
12          requirements of law; and

13          “(D) provides a plan and schedule for—

14                 “(i) the assumption over the term of  
15                 the grant by the tribal department of edu-  
16                 cation of all assets and functions of the  
17                 Bureau agency office associated with the  
18                 tribe, insofar as those responsibilities re-  
19                 late to education; and

20                 “(ii) the termination by the Bureau of  
21                 such operations and office at the time of  
22                 such assumption,

23          except that when mutually agreeable between  
24          the tribal governing body and the Assistant  
25          Secretary, the period in which such assumption



1 is to occur may be modified, reduced, or ex-  
2 tended after the initial year of the grant.

3 “(2) TIME PERIOD OF GRANT.—Subject to the  
4 availability of appropriated funds, grants provided  
5 under this section shall be provided for a period of  
6 3 years and the grant may, if performance by the  
7 grantee is satisfactory to the Secretary, be renewed  
8 for additional 3-year terms.

9 “(d) TERMS, CONDITIONS, OR REQUIREMENTS.—The  
10 Secretary shall not impose any terms, conditions, or re-  
11 quirements on the provision of grants under this section  
12 that are not specified in this section.

13 “(e) AUTHORIZATION OF APPROPRIATIONS.—For the  
14 purpose of carrying out the provisions of this section,  
15 there are authorized to be appropriated \$2,000,000 for fis-  
16 cal year 2002 and such sums as may be necessary for each  
17 of the fiscal years 2003, 2004, 2005, and 2006.

18 **“SEC. 1141. DEFINITIONS.**

19 “For the purposes of this part, unless otherwise spec-  
20 ified:

21 “(1) AGENCY SCHOOL BOARD.—The term  
22 ‘agency school board’ means a body, the members of  
23 which are appointed by all of the school boards of  
24 the schools located within an agency, including  
25 schools operated under contract or grant, and the

1 number of such members shall be determined by the  
2 Secretary in consultation with the affected tribes, ex-  
3 cept that, in agencies serving a single school, the  
4 school board of such school shall fulfill these duties,  
5 and in agencies having schools or a school operated  
6 under contract or grant, one such member at least  
7 shall be from such a school.

8 “(2) BUREAU.—The term ‘Bureau’ means the  
9 Bureau of Indian Affairs of the Department of the  
10 Interior.

11 “(3) BUREAU FUNDED SCHOOL.—The term  
12 ‘Bureau funded school’ means—

13 “(A) a Bureau school;

14 “(B) a contract or grant school; or

15 “(C) a school for which assistance is pro-  
16 vided under the Tribally Controlled Schools Act  
17 of 1988.

18 “(4) BUREAU SCHOOL.—The term ‘Bureau  
19 school’ means a Bureau operated elementary or sec-  
20 ondary day or boarding school or a Bureau operated  
21 dormitory for students attending a school other than  
22 a Bureau school.

23 “(5) CONTRACT OR GRANT SCHOOL.—The term  
24 ‘contract or grant school’ means an elementary or  
25 secondary school or dormitory which receives finan-

1        cial assistance for its operation under a contract,  
2        grant or agreement with the Bureau under section  
3        102, 103(a), or 208 of the Indian Self-Determina-  
4        tion and Education Assistance Act, or under the  
5        Tribally Controlled Schools Act of 1988.

6            “(6) EDUCATION LINE OFFICER.—The term  
7        ‘education line officer’ means education personnel  
8        under the supervision of the Director, whether lo-  
9        cated in the central, area, or agency offices.

10           “(7) FAMILY LITERACY SERVICES.—The term  
11        ‘family literacy services’ has the meaning given that  
12        term in section 14101 of the Elementary and Sec-  
13        ondary Education Act of 1965 (20 U.S.C. 8801).

14           “(8) FINANCIAL PLAN.—The term ‘financial  
15        plan’ means a plan of services provided by each Bu-  
16        reau school.

17           “(9) INDIAN ORGANIZATION.—the term ‘Indian  
18        organization’ means any group, association, partner-  
19        ship, corporation, or other legal entity owned or con-  
20        trolled by a federally recognized Indian tribe or  
21        tribes, or a majority of whose members are members  
22        of federally recognized tribes.

23           “(10) LOCAL EDUCATIONAL AGENCY.—The  
24        term ‘local educational agency’ means a board of  
25        education or other legally constituted local school

1 authority having administrative control and direction  
2 of free public education in a county, township, inde-  
3 pendent, or other school district located within a  
4 State, and includes any State agency which directly  
5 operates and maintains facilities for providing free  
6 public education.

7 “(11) LOCAL SCHOOL BOARD.—The term ‘local  
8 school board’, when used with respect to a Bureau  
9 school, means a body chosen in accordance with the  
10 laws of the tribe to be served or, in the absence of  
11 such laws, elected by the parents of the Indian chil-  
12 dren attending the school, except that in schools  
13 serving a substantial number of students from dif-  
14 ferent tribes, the members shall be appointed by the  
15 governing bodies of the tribes affected, and the num-  
16 ber of such members shall be determined by the Sec-  
17 retary in consultation with the affected tribes.

18 “(12) OFFICE.—The term ‘Office’ means the  
19 Office of Indian Education Programs within the Bu-  
20 reau.

21 “(13) SECRETARY.—The term ‘Secretary’  
22 means the Secretary of the Interior.

23 “(14) SUPERVISOR.—The term ‘supervisor’  
24 means the individual in the position of ultimate au-  
25 thority at a Bureau school.

1           “(15) TRIBAL GOVERNING BODY.—The term  
2           ‘tribal governing body’ means, with respect to any  
3           school, the tribal governing body, or tribal governing  
4           bodies, that represent at least 90 percent of the stu-  
5           dents served by such school.

6           “(16) TRIBE.—The term ‘tribe’ means any In-  
7           dian tribe, band, nation, or other organized group or  
8           community, including any Alaska Native village or  
9           regional or village corporation as defined in or estab-  
10          lished pursuant to the Alaska Native Claims Settle-  
11          ment Act, which is recognized as eligible for the spe-  
12          cial programs and services provided by the United  
13          States to Indians because of their status as Indi-  
14          ans.”.

15 **SEC. 314. TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.**

16          Sections 5202 through 5212 of Public Law 100–297  
17 (25 U.S.C. 2501 et seq.) are amended to read as follows:

18 **“SEC. 5202. FINDINGS.**

19          “Congress, after careful review of the Federal Gov-  
20 ernment’s historical and special legal relationship with,  
21 and resulting responsibilities to, Indians, finds that—

22                 “(1) the Indian Self-Determination and Edu-  
23 cation Assistance Act, which was a product of the le-  
24 gitimate aspirations and a recognition of the inher-

1 ent authority of Indian nations, was and is a crucial  
2 positive step towards tribal and community control;

3 “(2) the Bureau of Indian Affairs’ administra-  
4 tion and domination of the contracting process  
5 under such Act has not provided the full opportunity  
6 to develop leadership skills crucial to the realization  
7 of self-government and has denied Indians an effec-  
8 tive voice in the planning and implementation of  
9 programs for the benefit of Indians which are re-  
10 sponsive to the true needs of Indian communities;

11 “(3) Indians will never surrender their desire to  
12 control their relationships both among themselves  
13 and with non-Indian governments, organizations,  
14 and persons;

15 “(4) true self-determination in any society of  
16 people is dependent upon an educational process  
17 which will ensure the development of qualified people  
18 to fulfill meaningful leadership roles;

19 “(5) the Federal administration of education  
20 for Indian children has not effected the desired level  
21 of educational achievement or created the diverse op-  
22 portunities and personal satisfaction that education  
23 can and should provide;

24 “(6) true local control requires the least pos-  
25 sible Federal interference; and

1           “(7) the time has come to enhance the concepts  
2           made manifest in the Indian Self-Determination and  
3           Education Assistance Act.

4   **“SEC. 5203. DECLARATION OF POLICY.**

5           “(a) RECOGNITION.—Congress recognizes the obliga-  
6           tion of the United States to respond to the strong expres-  
7           sion of the Indian people for self-determination by assur-  
8           ing maximum Indian participation in the direction of edu-  
9           cational services so as to render such services more re-  
10          sponsive to the needs and desires of those communities.

11          “(b) COMMITMENT.—Congress declares its commit-  
12          ment to the maintenance of the Federal Government’s  
13          unique and continuing trust relationship with and respon-  
14          sibility to the Indian people through the establishment of  
15          a meaningful Indian self-determination policy for edu-  
16          cation which will deter further perpetuation of Federal bu-  
17          reaucratic domination of programs.

18          “(c) NATIONAL GOAL.—Congress declares that a  
19          major national goal of the United States is to provide the  
20          resources, processes, and structure which will enable tribes  
21          and local communities to effect the quantity and quality  
22          of educational services and opportunities which will permit  
23          Indian children to compete and excel in the life areas of  
24          their choice and to achieve the measure of self-determina-  
25          tion essential to their social and economic well-being.

1       “(d) EDUCATIONAL NEEDS.—Congress affirms the  
2 reality of the special and unique educational needs of In-  
3 dian peoples, including the need for programs to meet the  
4 linguistic and cultural aspirations of Indian tribes and  
5 communities. These may best be met through a grant  
6 process.

7       “(e) FEDERAL RELATIONS.—Congress declares its  
8 commitment to these policies and its support, to the full  
9 extent of its responsibility, for Federal relations with the  
10 Indian Nations.

11       “(f) TERMINATION.—Congress hereby repudiates and  
12 rejects House Resolution 108 of the 83d Congress and any  
13 policy of unilateral termination of Federal relations with  
14 any Indian Nation.

15 **“SEC. 5204. GRANTS AUTHORIZED.**

16       “(a) IN GENERAL.—

17               “(1) ELIGIBILITY.—The Secretary shall provide  
18 grants to Indian tribes, and tribal organizations  
19 that—

20                       “(A) operate contract schools under title  
21 XI of the Education Amendments of 1978 and  
22 notify the Secretary of their election to operate  
23 the schools with assistance under this part  
24 rather than continuing as contract school;



1           “(B) operate other tribally controlled  
2 schools eligible for assistance under this part  
3 and submit applications (which are approved by  
4 their tribal governing bodies) to the Secretary  
5 for such grants; or

6           “(C) elect to assume operation of Bureau  
7 funded schools with the assistance under this  
8 part and submit applications (which are ap-  
9 proved by their tribal governing bodies) to the  
10 Secretary for such grants.

11           “(2) DEPOSIT OF FUNDS.—Grants provided  
12 under this part shall be deposited into the general  
13 operating fund of the tribally controlled school with  
14 respect to which the grant is made.

15           “(3) USE OF FUNDS.—(A) Except as otherwise  
16 provided in this paragraph, grants provided under  
17 this part shall be used to defray, at the discretion  
18 of the school board of the tribally controlled school  
19 with respect to which the grant is provided, any ex-  
20 penditures for education related activities for which  
21 any funds that compose the grant may be used  
22 under the laws described in section 5205(a), includ-  
23 ing, but not limited to, expenditures for—

1           “(i) school operations, academic, edu-  
2           cational, residential, guidance and counseling,  
3           and administrative purposes; and

4           “(ii) support services for the school, includ-  
5           ing transportation.

6           “(B) Grants provided under this part may, at  
7           the discretion of the school board of the tribally con-  
8           trolled school with respect to which such grant is  
9           provided, be used to defray operations and mainte-  
10          nance expenditures for the school if any funds for  
11          the operation and maintenance of the school are al-  
12          located to the school under the provisions of any of  
13          the laws described in section 5205(a).

14          “(b) LIMITATIONS.—

15                 “(1) ONE GRANT PER TRIBE OR ORGANIZATION  
16                 PER FISCAL YEAR.—Not more than one grant may  
17                 be provided under this part with respect to any In-  
18                 dian tribe or tribal organization for any fiscal year.

19                 “(2) NONSECTARIAN USE.—Funds provided  
20                 under any grant made under this part may not be  
21                 used in connection with religious worship or sec-  
22                 tarian instruction.

23                 “(3) ADMINISTRATIVE COSTS LIMITATION.—  
24                 Funds provided under any grant under this part  
25                 may not be expended for administrative costs (as de-

1        fined in section 1128(h)(1) of the Education Amend-  
2        ments of 1978) in excess of the amount generated  
3        for such costs under section 1128 of such Act.

4        “(c) LIMITATION ON TRANSFER OF FUNDS AMONG  
5        SCHOOLSITES.—

6                “(1) IN GENERAL.—In the case of a grantee  
7        that operates schools at more than one schoolsite,  
8        the grantee may expend not more than the lesser  
9        of—

10                “(A) 10 percent of the funds allocated for  
11        such schoolsite under section 1128 of the Edu-  
12        cation Amendments of 1978; or

13                “(B) \$400,000 of such funds, at any other  
14        schoolsite.

15                “(2) DEFINITION OF SCHOOLSITE.—For pur-  
16        poses of this subsection, the term ‘schoolsite’ means  
17        the physical location and the facilities of an elemen-  
18        tary or secondary educational or residential program  
19        operated by, or under contract or grant with, the  
20        Bureau for which a discreet student count is identi-  
21        fied under the funding formula established under  
22        section 1127 of the Education Amendments of 1978.

23        “(d) NO REQUIREMENT TO ACCEPT GRANTS.—  
24        Nothing in this part may be construed—

1           “(1) to require a tribe or tribal organization to  
2           apply for or accept; or

3           “(2) to allow any person to coerce any tribe or  
4           tribal organization to apply for, or accept,  
5 a grant under this part to plan, conduct, and administer  
6 all of, or any portion of, any Bureau program. Such appli-  
7 cations and the timing of such applications shall be strictly  
8 voluntary. Nothing in this part may be construed as allow-  
9 ing or requiring any grant with any entity other than the  
10 entity to which the grant is provided.

11       “(e) NO EFFECT ON FEDERAL RESPONSIBILITY.—  
12 Grants provided under this part shall not terminate, mod-  
13 ify, suspend, or reduce the responsibility of the Federal  
14 Government to provide a program.

15       “(f) RETROCESSION.—

16           “(1) IN GENERAL.—Whenever a tribal gov-  
17 erning body requests retrocession of any program for  
18 which assistance is provided under this part, such  
19 retrocession shall become effective upon a date speci-  
20 fied by the Secretary that is not later than 120 days  
21 after the date on which the tribal governing body re-  
22 quests the retrocession. A later date as may be spec-  
23 ified if mutually agreed upon by the Secretary and  
24 the tribal governing body. If such a program is  
25 retroceded, the Secretary shall provide to any Indian

1       tribe served by such program at least the same  
2       quantity and quality of services that would have  
3       been provided under such program at the level of  
4       funding provided under this part prior to the ret-  
5       rocession.

6               “(2) STATUS AFTER RETROCESSION.—The tribe  
7       requesting retrocession shall specify whether the ret-  
8       rocession is to status as a Bureau operated school  
9       or as a school operated under contract under title XI  
10      of the Education Amendments of 1978.

11              “(3) TRANSFER OF EQUIPMENT AND MATE-  
12      RIALS.—Except as otherwise determined by the Sec-  
13      retary, the tribe or tribal organization operating the  
14      program to be retroceded must transfer to the Sec-  
15      retary (or to the tribe or tribal organization which  
16      will operate the program as a contract school) the  
17      existing equipment and materials which were  
18      acquired—

19                      “(A) with assistance under this part; or

20                      “(B) upon assumption of operation of the  
21                      program under this part if the school was a Bu-  
22                      reau funded school under title XI of the Edu-  
23                      cation Amendments of 1978 before receiving as-  
24                      sistance under this part.

1       “(g) PROHIBITION OF TERMINATION FOR ADMINIS-  
2 TRATIVE CONVENIENCE.—Grants provided under this  
3 part may not be terminated, modified, suspended, or re-  
4 duced solely for the convenience of the administering agen-  
5 cy.

6 **“SEC. 5205. COMPOSITION OF GRANTS.**

7       “(a) IN GENERAL.—The grant provided under this  
8 part to an Indian tribe or tribal organization for any fiscal  
9 year shall consist of—

10           “(1) the total amount of funds allocated for  
11 such fiscal year under sections 1127 and 1128 of the  
12 Education Amendments of 1978 with respect to the  
13 tribally controlled schools eligible for assistance  
14 under this part which are operated by such Indian  
15 tribe or tribal organization, including, but not lim-  
16 ited to, funds provided under such sections, or under  
17 any other provision of law, for transportation costs;

18           “(2) to the extent requested by such Indian  
19 tribe or tribal organization, the total amount of  
20 funds provided from operations and maintenance ac-  
21 counts and, notwithstanding section 105 of the In-  
22 dian Self-Determination Act, or any other provision  
23 of law, other facilities accounts for such schools for  
24 such fiscal year (including but not limited to those

1 referenced under section 1126(d) of the Education  
2 Amendments of 1978 or any other law); and

3 “(3) the total amount of funds that are allo-  
4 cated to such schools for such fiscal year under—

5 “(A) title I of the Elementary and Sec-  
6 ondary Education Act of 1965;

7 “(B) the Individuals with Disabilities Edu-  
8 cation Act; and

9 “(C) any other Federal education law, that  
10 are allocated to such schools for such fiscal  
11 year.

12 “(b) SPECIAL RULES.—

13 “(1) IN GENERAL.—(A) Funds allocated to a  
14 tribally controlled school by reason of paragraph (1)  
15 or (2) of subsection (a) shall be subject to the provi-  
16 sions of this part and shall not be subject to any ad-  
17 ditional restriction, priority, or limitation that is im-  
18 posed by the Bureau with respect to funds provided  
19 under—

20 “(i) title I of the Elementary and Sec-  
21 ondary Education Act of 1965;

22 “(ii) the Individuals with Disabilities Edu-  
23 cation Act; or

24 “(iii) any Federal education law other than  
25 title XI of the Education Amendments of 1978.

1           “(B) Indian tribes and tribal organizations to  
2           which grants are provided under this part, and trib-  
3           ally controlled schools for which such grants are pro-  
4           vided, shall not be subject to any requirements, obli-  
5           gations, restrictions, or limitations imposed by the  
6           Bureau that would otherwise apply solely by reason  
7           of the receipt of funds provided under any law re-  
8           ferred to in clause (i), (ii), or (iii) of subparagraph  
9           (A).

10           “(2) SCHOOLS CONSIDERED CONTRACT  
11           SCHOOLS.—Tribally controlled schools for which  
12           grants are provided under this part shall be treated  
13           as contract schools for the purposes of allocation of  
14           funds under sections 1126(d), 1127, and 1128 of  
15           the Education Amendments of 1978.

16           “(3) SCHOOLS CONSIDERED BUREAU  
17           SCHOOLS.—Tribally controlled schools for which  
18           grants are provided under this chapter shall be  
19           treated as Bureau schools for the purposes of alloca-  
20           tion of funds provided under—

21                   “(A) title I of the Elementary and Sec-  
22                   ondary Education Act of 1965;

23                   “(B) the Individuals with Disabilities Edu-  
24                   cation Act; and



1           “(C) any other Federal education law, that  
2           are distributed through the Bureau.

3           “(4) ACCOUNTS; USE OF CERTAIN FUNDS.—(A)  
4           Notwithstanding section 5204(a)(2), with respect to  
5           funds from facilities improvement and repair, alter-  
6           ation and renovation (major or minor), health and  
7           safety, or new construction accounts included in the  
8           grant under section 5204(a), the grantee shall main-  
9           tain a separate account for such funds. At the end  
10          of the period designated for the work covered by the  
11          funds received, the grantee shall submit to the Sec-  
12          retary a separate accounting of the work done and  
13          the funds expended to the Secretary. Funds received  
14          from these accounts may only be used for the pur-  
15          pose for which they were appropriated and for the  
16          work encompassed by the application or submission  
17          under which they were received.

18          “(B) Notwithstanding subparagraph (A), a  
19          school receiving a grant under this part for facilities  
20          improvement and repair may use such grant funds  
21          for new construction if the tribal government or  
22          other organization provides funding for the new con-  
23          struction equal to at least 25 percent of the total  
24          cost of such new construction.

1           “(C) Where the appropriations measure or the  
2 application submission does not stipulate a period  
3 for the work covered by the funds so designated, the  
4 Secretary and the grantee shall consult and deter-  
5 mine such a period prior to the transfer of the  
6 funds. A period so determined may be extended  
7 upon mutual agreement of the Secretary and the  
8 grantee.

9           “(5) ENFORCEMENT OF REQUEST TO INCLUDE  
10 FUNDS.—If the Secretary fails to carry out a re-  
11 quest made under subsection (a)(2) within 180 days  
12 of a request filed by an Indian tribe or tribal organi-  
13 zation to include in such tribe or organization’s  
14 grant the funds described in subsection (a)(2), the  
15 Secretary shall be deemed to have approved such re-  
16 quest and the Secretary shall immediately amend  
17 the grant accordingly. Such tribe or organization  
18 may enforce its rights under subsection (a)(2) and  
19 this paragraph, including any denial or failure to act  
20 on such tribe or organization’s request, pursuant to  
21 the disputes authority described in section 5209(e).

22 **“SEC. 5206. ELIGIBILITY FOR GRANTS.**

23           “(a) RULES.—

1           “(1) IN GENERAL.—A tribally controlled school  
2 is eligible for assistance under this part if the  
3 school—

4           “(A) on April 28, 1988, was a contract  
5 school under title XI of the Education Amend-  
6 ments of 1978 and the tribe or tribal organiza-  
7 tion operating the school submits to the Sec-  
8 retary a written notice of election to receive a  
9 grant under this part;

10           “(B) was a Bureau operated school under  
11 title XI of the Education Amendments of 1978  
12 and has met the requirements of subsection (b);

13           “(C) is a school for which the Bureau has  
14 not provided funds, but which has met the re-  
15 quirements of subsection (c); or

16           “(D) is a school with respect to which an  
17 election has been made under paragraph (2)  
18 and which has met the requirements of sub-  
19 section (b).

20           “(2) NEW SCHOOLS.—Any application which  
21 has been submitted under the Indian Self-Deter-  
22 mination and Education Assistance Act by an Indian  
23 tribe for a school which is not in operation on the  
24 date of the enactment of the No Child Left Behind  
25 Act of 2001 shall be reviewed under the guidelines

1 and regulations for applications submitted under the  
2 Indian Self-Determination and Education Assistance  
3 Act that were in effect at the time the application  
4 was submitted, unless the Indian tribe or tribal or-  
5 ganization elects to have the application reviewed  
6 under the provisions of subsection (b).

7 “(b) ADDITIONAL REQUIREMENTS FOR BUREAU  
8 FUNDED SCHOOLS AND CERTAIN ELECTING SCHOOLS.—

9 “(1) BUREAU FUNDED SCHOOLS.—A school  
10 that was a Bureau funded school under title XI of  
11 the Education Amendments of 1978 on the date of  
12 the enactment of the No Child Left Behind Act of  
13 2001, and any school with respect to which an elec-  
14 tion is made under subsection (a)(2), meets the re-  
15 quirements of this subsection if—

16 “(A) the Indian tribe or tribal organization  
17 that operates, or desires to operate, the school  
18 submits to the Secretary an application request-  
19 ing that the Secretary—

20 “(i) transfer operation of the school to  
21 the Indian tribe or tribal organization, if  
22 the Indian tribe or tribal organization is  
23 not already operating the school; and

1           “(ii) make a determination as to  
2           whether the school is eligible for assistance  
3           under this part; and

4           “(B) the Secretary makes a determination  
5           that the school is eligible for assistance under  
6           this part.

7           “(2) CERTAIN ELECTING SCHOOLS.—(A) By  
8           not later than the date that is 120 days after the  
9           date on which an application is submitted to the  
10          Secretary under paragraph (1)(A), the Secretary  
11          shall determine—

12           “(i) in the case of a school which is not  
13           being operated by the Indian tribe or tribal or-  
14           ganization, whether to transfer operation of the  
15           school to the Indian tribe or tribal organization;  
16           and

17           “(ii) whether the school is eligible for as-  
18           sistance under this part.

19           “(B) In considering applications submitted  
20          under paragraph (1)(A), the Secretary—

21           “(i) shall transfer operation of the school  
22           to the Indian tribe or tribal organization, if the  
23           tribe or tribal organization is not already oper-  
24           ating the school; and

1           “(ii) shall determine that the school is eli-  
2           gible for assistance under this part, unless the  
3           Secretary finds by clear and convincing evidence  
4           that the services to be provided by the Indian  
5           tribe or tribal organization will be deleterious to  
6           the welfare of the Indians served by the school.

7           “(C) In considering applications submitted  
8           under paragraph (1)(A), the Secretary shall consider  
9           whether the Indian tribe or tribal organization would  
10          be deficient in operating the school with respect to—

11                   “(i) equipment;

12                   “(ii) bookkeeping and accounting proce-  
13                   dures;

14                   “(iii) ability to adequately manage a  
15                   school; or

16                   “(iv) adequately trained personnel.

17          “(c) ADDITIONAL REQUIREMENTS FOR A SCHOOL  
18 WHICH IS NOT A BUREAU FUNDED SCHOOL.—

19           “(1) IN GENERAL.—A school which is not a Bu-  
20           reau funded school under title XI of the Education  
21           Amendments of 1978 meets the requirements of this  
22           subsection if—

23                   “(A) the Indian tribe or tribal organization  
24                   that operates, or desires to operate, the school  
25                   submits to the Secretary an application request-

1           ing a determination by the Secretary as to  
2           whether the school is eligible for assistance  
3           under this part; and

4                   “(B) the Secretary makes a determination  
5           that a school is eligible for assistance under this  
6           part.

7                   “(2) DEADLINE FOR DETERMINATION BY SEC-  
8           RETARY.—(A) By not later than the date that is  
9           180 days after the date on which an application is  
10          submitted to the Secretary under paragraph (1)(A),  
11          the Secretary shall determine whether the school is  
12          eligible for assistance under this part.

13                   “(B) In making the determination under sub-  
14          paragraph (A), the Secretary shall give equal consid-  
15          eration to each of the following factors:

16                           “(i) with respect to the applicant’s  
17          proposal—

18                                   “(I) the adequacy of facilities or the  
19                                   potential to obtain or provide adequate fa-  
20                                   cilities;

21                                   “(II) geographic and demographic fac-  
22                                   tors in the affected areas;

23                                   “(III) adequacy of the applicant’s pro-  
24                                   gram plans;

1           “(IV) geographic proximity of com-  
2           parable public education; and

3           “(V) the needs as expressed by all af-  
4           fected parties, including but not limited to  
5           students, families, tribal governments at  
6           both the central and local levels, and  
7           school organizations; and

8           “(ii) with respect to all education services  
9           already available—

10           “(I) geographic and demographic fac-  
11           tors in the affected areas;

12           “(II) adequacy and comparability of  
13           programs already available;

14           “(III) consistency of available pro-  
15           grams with tribal education codes or tribal  
16           legislation on education; and

17           “(IV) the history and success of these  
18           services for the proposed population to be  
19           served, as determined from all factors in-  
20           cluding, if relevant, standardized examina-  
21           tion performance.

22           “(C) The Secretary may not make a determina-  
23           tion under this paragraph that is primarily based  
24           upon the geographic proximity of comparable public  
25           education.



1           “(D) Applications submitted under paragraph  
2           (1)(A) shall include information on the factors de-  
3           scribed in subparagraph (B)(i), but the applicant  
4           may also provide the Secretary such information rel-  
5           ative to the factors described in subparagraph  
6           (B)(ii) as the applicant considers appropriate.

7           “(E) If the Secretary fails to make a deter-  
8           mination under subparagraph (A) with respect to an  
9           application within 180 days after the date on which  
10          the Secretary received the application, the Secretary  
11          shall be treated as having made a determination that  
12          the tribally controlled school is eligible for assistance  
13          under the title and the grant shall become effective  
14          18 months after the date on which the Secretary re-  
15          ceived the application, or on an earlier date, at the  
16          Secretary’s discretion.

17          “(d) FILING OF APPLICATIONS AND REPORTS.—

18                 “(1) IN GENERAL.—All applications and reports  
19                 submitted to the Secretary under this part, and any  
20                 amendments to such applications or reports, shall be  
21                 filed with the education line officer designated by  
22                 the Director of the Office of Indian Education Pro-  
23                 grams of the Bureau of Indian Affairs. The date on  
24                 which such filing occurs shall, for purposes of this

1 part, be treated as the date on which the application  
2 or amendment was submitted to the Secretary.

3 “(2) SUPPORTING DOCUMENTATION.—Any ap-  
4 plication that is submitted under this chapter shall  
5 be accompanied by a document indicating the action  
6 taken by the tribal governing body in authorizing  
7 such application.

8 “(e) EFFECTIVE DATE FOR APPROVED APPLICA-  
9 TIONS.—Except as provided by subsection (c)(2)(E), a  
10 grant provided under this part, and any transfer of the  
11 operation of a Bureau school made under subsection (b),  
12 shall become effective beginning the academic year suc-  
13 ceeding the fiscal year in which the application for the  
14 grant or transfer is made, or at an earlier date determined  
15 by the Secretary.

16 “(f) DENIAL OF APPLICATIONS.—

17 “(1) IN GENERAL.—Whenever the Secretary re-  
18 fuses to approve a grant under this chapter, to  
19 transfer operation of a Bureau school under sub-  
20 section (b), or determines that a school is not eligi-  
21 ble for assistance under this part, the Secretary  
22 shall—

1           “(A) state the objections in writing to the  
2           tribe or tribal organization within the allotted  
3           time;

4           “(B) provide assistance to the tribe or trib-  
5           al organization to overcome all stated objec-  
6           tions.

7           “(C) at the request of the tribe or tribal  
8           organization, provide the tribe or tribal organi-  
9           zation a hearing on the record under the same  
10          rules and regulations that apply under the In-  
11          dian Self-Determination and Education Assist-  
12          ance Act; and

13          “(D) provide an opportunity to appeal the  
14          objection raised.

15          “(2) **TIMELINE FOR RECONSIDERATION OF**  
16          **AMENDED APPLICATIONS.**—The Secretary shall re-  
17          consider any amended application submitted under  
18          this part within 60 days after the amended applica-  
19          tion is submitted to the Secretary.

20          “(g) **REPORT.**—The Bureau shall submit an annual  
21          report to the Congress on all applications received, and  
22          actions taken (including the costs associated with such ac-  
23          tions), under this section at the same time that the Presi-  
24          dent is required to submit to Congress the budget under  
25          section 1105 of title 31, United States Code.

1 **“SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION.**

2       “(a) IN GENERAL.—If the Secretary determines that  
3 a tribally controlled school is eligible for assistance under  
4 this part, the eligibility determination shall remain in ef-  
5 fect until the determination is revoked by the Secretary,  
6 and the requirements of subsection (b) or (c) of section  
7 5206, if applicable, shall be considered to have been met  
8 with respect to such school until the eligibility determina-  
9 tion is revoked by the Secretary.

10       “(b) ANNUAL REPORTS.—

11               “(1) IN GENERAL.—Each recipient of a grant  
12 provided under this part shall complete an annual  
13 report which shall be limited to—

14                       “(A) an annual financial statement report-  
15 ing revenue and expenditures as defined by the  
16 cost accounting established by the grantee;

17                       “(B) an annual financial audit conducted  
18 pursuant to the standards of the Single Audit  
19 Act of 1984;

20                       “(C) an annual submission to the Sec-  
21 retary of the number of students served and a  
22 brief description of programs offered under the  
23 grant; and

24                       “(D) a program evaluation conducted by  
25 an impartial evaluation review team, to be

1 based on the standards established for purposes  
2 of subsection (c)(1)(A)(ii).

3 “(2) EVALUATION REVIEW TEAMS.—Where ap-  
4 propriate, other tribally controlled schools and rep-  
5 resentatives of tribally controlled community colleges  
6 shall make up members of the evaluation review  
7 teams.

8 “(3) EVALUATIONS.—In the case of a school  
9 which is accredited, evaluations will be conducted at  
10 intervals under the terms of accreditation.

11 “(4) SUBMISSION OF REPORT.—

12 “(A) TO TRIBALLY GOVERNING BODY.—  
13 Upon completion of the report required under  
14 paragraph (a), the recipient of the grant shall  
15 send (via first class mail, return receipt re-  
16 quested) a copy of such annual report to the  
17 tribal governing body (as defined in section  
18 1132(f) of the Education Amendments of 1978)  
19 of the tribally controlled school.

20 “(B) TO SECRETARY.—Not later than 30  
21 days after receiving written confirmation that  
22 the tribal governing body has received the re-  
23 port send pursuant to subsection (A), the re-  
24 cipient of the grant shall send a copy of the re-  
25 port to the Secretary.

1 “(c) REVOCATION OF ELIGIBILITY.—

2 “(1) IN GENERAL.—(A) The Secretary shall not  
3 revoke a determination that a school is eligible for  
4 assistance under this part if—

5 “(i) the Indian tribe or tribal organization  
6 submits the reports required under subsection  
7 (b) with respect to the school; and

8 “(ii) at least one of the following sub-  
9 clauses applies with respect to the school:

10 “(I) The school is certified or accred-  
11 ited by a State or regional accrediting as-  
12 sociation or is a candidate in good stand-  
13 ing for such accreditation under the rules  
14 of the State or regional accrediting asso-  
15 ciation, showing that credits achieved by  
16 the students within the education pro-  
17 grams are, or will be, accepted at grade  
18 level by a State certified or regionally ac-  
19 credited institution.

20 “(II) A determination made by the  
21 Secretary that there is a reasonable expect-  
22 tation that the accreditation described in  
23 subclause (I), or the candidacy in good  
24 standing for such accreditation, will be  
25 reached by the school within 3 years and

1 that the program offered by the school is  
2 beneficial to the Indian students.

3 “(III) The school is accredited by a  
4 tribal department of education if such ac-  
5 creditation is accepted by a generally rec-  
6 ognized regional or State accreditation  
7 agency.

8 “(IV) The schools accept the stand-  
9 ards promulgated under section 1121 of  
10 the Education Amendments of 1978 and  
11 an evaluation of performance is conducted  
12 under this section in conformance with the  
13 regulations pertaining to Bureau operated  
14 schools by an impartial evaluator chosen  
15 by the grantee, but no grantee shall be re-  
16 quired to comply with these standards to a  
17 higher degree than a comparable Bureau  
18 operated school.

19 “(V) A positive evaluation of the  
20 school is conducted by an impartial eval-  
21 uator agreed upon by the Secretary and  
22 the grantee every 2 years under standards  
23 adopted by the contractor under a contract  
24 for a school entered into under the Indian  
25 Self-Determination and Education Assist-

1           ance Act (or revisions of such standards  
2           agreed to by the Secretary and the grant-  
3           ee) prior to the date of the enactment of  
4           this Act. If the Secretary and the grantee  
5           other than the tribal governing body fail to  
6           agree on such an evaluator, the tribal gov-  
7           erning body shall choose the evaluator or  
8           perform the evaluation. If the Secretary  
9           and a grantee which is the tribal governing  
10          body fail to agree on such an evaluator,  
11          this subclause shall not apply.

12           “(B) The choice of standards employed for the  
13          purpose of subparagraph (A)(ii) shall be consistent  
14          with section 1121(e) of the Education Amendments  
15          of 1978.

16           “(2) NOTICE REQUIREMENTS FOR REVOCA-  
17          TION.—The Secretary shall not revoke a determina-  
18          tion that a school is eligible for assistance under this  
19          part, or reassume control of a school that was a Bu-  
20          reau school prior to approval of an application sub-  
21          mitted under section 5206(b)(1)(A) until the  
22          Secretary—

23           “(A) provides notice to the tribally con-  
24          trolled school and the tribal governing body  
25          (within the meaning of section 1141(14) of the



1 Education Amendments of 1978) of the tribally  
2 controlled school which states—

3 “(i) the specific deficiencies that led  
4 to the revocation or resumption determina-  
5 tion; and

6 “(ii) the actions that are needed to  
7 remedy such deficiencies; and

8 “(B) affords such authority an opportunity  
9 to effect the remedial actions.

10 “(3) TECHNICAL ASSISTANCE.—The Secretary  
11 shall provide such technical assistance as is prac-  
12 ticable to effect such remedial actions. Such notice  
13 and technical assistance shall be in addition to a  
14 hearing and appeal to be conducted pursuant to the  
15 regulations described in section 5206(f)(1)(C).

16 “(d) APPLICABILITY OF SECTION PURSUANT TO  
17 ELECTION UNDER SECTION 5209(b).—With respect to a  
18 tribally controlled school which receives assistance under  
19 this part pursuant to an election made under section  
20 5209(b)—

21 “(1) subsection (b) of this section shall apply;  
22 and

23 “(2) the Secretary may not revoke eligibility for  
24 assistance under this part except in conformance  
25 with subsection (c) of this section.

1 **“SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS.**

2 “(a) PAYMENTS.—

3 “(1) IN GENERAL.—Except as otherwise pro-  
4 vided in this subsection, the Secretary shall make  
5 payments to grantees under this part in two pay-  
6 ments, of which—

7 “(A) the first payment shall be made not  
8 later than July 15 of each year in an amount  
9 equal to 85 percent of the amount which the  
10 grantee was entitled to receive during the pre-  
11 ceding academic year; and

12 “(B) the second payment, consisting of the  
13 remainder to which the grantee is entitled for  
14 the academic year, shall be made not later than  
15 December 1 of each year.

16 “(2) NEWLY FUNDED SCHOOLS.—For any  
17 school for which no payment under this part was  
18 made from Bureau funds in the preceding academic  
19 year, full payment of the amount computed for the  
20 first academic year of eligibility under this part shall  
21 be made not later than December 1 of the academic  
22 year.

23 “(3) LATE FUNDING.—With regard to funds for  
24 grantees that become available for obligation on Oc-  
25 tober 1 of the fiscal year for which such funds are  
26 appropriated, the Secretary shall make payments to

1 grantees not later than December 1 of the fiscal  
2 year.

3 “(4) APPLICABILITY OF CERTAIN TITLE 31 PRO-  
4 VISIONS.—The provisions of chapter 39 of Title 31,  
5 United States Code, shall apply to the payments re-  
6 quired to be made by paragraphs (1), (2), and (3).

7 “(5) RESTRICTIONS.—Paragraphs (1), (2), and  
8 (3) shall be subject to any restriction on amounts of  
9 payments under this part that are imposed by a con-  
10 tinuing resolution or other Act appropriating the  
11 funds involved.

12 “(b) INVESTMENT OF FUNDS.—

13 “(1) TREATMENT OF INTEREST AND INVEST-  
14 MENT INCOME.—Notwithstanding any other provi-  
15 sion of law, any interest or investment income that  
16 accrues to any funds provided under this part after  
17 such funds are paid to the Indian tribe or tribal or-  
18 ganization and before such funds are expended for  
19 the purpose for which such funds were provided  
20 under this part shall be the property of the Indian  
21 tribe or tribal organization and shall not be taken  
22 into account by any officer or employee of the Fed-  
23 eral Government in determining whether to provide  
24 assistance, or the amount of assistance, under any

1 provision of Federal law. Such interest income shall  
2 be spent on behalf of the school.

3 “(2) PERMISSIBLE INVESTMENTS.—Funds pro-  
4 vided under this part may be invested by the Indian  
5 tribe or tribal organization before such funds are ex-  
6 pended for the purposes of this part so long as such  
7 funds are—

8 “(A) invested by the Indian tribe or tribal  
9 organization only in obligations of the United  
10 States, or in obligations or securities that are  
11 guaranteed or insured by the United States, or  
12 mutual (or other) funds registered with the Se-  
13 curities and Exchange Commission and which  
14 only invest in obligations of the United States,  
15 or securities that are guaranteed or insured by  
16 the United States; or

17 “(B) deposited only into accounts that are  
18 insured by and agency or instrumentality of the  
19 United States, or are fully collateralized to en-  
20 sure protection of the funds, even in the event  
21 of a bank failure.

22 “(c) RECOVERIES.—For the purposes of under-  
23 recovery and overrecovery determinations by any Federal  
24 agency for any other funds, from whatever source derived,

1 funds received under this part shall not be taken into con-  
2 sideration.

3 **“SEC. 5209. APPLICATION WITH RESPECT TO INDIAN SELF-  
4 DETERMINATION AND EDUCATION ASSIST-  
5 ANCE ACT.**

6 “(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—  
7 The following provisions of the Indian Self-Determination  
8 and Education Assistance Act (and any subsequent revi-  
9 sions thereto or renumbering thereof), shall apply to  
10 grants provided under this part:

11 “(1) Section 5(f) (relating to single agency  
12 audit).

13 “(2) Section 6 (relating to criminal activities;  
14 penalties).

15 “(3) Section 7 (relating to wage and labor  
16 standards).

17 “(4) Section 104 (relating to retention of Fed-  
18 eral employee coverage).

19 “(5) Section 105(f) (relating to Federal prop-  
20 erty).

21 “(6) Section 105(k) (relating to access to Fed-  
22 eral sources of supply).

23 “(7) Section 105(l) (relating to lease of facility  
24 used for administration and delivery of services).

1           “(8) Section 106(e) (relating to limitation on  
2 remedies relating to cost allowances).

3           “(9) Section 106(i) (relating to use of funds for  
4 matching or cost participation requirements).

5           “(10) Section 106(j) (relating to allowable uses  
6 of funds).

7           “(11) Section 108(c) (Model Agreements provi-  
8 sions (1)(a)(5) (relating to limitations of costs),  
9 (1)(a)(7) (relating to records and monitoring),  
10 (1)(a)(8) (relating to property), and (a)(1)(9) (relat-  
11 ing to availability of funds).

12           “(12) Section 109 (relating to reassumption).

13           “(13) Section 111 (relating to sovereign immu-  
14 nity and trusteeship rights unaffected).

15           “(b) ELECTION FOR GRANT IN LIEU OF CON-  
16 TRACT.—

17           “(1) IN GENERAL.—Contractors for activities to  
18 which this part applies who have entered into a con-  
19 tract under the Indian Self-Determination and Edu-  
20 cation Assistance Act that is in effect upon the date  
21 of the enactment of the No Child Left Behind Act  
22 of 2001 may, by giving notice to the Secretary, elect  
23 to have the provisions of this part apply to such ac-  
24 tivity in lieu of such contract.

1           “(2) EFFECTIVE DATE OF ELECTION.—Any  
2 election made under paragraph (1) shall take effect  
3 on the later of—

4           “(A) October 1 of the fiscal year suc-  
5 ceeding the fiscal year in which such election is  
6 made; or

7           “(B) 60 days after the date of such elec-  
8 tion.

9           “(3) EXCEPTION.—In any case in which the 60-  
10 day period referred to in paragraph (2)(B) is less  
11 than 60 days before the beginning of the succeeding  
12 fiscal year, such election shall not take effect until  
13 the fiscal year after the fiscal year succeeding the  
14 election.

15          “(c) NO DUPLICATION.—No funds may be provided  
16 under any contract entered into under the Indian Self-De-  
17 termination and Education Assistance Act to pay any ex-  
18 penses incurred in providing any program or services if  
19 a grant has been made under this part to pay such ex-  
20 penses.

21          “(d) TRANSFERS AND CARRYOVERS.—

22           “(1) BUILDINGS, EQUIPMENT, SUPPLIES, MATE-  
23 RIALS.—A tribe or tribal organization assuming the  
24 operation of—

1           “(A) a Bureau school with assistance  
2           under this part shall be entitled to the transfer  
3           or use of buildings, equipment, supplies, and  
4           materials to the same extent as if it were con-  
5           tracting under the Indian Self-Determination  
6           and Education Assistance Act; or

7           “(B) a contract school with assistance  
8           under this part shall be entitled to the transfer  
9           or use of buildings, equipment, supplies and  
10          materials that were used in the operation of the  
11          contract school to the same extent as if it were  
12          contracting under the Indian Self-Determina-  
13          tion and Education Assistance Act.

14          “(2) FUNDS.—Any tribe or tribal organization  
15          which assumes operation of a Bureau school with as-  
16          sistance under this part and any tribe or tribal orga-  
17          nization which elects to operate a school with assist-  
18          ance under this part rather than to continue as a  
19          contract school shall be entitled to any funds which  
20          would carryover from the previous fiscal year as if  
21          such school were operated as a contract school.

22          “(e) EXCEPTIONS, PROBLEMS, AND DISPUTES.—Any  
23          exception or problem cited in an audit conducted pursuant  
24          to section 5207(b)(2), any dispute regarding a grant au-  
25          thorized to be made pursuant to this part or any amend-



1 ment to such grant, and any dispute involving an adminis-  
2 trative cost grant under section 1128 of the Education  
3 Amendments of 1978 shall be administered under the pro-  
4 visions governing such exceptions, problems, or disputes  
5 in the case of contracts under the Indian Self-Determina-  
6 tion and Education Assistance Act of 1975. The Equal  
7 Access to Justice Act shall apply to administrative appeals  
8 filed after September 8, 1988, by grantees regarding a  
9 grant under this part, including an administrative cost  
10 grant.

11 **“SEC. 5210. ROLE OF THE DIRECTOR.**

12 “Applications for grants under this part, and all ap-  
13 plication modifications, shall be reviewed and approved by  
14 personnel under the direction and control of the Director  
15 of the Office of Indian Education Programs. Required re-  
16 ports shall be submitted to education personnel under the  
17 direction and control of the Director of such Office.

18 **“SEC. 5211. REGULATIONS.**

19 “The Secretary is authorized to issue regulations re-  
20 lating to the discharge of duties specifically assigned to  
21 the Secretary by this part. In all other matters relating  
22 to the details of planning, development, implementing, and  
23 evaluating grants under this part, the Secretary shall not  
24 issue regulations. Regulations issued pursuant to this part

1 shall not have the standing of a Federal statute for the  
2 purposes of judicial review.

3 **“SEC. 5212. THE TRIBALLY CONTROLLED GRANT SCHOOL**  
4 **ENDOWMENT PROGRAM.**

5 “(a) IN GENERAL.—

6 “(1) TRUST FUNDS.—Each school receiving  
7 grants under this part may establish, at a Federally  
8 insured banking and savings institution, a trust fund  
9 for the purposes of this section.

10 “(2) AUTHORITY OF SCHOOLS REGARDING  
11 TRUST FUNDS.—The school may provide—

12 “(A) for the deposit into the trust fund,  
13 only funds from non-Federal sources, except  
14 that the interest on funds received from grants  
15 under this part may be used for this purpose;

16 “(B) for the deposit in the account of any  
17 earnings on funds deposited in the account; and

18 “(C) for the sole use of the school any  
19 noncash, in-kind contributions of real or per-  
20 sonal property, such property may at any time  
21 be converted to cash.

22 “(b) INTEREST.—Interest from the fund established  
23 under subsection (a) may periodically be withdrawn and  
24 used, at the discretion of the school, to defray any ex-  
25 penses associated with the operation of the school.

1 **“SEC. 5213. DEFINITIONS.**

2 “For the purposes of this part:

3 “(1) BUREAU.—The term ‘Bureau’ means the  
4 Bureau of Indian Affairs of the Department of the  
5 Interior.

6 “(2) ELIGIBLE INDIAN STUDENT.—The term  
7 ‘eligible Indian student’ has the meaning of such  
8 term in section 1127(f) of the Education Amend-  
9 ments of 1978.

10 “(3) INDIAN TRIBE.—The term ‘Indian tribe’  
11 means any Indian tribe, band, nation, or other orga-  
12 nized group or community, including Alaska Native  
13 Village or regional corporations (as defined in or es-  
14 tablished pursuant to the Alaskan Native Claims  
15 Settlement Act, which is recognized as eligible for  
16 the special programs and services provided by the  
17 United States to Indians because of their status as  
18 Indians.

19 “(4) LOCAL EDUCATIONAL AGENCY.—The term  
20 ‘local educational agency’ means a public board of  
21 education or other public authority legally con-  
22 stituted within a State for either administrative con-  
23 trol or direction of, or to perform a service function  
24 for, public elementary or secondary schools in a city,  
25 county, township, school district, or other political  
26 subdivision of a State or such combination of school

1 districts or counties as are recognized in a State as  
2 an administrative agency for its public elementary or  
3 secondary schools. Such term includes any other  
4 public institution or agency having administrative  
5 control and direction of a public elementary or sec-  
6 ondary school.

7 “(5) SECRETARY.—The term ‘Secretary’ means  
8 the Secretary of the Interior.

9 “(6) TRIBAL ORGANIZATION.—(A) The term  
10 ‘tribal organization’ means—

11 “(i) the recognized governing body of any  
12 Indian tribe; or

13 “(ii) any legally established organization of  
14 Indians which—

15 “(I) is controlled, sanctioned, or char-  
16 tered by such governing body or is demo-  
17 cratically elected by the adult members of  
18 the Indian community to be served by such  
19 organization; and

20 “(II) includes the maximum participa-  
21 tion of Indians in all phases of its activi-  
22 ties.

23 “(B) In any case in which a grant is provided  
24 under this part to an organization to provide serv-  
25 ices benefiting more than one Indian tribe, the ap-

1       proval of the governing bodies of Indian tribes rep-  
 2       resenting 80 percent of those students attending the  
 3       tribally controlled school shall be considered a suffi-  
 4       cient tribal authorization for such grant.

5               “(7) TRIBALLY CONTROLLED SCHOOL.—The  
 6       term ‘tribally controlled school’ means a school oper-  
 7       ated by a tribe or a tribal organization, enrolling  
 8       students in kindergarten through grade 12, includ-  
 9       ing preschools, which is not a local educational agen-  
 10      cy and which is not directly administered by the Bu-  
 11      reau of Indian Affairs.”.

12       **TITLE       IV—PROMOTING       IN-**  
 13       **FORMED PARENTAL CHOICE**  
 14       **AND INNOVATIVE PROGRAMS**

15               **PART A—INNOVATIVE PROGRAMS**

16       **SEC. 401. PROMOTING INFORMED PARENTAL CHOICE AND**  
 17       **INNOVATIVE PROGRAMS.**

18       Title IV is amended to read as follows:

19       **“TITLE       IV—PROMOTING       IN-**  
 20       **FORMED PARENTAL CHOICE**  
 21       **AND INNOVATIVE PROGRAMS**

22               **“PART A—INNOVATIVE PROGRAMS**

23       **“SEC. 4101. FINDINGS AND STATEMENT OF PURPOSE.**

24       “(a) FINDINGS.—Congress finds that this part—

25               “(1) provides flexibility to meet local needs;

1           “(2) promotes local and State education re-  
2 forms;

3           “(3) contributes to the improvement of aca-  
4 demic achievement for all students;

5           “(4) provides funding for critical activities; and

6           “(5) provides services for private school stu-  
7 dents.

8           “(b) STATEMENT OF PURPOSE.—It is the purpose of  
9 programs under this part—

10           “(1) to provide funding to enable States and  
11 local educational agencies to implement promising  
12 educational reform programs and school improve-  
13 ment initiatives based on scientifically based re-  
14 search;

15           “(2) to provide a continuing source of innova-  
16 tion and educational improvement, including support  
17 for library services and instructional and media ma-  
18 terials; and

19           “(3) to meet the educational needs of all stu-  
20 dents, including at-risk youth.

21           “(c) STATE AND LOCAL RESPONSIBILITY.—

22           “(1) IN GENERAL.—The States shall have the  
23 basic responsibility for the administration of funds  
24 made available under this part, but such administra-

1       tion shall be carried out with a minimum of paper-  
2       work.

3           “(2) DESIGN AND IMPLEMENTATION.—Not-  
4       withstanding paragraph (1), local educational agen-  
5       cies, school superintendents and principals, and  
6       classroom teachers and supporting personnel shall be  
7       mainly responsible for the design and implementa-  
8       tion of programs assisted under this part, because  
9       such agencies and individuals have the most direct  
10      contact with students and are most likely to be able  
11      to design programs to meet the educational needs of  
12      students in their own school districts.

13           **“Subpart 1—State and Local Programs**

14      **“SEC. 4111. ALLOCATION TO STATES.**

15      “(a) RESERVATIONS.—From the sums appropriated  
16      to carry out this part for each fiscal year, the Secretary  
17      shall reserve not more than 1 percent for payments to out-  
18      lying areas to be allotted in accordance with their respec-  
19      tive needs.

20      “(b) ALLOCATION OF REMAINDER.—From the re-  
21      mainder of such sums, the Secretary shall allocate, and  
22      make available in accordance with this part, to each State  
23      an amount which bears the same ratio to the amount of  
24      such remainder as the school-age population of the State  
25      bears to the school-age population of all States, except

1 that no State shall receive less than an amount equal to  
2  $\frac{1}{2}$  of 1 percent of such remainder.

3 **“SEC. 4112. ALLOCATION TO LOCAL EDUCATIONAL AGEN-**  
4 **CIES.**

5 “(a) DISTRIBUTION RULE.—

6 “(1) IN GENERAL.—Subject to paragraph (2),  
7 from the sums made available each year to carry out  
8 this part, the State shall distribute not less than 85  
9 percent to local educational agencies within such  
10 State according to the relative enrollments in public  
11 and private, nonprofit schools within the jurisdic-  
12 tions of such agencies, adjusted, in accordance with  
13 criteria approved by the Secretary, to provide higher  
14 per-pupil allocations to local educational agencies  
15 that have the greatest numbers or percentages of  
16 children whose education imposes a higher than av-  
17 erage cost per child, such as—

18 “(A) children living in areas with high con-  
19 centrations of economically disadvantaged fami-  
20 lies;

21 “(B) children from economically disadvan-  
22 taged families; and

23 “(C) children living in sparsely populated  
24 areas.



1           “(2) EXCEPTION.—100 percent of any amount  
2           by which the funds paid to a State under this part  
3           for a fiscal year exceed the amount of such funds  
4           paid to the State for fiscal year 2001 shall be dis-  
5           tributed to local educational agencies and used lo-  
6           cally for innovative assistance described in section  
7           4131(b).

8           “(3) LIMITATION ON ADMINISTRATIVE COSTS.—  
9           Not more than 4 percent of the funds paid to a  
10          State under this part for a fiscal year may be used  
11          by the agency for administration and supervision of  
12          programs assisted under this part.

13          “(b) CALCULATION OF ENROLLMENTS.—

14                 “(1) IN GENERAL.—The calculation of relative  
15                 enrollments under subsection (a)(1) shall be on the  
16                 basis of the total of—

17                         “(A) the number of children enrolled in  
18                         public schools; and

19                         “(B) the number of children enrolled in  
20                         private, nonprofit schools whose parents would  
21                         like their children to participate in programs or  
22                         projects assisted under this part, for the fiscal  
23                         year preceding the fiscal year for which the de-  
24                         termination is made.

1           “(2) CONSTRUCTION.—Nothing in this sub-  
2           section shall diminish the responsibility of each local  
3           educational agency to contact, on an annual basis,  
4           appropriate officials from private nonprofit schools  
5           within the areas served by such agencies in order to  
6           determine whether such schools desire that their  
7           children participate in programs assisted under this  
8           subpart.

9           “(3) ADJUSTMENTS.—

10           “(A) IN GENERAL.—Relative enrollments  
11           calculated under subsection (a)(1) shall be ad-  
12           justed, in accordance with criteria approved by  
13           the Secretary under subparagraph (B), to pro-  
14           vide higher per-pupil allocations only to local  
15           educational agencies that serve the greatest  
16           numbers or percentages of—

17           “(i) children living in areas with high  
18           concentrations of economically disadvan-  
19           taged families;

20           “(ii) children from economically dis-  
21           advantaged families; or

22           “(iii) children living in sparsely popu-  
23           lated areas.

24           “(B) CRITERIA.—The Secretary shall re-  
25           view criteria submitted by a State for adjusting

1 allocations under paragraph (1) and shall ap-  
2 prove such criteria only if the Secretary deter-  
3 mines that such criteria are reasonably cal-  
4 culated to produce an adjusted allocation that  
5 reflects the relative needs of the State's local  
6 educational agencies based on the factors set  
7 forth in subparagraph (A).

8 “(c) PAYMENT OF ALLOCATIONS.—

9 “(1) DISTRIBUTION.—From the funds paid to a  
10 State under this part for a fiscal year, a State shall  
11 distribute to each eligible local educational agency  
12 that has submitted an application as required in sec-  
13 tion 4133 the amount of such local educational  
14 agency's allocation, as determined under subsection  
15 (a).

16 “(2) ADDITIONAL FUNDS.—

17 “(A) IN GENERAL.—Additional funds re-  
18 sulting from higher per-pupil allocations pro-  
19 vided to a local educational agency on the basis  
20 of adjusted enrollments of children described in  
21 subsection (a)(1) may, in the discretion of the  
22 local educational agency, be allocated for ex-  
23 penditures to provide services for children en-  
24 rolled in public and private, nonprofit schools in  
25 direct proportion to the number of children de-

1           scribed in subsection (a)(1) and enrolled in  
2           such schools within the local educational agen-  
3           cy.

4           “(B) ELECTION.—In any fiscal year, any  
5           local educational agency that elects to allocate  
6           such additional funds in the manner described  
7           in subparagraph (A) shall allocate all additional  
8           funds to schools within the local educational  
9           agency in such manner.

10           “(C) CONSTRUCTION.—Subparagraphs (A)  
11           and (B) may not be construed to require any  
12           school to limit the use of the additional funds  
13           described in subparagraph (A) to the provision  
14           of services to specific students or categories of  
15           students.

16                           **“Subpart 2—State Programs**

17           **“SEC. 4121. STATE USE OF FUNDS.**

18           “A State may use funds made available for State use  
19           under this part only for—

20                   “(1) State administration of programs under  
21           this part including—

22                           “(A) supervision of the allocation of funds  
23           to local educational agencies;

24                           “(B) planning, supervision, and processing  
25           of State funds; and

1           “(C) monitoring and evaluation of pro-  
2           grams and activities under this part;

3           “(2) support for planning, designing, and initial  
4           implementation of charter schools as described in  
5           part B;

6           “(3) statewide education reform and school im-  
7           provement activities and technical assistance and di-  
8           rect grants to local educational agencies which assist  
9           such agencies under section 4131; and

10          “(4) support for arrangements that provide for  
11          independent analysis to measure and report on  
12          school district achievement.

13   **“SEC. 4122. STATE APPLICATIONS.**

14          “(a) APPLICATION REQUIREMENTS.—Any State that  
15          desires to receive assistance under this part shall submit  
16          to the Secretary an application that—

17               “(1) provides for an annual statewide summary  
18               of how assistance under this part is contributing to-  
19               ward improving student achievement or improving  
20               the quality of education for students;

21               “(2) provides information setting forth the allo-  
22               cation of such funds required to implement section  
23               4142;

24               “(3) provides that the State will keep such  
25               records and provide such information to the Sec-

1       retary as may be required for fiscal audit and pro-  
2       gram evaluation (consistent with the responsibilities  
3       of the Secretary under this section);

4               “(4) provides assurance that, apart from tech-  
5       nical and advisory assistance and monitoring compli-  
6       ance with this part, the State has not exercised and  
7       will not exercise any influence in the decisionmaking  
8       processes of local educational agencies as to the ex-  
9       penditure made pursuant to an application under  
10      section 4133;

11              “(5) contains assurances that there is compli-  
12      ance with the specific requirements of this part; 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)(8). The format and content  
21      of such summary shall be in the discretion of the State  
22      and may include statistical measures such as the number  
23      of students served by each type of innovative assistance  
24      described in section 4131(b), including the number of  
25      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 part may not be audited more frequently than once every  
9 5 years.

10    **“Subpart 3—Local Innovative Education Programs**

11    **“SEC. 4131. USE OF FUNDS.**

12       “(a) IN GENERAL.—Funds made available to local  
13 educational agencies under section 4112 shall be used for  
14 innovative assistance described in subsection (b).

15       “(b) INNOVATIVE ASSISTANCE.—The innovative as-  
16 sistance programs referred to in subsection (a) may  
17 include—

18           “(1) professional development activities and the  
19 hiring of teachers, including activities carried out in  
20 accordance with title II, that give teachers, prin-  
21 cipals, and administrators the knowledge and skills  
22 to provide students with the opportunity to meet  
23 challenging State or local content standards and stu-  
24 dent achievement standards;

1           “(2) technology related to the implementation  
2 of school-based reform programs, including profes-  
3 sional development to assist teachers, and other  
4 school officials, regarding how to use effectively such  
5 equipment and software;

6           “(3) programs for the development or acquisi-  
7 tion and use of instructional and educational mate-  
8 rials, including library services and materials (in-  
9 cluding media materials), assessments, reference ma-  
10 terials, computer software and hardware for instruc-  
11 tional use, and other curricular materials that are  
12 tied to high academic standards, that will be used to  
13 improve student achievement, and that are part of  
14 an overall education reform program;

15           “(4) promising education reform projects, in-  
16 cluding effective schools and magnet schools;

17           “(5) programs to improve the academic skills of  
18 disadvantaged elementary and secondary school stu-  
19 dents and to prevent students from dropping out of  
20 school;

21           “(6) programs to combat illiteracy;

22           “(7) programs to provide for the educational  
23 needs of gifted and talented children;

24           “(8) planning, designing, and initial implemen-  
25 tation of charter schools as described in part B;



1           “(9) school improvement programs or activities  
2           under sections 1116 and 1117;

3           “(10) community service programs that use  
4           qualified school personnel to train and mobilize  
5           young people to measurably strengthen their com-  
6           munities through nonviolence, responsibility, com-  
7           passion, respect, and moral courage;

8           “(11) activities to promote consumer, economic,  
9           and personal finance education, such as dissemi-  
10          nating and encouraging the best practices for teach-  
11          ing the basic principles of economics and promoting  
12          the concept of achieving financial literacy through  
13          the teaching of personal financial management skills  
14          (including the basic principles involved with earning,  
15          spending, saving, and investing);

16          “(12) activities to promote, implement, or ex-  
17          pand public school choice;

18          “(13) activities to promote, implement, or ex-  
19          pand private school choice for disadvantaged chil-  
20          dren in failing public schools;

21          “(14) expanding and improving school-based  
22          mental health services, including early identification  
23          of drug use and violence, assessment, and direct in-  
24          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) activities to improve the quality of civics  
10 and government education to foster civic competence  
11 and responsibility, by educating students about the  
12 history and principles of the Constitution of the  
13 United States, including the Bill of Rights; and

14 “(17) programs that improve academic achieve-  
15 ment by strengthening arts education as an integral  
16 part of the elementary and secondary school cur-  
17 riculum.

18 **“SEC. 4132. ADMINISTRATIVE AUTHORITY.**

19 “In order to conduct the activities authorized by this  
20 part, each State or local educational agency may use funds  
21 made available under this part to make grants to, and to  
22 enter into contracts with, local educational agencies, insti-  
23 tutions of higher education, libraries, museums, and other  
24 public and private nonprofit agencies, organizations, and  
25 institutions, including religious organizations.

1 **“SEC. 4133. LOCAL APPLICATIONS.**

2 “(a) CERTIFICATION.—

3 “(1) IN GENERAL.—A local educational agency  
4 or a consortium of such agencies may receive an al-  
5 location of funds under this part for any year for  
6 which the agency or consortium submits an applica-  
7 tion under this section that is certified by the State  
8 under paragraph (2) to meet the requirements of  
9 this section.

10 (2) CONTENTS OF APPLICATION.—The State  
11 shall certify each application that—

12 “(1) describes locally identified needs relative to  
13 the purposes of this part and to the innovative as-  
14 sistance described in section 4131(b);

15 “(2) based on the needs identified in paragraph  
16 (1), sets forth the planned allocation of funds among  
17 innovative assistance programs described in section  
18 4131 and describes the programs, projects, and ac-  
19 tivities designed to carry out such innovative assist-  
20 ance programs that the local educational agency in-  
21 tends to support;

22 “(3) contains information setting forth the allo-  
23 cation of such funds required to implement section  
24 4142;

1           “(4) describes how assistance under this part  
2 will contribute to improving student academic  
3 achievement;

4           “(5) provides assurances of compliance with the  
5 provisions of this part, including the participation of  
6 children enrolled in private, nonprofit schools in ac-  
7 cordance with section 4142;

8           “(6) provides assurance that the local edu-  
9 cational agency will keep such records, and provide  
10 such information to the State as may be reasonably  
11 required for fiscal audit and program evaluation,  
12 consistent with the responsibilities of the State  
13 under this part;

14           “(7) provides in the allocation of funds for the  
15 assistance authorized by this part, and in the design,  
16 planning, and implementation of such programs, for  
17 systematic consultation with parents of children at-  
18 tending elementary and secondary schools in the  
19 area served by the local educational agency, with  
20 teachers and administrative personnel in such  
21 schools, and with other groups involved in the imple-  
22 mentation of this part (such as librarians, school  
23 counselors, and other pupil services personnel) as  
24 may be considered appropriate by the local edu-  
25 cational agency; and

1 “(8) provides assurance that—

2 “(A) programs, services, and activities will  
3 be evaluated annually;

4 “(B) such evaluation will be used to deter-  
5 mine and implement appropriate changes in  
6 program services and activities for the subse-  
7 quent year;

8 “(C) such evaluation will describe how as-  
9 sistance under this part contributed toward im-  
10 proving student academic achievement; and

11 “(D) such evaluation will be submitted to  
12 the State in the time and manner requested by  
13 the State.

14 “(b) TIME PERIOD TO WHICH APPLICATION RE-  
15 LATES.—An application submitted by a local educational  
16 agency under subsection (a) may seek allocations under  
17 this part for a period of time not to exceed 3 fiscal years  
18 and may be amended annually as may be necessary to re-  
19 flect changes without the filing of a new application.

20 “(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—

21 “(1) IN GENERAL.—Subject to the limitations  
22 and requirements of this part, a local educational  
23 agency shall have complete discretion in determining  
24 how funds made available under this subpart will be

1 divided among programs and activities described in  
2 section 4131.

3 “(2) LIMITATION.—In exercising the discretion  
4 described in paragraph (1), a local educational agen-  
5 cy shall ensure that expenditures under this subpart  
6 carry out the purposes of this part and are used to  
7 meet the educational needs within the schools of  
8 such local educational agency.

9 **“Subpart 4—General Provisions**

10 **“SEC. 4141. MAINTENANCE OF EFFORT; FEDERAL FUNDS**  
11 **SUPPLEMENTARY.**

12 “(a) MAINTENANCE OF EFFORT.—

13 “(1) IN GENERAL.—Except as provided in para-  
14 graph (2), a State is entitled to receive its full allo-  
15 cation of funds under this subpart for any fiscal  
16 year only if the Secretary determines that either the  
17 combined fiscal effort per student or the aggregate  
18 expenditures within the State with respect to the  
19 provision of free public education for the fiscal year  
20 preceding the fiscal year for which the determination  
21 is made was not less than 90 percent of such com-  
22 bined fiscal effort or aggregate expenditures for the  
23 fiscal year that is 2 fiscal years before the fiscal year  
24 for which the determination is made.

1           “(2) REDUCTION OF FUNDS.—The Secretary  
2           shall reduce the amount of the allocation of funds  
3           under this subpart in any fiscal year in the exact  
4           proportion to which the State fails to meet the re-  
5           quirements of paragraph (1) by falling below 90 per-  
6           cent of both the fiscal effort per student and aggre-  
7           gate expenditures (using the measure most favorable  
8           to the State), and no such lesser amount shall be  
9           used for computing the effort required under para-  
10          graph (1) for subsequent years.

11          “(3) WAIVER.—The Secretary may waive, for 1  
12          fiscal year only, the requirements of this section if  
13          the Secretary determines that such a waiver would  
14          be equitable due to exceptional or uncontrollable cir-  
15          cumstances such as a natural disaster or a precipi-  
16          tous and unforeseen decline in the financial re-  
17          sources of the State.

18          “(b) FEDERAL FUNDS SUPPLEMENTARY.—A State  
19          or local educational agency may use and allocate funds  
20          received under this subpart only to supplement and, to the  
21          extent practical, to increase the level of funds that would,  
22          in the absence of Federal funds made available under this  
23          subpart, be made available from non-Federal sources, and  
24          in no case may such funds be used so as to supplant funds  
25          from non-Federal sources.

1 **“SEC. 4142. PARTICIPATION OF CHILDREN ENROLLED IN**  
2 **PRIVATE SCHOOLS.**

3 “(a) PARTICIPATION ON EQUITABLE BASIS.—

4 “(1) IN GENERAL.—To the extent consistent  
5 with the number of children in the school district of  
6 a local educational agency which is eligible to receive  
7 funds under this part or which serves the area in  
8 which a program or project assisted under this part  
9 is located, who are enrolled in private nonprofit ele-  
10 mentary and secondary schools, or with respect to  
11 instructional or personnel training programs funded  
12 by the State from funds made available for State  
13 use, such agency, after consultation with appropriate  
14 private school officials—

15 “(A) shall provide for the benefit of such  
16 children in such schools secular, neutral, and  
17 nonideological services, materials, and equip-  
18 ment, including the participation of the teach-  
19 ers of such children (and other educational per-  
20 sonnel serving such children) in training pro-  
21 grams, and the repair or minor remodeling of  
22 public facilities as may be necessary for their  
23 provision (consistent with subsection (c) of this  
24 section); or

25 “(B) if such services, materials, and equip-  
26 ment are not feasible or necessary in 1 or more



1           such private schools as determined by the local  
2           educational agency after consultation with the  
3           appropriate private school officials, shall pro-  
4           vide such other arrangements as will assure eq-  
5           uitable participation of such children in the  
6           purposes and benefits of this part.

7           “(2) OTHER PROVISIONS FOR SERVICES.—If no  
8           program or project is carried out under paragraph  
9           (1) in the school district of a local educational agen-  
10          cy, the State shall make arrangements, such as  
11          through contracts with nonprofit agencies or organi-  
12          zations, under which children in private schools in  
13          such district are provided with services and mate-  
14          rials to the extent that would have occurred if the  
15          local educational agency had received funds under  
16          this part.

17          “(3) APPLICATION OF REQUIREMENTS.—The  
18          requirements of this section relating to the participa-  
19          tion of children, teachers, and other personnel serv-  
20          ing such children shall apply to programs and  
21          projects carried out under this part by a State or  
22          local educational agency, whether directly or through  
23          grants to or contracts with other public or private  
24          agencies, institutions, or organizations.

25          “(b) EQUAL EXPENDITURES.—

1           “(1) IN GENERAL.—Expenditures for programs  
2           pursuant to subsection (a) shall be equal (consistent  
3           with the number of children to be served) to expend-  
4           itures for programs under this part for children en-  
5           rolled in the public schools of the local educational  
6           agency.

7           “(2) CONCENTRATED PROGRAMS.—Taking into  
8           account the needs of the individual children and  
9           other factors which relate to the expenditures re-  
10          ferred to in paragraph (1), and when funds available  
11          to a local educational agency under this part are  
12          used to concentrate programs or projects on a par-  
13          ticular group, attendance area, or grade or age level,  
14          children enrolled in private schools who are included  
15          within the group, attendance area, or grade or age  
16          level selected for such concentration shall, after con-  
17          sultation with the appropriate private school offi-  
18          cials, be assured equitable participation in the pur-  
19          poses and benefits of such programs or projects.

20          “(c) ADMINISTRATIVE RULES.—

21                 “(1) FUNDS AND PROPERTY.—The control of  
22                 funds provided under this part, and title to mate-  
23                 rials, equipment, and property repaired, remodeled,  
24                 or constructed with such funds, shall be in a public  
25                 agency for the uses and purposes provided in this

1 part, and a public agency shall administer such  
2 funds and property.

3 “(2) PROVISION OF SERVICES.—The provision  
4 of services pursuant to this part shall be provided by  
5 employees of a public agency or through contract by  
6 such public agency with a person, an association,  
7 agency, or corporation who or which, in the provi-  
8 sion of such services, is independent of such private  
9 school and of any religious organizations, and such  
10 employment or contract shall be under the control  
11 and supervision of such public agency, and the funds  
12 provided under this part shall not be commingled  
13 with State or local funds.

14 “(d) WAIVER.—

15 “(1) STATE PROHIBITION WAIVER.—If by rea-  
16 son of any provision of law a State or local edu-  
17 cational agency is prohibited from providing for the  
18 participation in programs of children enrolled in pri-  
19 vate elementary and secondary schools, as required  
20 by this section, the Secretary shall waive such re-  
21 quirements and shall arrange for the provision of  
22 services to such children through arrangements  
23 which shall be subject to the requirements of this  
24 section.

1           “(2) FAILURE TO COMPLY.—If the Secretary  
2 determines that a State or a local educational agen-  
3 cy has substantially failed or is unwilling to provide  
4 for the participation on an equitable basis of chil-  
5 dren enrolled in private elementary and secondary  
6 schools as required by this section, the Secretary  
7 may waive such requirements and shall arrange for  
8 the provision of services to such children through ar-  
9 rangements which shall be subject to the require-  
10 ments of this section.

11           “(e) WITHHOLDING OF ALLOCATION.—Pending final  
12 resolution of any investigation or complaint that could re-  
13 sult in a waiver under subsection (d)(1) or (d)(2), the Sec-  
14 retary may withhold from the allocation of the affected  
15 State or local educational agency the amount estimated  
16 by the Secretary to be necessary to pay the cost of services  
17 to be provided by the Secretary under such subsection.

18           “(f) TERM OF DETERMINATIONS.—Any determina-  
19 tion by the Secretary under this section shall continue in  
20 effect until the Secretary determines that there will no  
21 longer be any failure or inability on the part of the State  
22 or local educational agency to meet the requirements of  
23 subsections (a) and (b).

24           “(g) PAYMENT FROM STATE ALLOTMENT.—When  
25 the Secretary arranges for services pursuant to this sec-

1 tion, the Secretary shall, after consultation with the ap-  
2 propriate public and private school officials, pay the cost  
3 of such services, including the administrative costs of ar-  
4 ranging for those services, from the appropriate allotment  
5 of the State under this part.

6 “(h) REVIEW.—

7 “(1) WRITTEN OBJECTIONS.—The Secretary  
8 shall not take any final action under this section  
9 until the State and the local educational agency af-  
10 fected by such action have had an opportunity, for  
11 not less than 45 days after receiving written notice  
12 thereof, to submit written objections and to appear  
13 before the Secretary or the Secretary’s designee to  
14 show cause why that action should not be taken.

15 “(2) COURT ACTION.—If a State or local edu-  
16 cational agency is dissatisfied with the Secretary’s  
17 final action after a proceeding under paragraph (1),  
18 such agency may, not later than 60 days after notice  
19 of such action, file with the United States court of  
20 appeals for the circuit in which such State is located  
21 a petition for review of that action. A copy of the  
22 petition shall be transmitted by the clerk of the  
23 court to the Secretary. The Secretary thereupon  
24 shall file in the court the record of the proceedings  
25 on which the Secretary based this action, as pro-

1 vided in section 2112 of title 28, United States  
2 Code.

3 “(3) REMAND TO SECRETARY.—The findings of  
4 fact by the Secretary, if supported by substantial  
5 evidence, shall be conclusive; but the court, for good  
6 cause shown, may remand the case to the Secretary  
7 to take further evidence and the Secretary may  
8 make new or modified findings of fact and may mod-  
9 ify the Secretary’s previous action, and shall file in  
10 the court the record of the further proceedings. Such  
11 new or modified findings of fact shall likewise be  
12 conclusive if supported by substantial evidence.

13 “(4) COURT REVIEW.—Upon the filing of such  
14 petition, the court shall have jurisdiction to affirm  
15 the action of the Secretary or to set such action  
16 aside, in whole or in part. The judgment of the court  
17 shall be subject to review by the Supreme Court of  
18 the United States upon certiorari or certification as  
19 provided in section 1254 of title 28, United States  
20 Code.

21 **“SEC. 4143. FEDERAL ADMINISTRATION.**

22 “(a) TECHNICAL ASSISTANCE.—The Secretary, upon  
23 request, shall provide technical assistance to States and  
24 local educational agencies under this part.

1       “(b) RULEMAKING.—The Secretary shall issue regu-  
2 lations under this part only to the extent that such regula-  
3 tions are necessary to ensure that there is compliance with  
4 the specific requirements and assurances required by this  
5 part.

6       “(c) AVAILABILITY OF APPROPRIATIONS.—Notwith-  
7 standing any other provision of law, unless expressly in  
8 limitation of this subsection, funds appropriated in any  
9 fiscal year to carry out activities under this part shall be-  
10 come available for obligation on July 1 of such fiscal year  
11 and shall remain available for obligation until the end of  
12 the subsequent fiscal year.

13 **“SEC. 4144. DEFINITIONS.**

14       “In this part, the following definitions apply:

15           “(1) SCHOOL-AGE POPULATION.—The term  
16 ‘school-age population’ means the population aged 5  
17 through 17.

18           “(2) STATE.—The term ‘State’ means each of  
19 the 50 States, the District of Columbia, and the  
20 Commonwealth of Puerto Rico.

21 **“SEC. 4145. AUTHORIZATION OF APPROPRIATIONS.**

22       “There are authorized to be appropriated to carry out  
23 this part \$472,000,000 for fiscal year 2002 and such sums  
24 as may be necessary for each of fiscal years 2003 through  
25 2006.”.

1           **PART B—PUBLIC CHARTER SCHOOLS**

2   **SEC. 411. PUBLIC CHARTER SCHOOLS.**

3           Part B of title IV is amended to read as follows:

4           **“PART B—PUBLIC CHARTER SCHOOLS**

5   **“SEC. 4201. FINDINGS AND PURPOSE.**

6           “(a) FINDINGS.—The Congress finds that—

7                   “(1) enhancement of parent and student choices  
8           among public schools can assist in promoting com-  
9           prehensive educational reform and give more stu-  
10          dents the opportunity to learn to challenging State  
11          content standards and challenging State student  
12          performance standards, if sufficiently diverse and  
13          high-quality choices, and genuine opportunities to  
14          take advantage of such choices, are available to all  
15          students;

16                   “(2) useful examples of such choices can come  
17          from States and communities that experiment with  
18          methods of offering teachers and other educators,  
19          parents, and other members of the public the oppor-  
20          tunity to design and implement new public schools  
21          and to transform existing public schools;

22                   “(3) charter schools are a mechanism for test-  
23          ing a variety of educational approaches and should,  
24          therefore, be exempted from restrictive rules and  
25          regulations if the leadership of such schools commits  
26          to attaining specific and ambitious educational re-



1       sults for educationally disadvantaged students con-  
2       sistent with challenging State content standards and  
3       challenging State student performance standards for  
4       all students;

5           “(4) charter schools, as such schools have been  
6       implemented in a few States, can embody the nec-  
7       essary mixture of enhanced choice, exemption from  
8       restrictive regulations, and a focus on learning  
9       gains;

10          “(5) charter schools, including charter schools  
11       that are schools-within-schools, can help reduce  
12       school size, which reduction can have a significant  
13       effect on student achievement;

14          “(6) the Federal Government should test, evalu-  
15       ate, and disseminate information on a variety of  
16       charter school models in order to help demonstrate  
17       the benefits of this promising educational reform;  
18       and

19          “(7) there is a strong documented need for  
20       cash-flow assistance to charter schools that are  
21       starting up, because State and local operating rev-  
22       enue streams are not immediately available.

23          “(b) PURPOSE.—It is the purpose of this part to in-  
24       crease national understanding of the charter schools model  
25       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 achievement,  
6           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.—In awarding grants  
22           under this part from any funds appropriated under section  
23           4211, the Secretary shall give priority to States to the ex-  
24           tent that the States meet the criteria described in para-

1 graph (2) and one or more of the criteria described in sub-  
2 paragraph (A), (B), or (C) of paragraph (3).

3           “(2) REVIEW AND EVALUATION PRIORITY CRI-  
4           TERIA.—The criteria referred to in paragraph (1) is  
5           that the State provides for periodic review and eval-  
6           uation by the authorized public chartering agency of  
7           each charter school, at least once every 5 years un-  
8           less required more frequently by State law, to deter-  
9           mine whether the charter school is meeting the  
10          terms of the school’s charter, and is meeting or ex-  
11          ceeding the academic performance requirements and  
12          goals for charter schools as set forth under State  
13          law or the school’s charter.

14           “(3) PRIORITY CRITERIA.—The criteria referred  
15          to in paragraph (1) are the following:

16           “(A) The State has demonstrated progress,  
17           in increasing the number of high quality charter  
18           schools that are held accountable in the terms  
19           of the schools’ charters for meeting clear and  
20           measurable objectives for the educational  
21           progress of the students attending the schools,  
22           in the period prior to the period for which a  
23           State educational agency or eligible applicant  
24           applies for a grant under this part.

25           “(B) The State—

1           “(i) provides for one authorized public  
2           chartering agency that is not a local edu-  
3           cational agency, such as a State chartering  
4           board, for each individual or entity seeking  
5           to operate a charter school pursuant to  
6           such State law; or

7           “(ii) in the case of a State in which  
8           local educational agencies are the only au-  
9           thorized public chartering agencies, allows  
10          for an appeals process for the denial of an  
11          application for a charter school.

12          “(C) The State ensures that each charter  
13          school has a high degree of autonomy over the  
14          charter school’s budgets and expenditures.

15          “(f) AMOUNT CRITERIA.—In determining the amount  
16          of a grant to be awarded under this part to a State edu-  
17          cational agency, the Secretary shall take into consider-  
18          ation the number of charter schools that are operating,  
19          or are approved to open, in the State.

20          **“SEC. 4203. APPLICATIONS.**

21          “(a) APPLICATIONS FROM STATE AGENCIES.—Each  
22          State educational agency desiring a grant from the Sec-  
23          retary under this part shall submit to the Secretary an  
24          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 a description of how such objectives will be fulfilled,  
9 including steps taken by the State educational agen-  
10 cy to inform teachers, parents, and communities of  
11 the State educational agency’s charter school grant  
12 program; and

13 “(2) describe how the State educational  
14 agency—

15 “(A) will inform each charter school in the  
16 State regarding—

17 “(i) Federal funds that the charter  
18 school is eligible to receive; and

19 “(ii) Federal programs in which the  
20 charter school may participate;

21 “(B) will ensure that each charter school  
22 in the State receives the charter school’s com-  
23 mensurate share of Federal education funds  
24 that are allocated by formula each year, includ-

1           ing during the first year of operation of the  
2           charter school; and

3                 “(C) will disseminate best or promising  
4           practices of charter schools to each local edu-  
5           cational agency in the State; and

6                 “(3) contain assurances that the State edu-  
7           cational agency will require each eligible applicant  
8           desiring to receive a subgrant to submit an applica-  
9           tion to the State educational agency containing—

10                 “(A) a description of the educational pro-  
11           gram to be implemented by the proposed char-  
12           ter school, including—

13                 “(i) how the program will enable all  
14           students to meet challenging State student  
15           performance standards;

16                 “(ii) the grade levels or ages of chil-  
17           dren to be served; and

18                 “(iii) the curriculum and instructional  
19           practices to be used;

20                 “(B) a description of how the charter  
21           school will be managed;

22                 “(C) a description of—

23                 “(i) the objectives of the charter  
24           school; and

1                   “(ii) the methods by which the charter  
2                   school will determine its progress toward  
3                   achieving those objectives;

4                   “(D) a description of the administrative re-  
5                   lationship between the charter school and the  
6                   authorized public chartering agency;

7                   “(E) a description of how parents and  
8                   other members of the community will be in-  
9                   volved in the planning, program design and im-  
10                  plementation of the charter school;

11                  “(F) a description of how the authorized  
12                  public chartering agency will provide for contin-  
13                  ued operation of the school once the Federal  
14                  grant has expired, if such agency determines  
15                  that the school has met the objectives described  
16                  in subparagraph (C)(i);

17                  “(G) a request and justification for waivers  
18                  of any Federal statutory or regulatory provi-  
19                  sions that the applicant believes are necessary  
20                  for the successful operation of the charter  
21                  school, and a description of any State or local  
22                  rules, generally applicable to public schools,  
23                  that will be waived for, or otherwise not apply  
24                  to, the school;



1           “(H) a description of how the subgrant  
2 funds or grant funds, as appropriate, will be  
3 used, including a description of how such funds  
4 will be used in conjunction with other Federal  
5 programs administered by the Secretary;

6           “(I) a description of how students in the  
7 community will be—

8                   “(i) informed about the charter  
9 school; and

10                   “(ii) given an equal opportunity to at-  
11 tend the charter school;

12           “(J) an assurance that the eligible appli-  
13 cant will annually provide the Secretary and the  
14 State educational agency such information as  
15 may be required to determine if the charter  
16 school is making satisfactory progress toward  
17 achieving the objectives described in subpara-  
18 graph (C)(i);

19           “(K) an assurance that the applicant will  
20 cooperate with the Secretary and the State edu-  
21 cational agency in evaluating the program as-  
22 sisted under this part;

23           “(L) a description of how a charter school  
24 that is considered a local educational agency  
25 under State law, or a local educational agency

1 in which a charter school is located, will comply  
2 with sections 613(a)(5) and 613(e)(1)(B) of the  
3 Individuals with Disabilities Education Act;

4 “(M) if the eligible applicant desires to use  
5 subgrant funds for dissemination activities  
6 under section 4202(c)(2)(C), a description of  
7 those activities and how those activities will in-  
8 volve charter schools and other public schools,  
9 local educational agencies, developers, and po-  
10 tential developers; and

11 “(N) such other information and assur-  
12 ances as the Secretary and the State edu-  
13 cational agency may require.

14 “(c) CONTENTS OF ELIGIBLE APPLICANT APPLICA-  
15 TION.—Each eligible applicant desiring a grant pursuant  
16 to section 4202(b) shall submit an application to the State  
17 educational agency or Secretary, respectively, at such  
18 time, in such manner, and accompanied by such informa-  
19 tion as the State educational agency or Secretary, respec-  
20 tively, may reasonably require.

21 “(d) CONTENTS OF APPLICATION.—Each application  
22 submitted pursuant to subsection (c) shall contain—

23 “(1) the information and assurances described  
24 in subparagraphs (A) through (N) of subsection  
25 (b)(3), except that for purposes of this subsection

1 subparagraphs (J), (K), and (N) of such subsection  
2 shall be applied by striking ‘and the State edu-  
3 cational agency’ each place such term appears; and

4 “(2) assurances that the State educational  
5 agency—

6 “(A) will grant, or will obtain, waivers of  
7 State statutory or regulatory requirements; and

8 “(B) will assist each subgrantee in the  
9 State in receiving a waiver under section  
10 4204(e).

11 **“SEC. 4204. ADMINISTRATION.**

12 “(a) SELECTION CRITERIA FOR STATE EDU-  
13 CATIONAL AGENCIES.—The Secretary shall award grants  
14 to State educational agencies under this part on the basis  
15 of the quality of the applications submitted under section  
16 4203(b), after taking into consideration such factors as—

17 “(1) the contribution that the charter schools  
18 grant program will make to assisting educationally  
19 disadvantaged and other students to achieving State  
20 content standards and State student performance  
21 standards and, in general, a State’s education im-  
22 provement plan;

23 “(2) the degree of flexibility afforded by the  
24 State educational agency to charter schools under  
25 the State’s charter schools law;

1           “(3) the ambitiousness of the objectives for the  
2 State charter school grant program;

3           “(4) the quality of the strategy for assessing  
4 achievement of those objectives;

5           “(5) the likelihood that the charter school grant  
6 program will meet those objectives and improve edu-  
7 cational results for students;

8           “(6) the number of high quality charter schools  
9 created under this part in the State; and

10           “(7) in the case of State educational agencies  
11 that propose to use grant funds to support dissemi-  
12 nation activities under section 4202(c)(2)(C), the  
13 quality of those activities and the likelihood that  
14 those activities will improve student achievement.

15           “(b) SELECTION CRITERIA FOR ELIGIBLE APPLI-  
16 CANTS.—The Secretary shall award grants to eligible ap-  
17 plicants under this part on the basis of the quality of the  
18 applications submitted under section 4203(c), after taking  
19 into consideration such factors as—

20           “(1) the quality of the proposed curriculum and  
21 instructional practices;

22           “(2) the degree of flexibility afforded by the  
23 State educational agency and, if applicable, the local  
24 educational agency to the charter school;

1           “(3) the extent of community support for the  
2 application;

3           “(4) the ambitiousness of the objectives for the  
4 charter school;

5           “(5) the quality of the strategy for assessing  
6 achievement of those objectives;

7           “(6) the likelihood that the charter school will  
8 meet those objectives and improve educational re-  
9 sults for students; and

10           “(7) in the case of an eligible applicant that  
11 proposes to use grant funds to support dissemina-  
12 tion activities under section 4202(c)(2)(C), the qual-  
13 ity of those activities and the likelihood that those  
14 activities will improve student achievement.

15           “(c) PEER REVIEW.—The Secretary, and each State  
16 educational agency receiving a grant under this part, shall  
17 use a peer review process to review applications for assist-  
18 ance under this part.

19           “(d) DIVERSITY OF PROJECTS.—The Secretary and  
20 each State educational agency receiving a grant under this  
21 part, shall award subgrants under this part in a manner  
22 that, to the extent possible, ensures that such grants and  
23 subgrants—

1           “(1) are distributed throughout different areas  
2 of the Nation and each State, including urban and  
3 rural areas; and

4           “(2) will assist charter schools representing a  
5 variety of educational approaches, such as ap-  
6 proaches designed to reduce school size.

7           “(e) WAIVERS.—The Secretary may waive any statu-  
8 tory or regulatory requirement over which the Secretary  
9 exercises administrative authority except any such require-  
10 ment relating to the elements of a charter school described  
11 in section 4210(1), if—

12           “(1) the waiver is requested in an approved ap-  
13 plication under this part; and

14           “(2) the Secretary determines that granting  
15 such a waiver will promote the purpose of this part.

16           “(f) USE OF FUNDS.—

17           “(1) STATE EDUCATIONAL AGENCIES.—Each  
18 State educational agency receiving a grant under  
19 this part shall use such grant funds to award sub-  
20 grants to one or more eligible applicants in the State  
21 to enable such applicant to plan and implement a  
22 charter school in accordance with this part, except  
23 that the State educational agency may reserve not  
24 more than 10 percent of the grant funds to support  
25 dissemination activities described in paragraph (6).

1           “(2) ELIGIBLE APPLICANTS.—Each eligible ap-  
2           plicant receiving funds from the Secretary or a State  
3           educational agency shall use such funds to plan and  
4           implement a charter school, or to disseminate infor-  
5           mation about the charter school and successful prac-  
6           tices in the charter school, in accordance with this  
7           part.

8           “(3) ALLOWABLE ACTIVITIES.—An eligible ap-  
9           plicant receiving a grant or subgrant under this part  
10          may use the grant or subgrant funds only for—

11                 “(A) post-award planning and design of  
12          the educational program, which may include—

13                         “(i) refinement of the desired edu-  
14                         cational results and of the methods for  
15                         measuring progress toward achieving those  
16                         results; and

17                         “(ii) professional development of  
18                         teachers and other staff who will work in  
19                         the charter school; and

20                 “(B) initial implementation of the charter  
21          school, which may include—

22                         “(i) informing the community about  
23                         the school;

24                         “(ii) acquiring necessary equipment  
25                         and educational materials and supplies;

1                   “(iii) acquiring or developing cur-  
2                   riculum materials; and

3                   “(iv) other initial operational costs  
4                   that cannot be met from State or local  
5                   sources.

6                   “(4) ADMINISTRATIVE EXPENSES.—Each State  
7                   educational agency receiving a grant pursuant to  
8                   this part may reserve not more than 5 percent of  
9                   such grant funds for administrative expenses associ-  
10                  ated with the charter school grant program assisted  
11                  under this part.

12                  “(5) REVOLVING LOAN FUNDS.—Each State  
13                  educational agency receiving a grant pursuant to  
14                  this part may reserve not more than 10 percent of  
15                  the grant amount for the establishment of a revolv-  
16                  ing loan fund. Such fund may be used to make loans  
17                  to eligible applicants that have received a subgrant  
18                  under this part, under such terms as may be deter-  
19                  mined by the State educational agency, for the ini-  
20                  tial operation of the charter school grant program of  
21                  such recipient until such time as the recipient begins  
22                  receiving ongoing operational support from State or  
23                  local financing sources.

24                  “(6) DISSEMINATION.—



1           “(A) IN GENERAL.—A charter school may  
2           apply for funds under this part, whether or not  
3           the charter school has applied for or received  
4           funds under this part for planning, program de-  
5           sign, or implementation, to carry out the activi-  
6           ties described in subparagraph (B) if the char-  
7           ter school has been in operation for at least 3  
8           consecutive years and has demonstrated overall  
9           success, including—

10                   “(i) substantial progress in improving  
11                   student achievement;

12                   “(ii) high levels of parent satisfaction;  
13                   and

14                   “(iii) the management and leadership  
15                   necessary to overcome initial start-up prob-  
16                   lems and establish a thriving, financially  
17                   viable charter school.

18           “(B) ACTIVITIES.—A charter school de-  
19           scribed in subparagraph (A) may use funds re-  
20           served under paragraph (1) to assist other  
21           schools in adapting the charter school’s pro-  
22           gram (or certain aspects of the charter school’s  
23           program), or to disseminate information about  
24           the charter school, through such activities as—

1           “(i) assisting other individuals with  
2           the planning and start-up of one or more  
3           new public schools, including charter  
4           schools, that are independent of the assist-  
5           ing charter school and the assisting charter  
6           school’s developers, and that agree to be  
7           held to at least as high a level of account-  
8           ability as the assisting charter school;

9           “(ii) developing partnerships with  
10          other public schools, including charter  
11          schools, designed to improve student per-  
12          formance in each of the schools partici-  
13          pating in the partnership;

14          “(iii) developing curriculum materials,  
15          assessments, and other materials that pro-  
16          mote increased student achievement and  
17          are based on successful practices within  
18          the assisting charter school; and

19          “(iv) conducting evaluations and de-  
20          veloping materials that document the suc-  
21          cessful practices of the assisting charter  
22          school and that are designed to improve  
23          student performance in other schools.

24          “(g) TRIBALLY CONTROLLED SCHOOLS.—Each State  
25          that receives a grant under this part and designates a trib-

1 ally controlled school as a charter school shall not consider  
2 payments to a school under the Tribally Controlled  
3 Schools Act of 1988 (25 U.S.C. 2507) in determining—

4 “(1) the eligibility of the school to receive any  
5 other Federal, State, or local aid; or

6 “(2) the amount of such aid.

7 **“SEC. 4205. NATIONAL ACTIVITIES.**

8 “(a) IN GENERAL.—The Secretary shall reserve for  
9 each fiscal year the greater of 5 percent or \$5,000,000  
10 of the amount appropriated to carry out this part, except  
11 that in no fiscal year shall the total amount so reserved  
12 exceed \$8,000,000, to carry out the following activities:

13 “(1) To provide charter schools, either directly  
14 or through State educational agencies, with—

15 “(A) information regarding—

16 “(i) Federal funds that charter  
17 schools are eligible to receive; and

18 “(ii) other Federal programs in which  
19 charter schools may participate; and

20 “(B) assistance in applying for Federal  
21 education funds that are allocated by formula,  
22 including assistance with filing deadlines and  
23 submission of applications.

24 “(2) To provide for other evaluations or studies  
25 that include the evaluation of the impact of charter

1 schools on student achievement, including informa-  
2 tion regarding—

3 “(A) students attending charter schools re-  
4 ported on the basis of race, age, disability, gen-  
5 der, limited English proficiency, and previous  
6 enrollment in public school; and

7 “(B) the professional qualifications of  
8 teachers within a charter school and the turn-  
9 over of the teaching force.

10 “(3) To provide—

11 “(A) information to applicants for assist-  
12 ance under this part;

13 “(B) assistance to applicants for assistance  
14 under this part with the preparation of applica-  
15 tions under section 4203;

16 “(C) assistance in the planning and start-  
17 up of charter schools;

18 “(D) training and technical assistance to  
19 existing charter schools; and

20 “(E) for the dissemination to other public  
21 schools of best or promising practices in charter  
22 schools.

23 “(4) To provide (including through the use of  
24 one or more contracts that use a competitive bidding  
25 process) for the collection of information regarding

1 the financial resources available to charter schools,  
2 including access to private capital, and to widely dis-  
3 seminate to charter schools any such relevant infor-  
4 mation and model descriptions of successful pro-  
5 grams.

6 “(b) CONSTRUCTION.—Nothing in this section shall  
7 be construed to require charter schools to collect any data  
8 described in subsection (a).

9 **“SEC. 4206. FEDERAL FORMULA ALLOCATION DURING**  
10 **FIRST YEAR AND FOR SUCCESSIVE ENROLL-**  
11 **MENT EXPANSIONS.**

12 “(a) IN GENERAL.—For purposes of the allocation  
13 to schools by the States or their agencies of funds under  
14 part A of title I, and any other Federal funds which the  
15 Secretary allocates to States on a formula basis, the Sec-  
16 retary and each State educational agency shall take such  
17 measures not later than 6 months after the date of the  
18 enactment of the Charter School Expansion Act of 1998  
19 as are necessary to ensure that every charter school re-  
20 ceives the Federal funding for which the charter school  
21 is eligible not later than 5 months after the charter school  
22 first opens, notwithstanding the fact that the identity and  
23 characteristics of the students enrolling in that charter  
24 school are not fully and completely determined until that  
25 charter school actually opens. The measures similarly shall

1 ensure that every charter school expanding its enrollment  
2 in any subsequent year of operation receives the Federal  
3 funding for which the charter school is eligible not later  
4 than 5 months after such expansion.

5 “(b) ADJUSTMENT AND LATE OPENINGS.—

6 “(1) IN GENERAL.—The measures described in  
7 subsection (a) shall include provision for appropriate  
8 adjustments, through recovery of funds or reduction  
9 of payments for the succeeding year, in cases where  
10 payments made to a charter school on the basis of  
11 estimated or projected enrollment data exceed the  
12 amounts that the school is eligible to receive on the  
13 basis of actual or final enrollment data.

14 “(2) RULE.—For charter schools that first  
15 open after November 1 of any academic year, the  
16 State, in accordance with guidance provided by the  
17 Secretary and applicable Federal statutes and regu-  
18 lations, shall ensure that such charter schools that  
19 are eligible for the funds described in subsection (a)  
20 for such academic year have a full and fair oppor-  
21 tunity to receive those funds during the charter  
22 schools’ first year of operation.

1 **“SEC. 4207. SOLICITATION OF INPUT FROM CHARTER**  
2 **SCHOOL OPERATORS.**

3 “To the extent practicable, the Secretary shall ensure  
4 that administrators, teachers, and other individuals di-  
5 rectly involved in the operation of charter schools are con-  
6 sulted in the development of any rules or regulations re-  
7 quired to implement this part, as well as in the develop-  
8 ment of any rules or regulations relevant to charter  
9 schools that are required to implement part A of title I,  
10 the Individuals with Disabilities Education Act (20 U.S.C.  
11 1400 et seq.), or any other program administered by the  
12 Secretary that provides education funds to charter schools  
13 or regulates the activities of charter schools.

14 **“SEC. 4208. RECORDS TRANSFER.**

15 “State educational agencies and local educational  
16 agencies, to the extent practicable, shall ensure that a stu-  
17 dent’s records and, if applicable, a student’s individualized  
18 education program as defined in section 602(11) of the  
19 Individuals with Disabilities Education Act (20 U.S.C.  
20 1401(11)), are transferred to a charter school upon the  
21 transfer of the student to the charter school, and to an-  
22 other public school upon the transfer of the student from  
23 a charter school to another public school, in accordance  
24 with applicable State law.

1 **“SEC. 4209. PAPERWORK REDUCTION.**

2 “To the extent practicable, the Secretary and each  
3 authorized public chartering agency shall ensure that im-  
4 plementation of this part results in a minimum of paper-  
5 work for any eligible applicant or charter school.

6 **“SEC. 4210. DEFINITIONS.**

7 “As used in this part:

8 “(1) The term ‘charter school’ means a public  
9 school that—

10 “(A) in accordance with a specific State  
11 statute authorizing the granting of charters to  
12 schools, is exempted from significant State or  
13 local rules that inhibit the flexible operation  
14 and management of public schools, but not  
15 from any rules relating to the other require-  
16 ments of this paragraph;

17 “(B) is created by a developer as a public  
18 school, or is adapted by a developer from an ex-  
19 isting public school, and is operated under pub-  
20 lic supervision and direction;

21 “(C) operates in pursuit of a specific set of  
22 educational objectives determined by the  
23 school’s developer and agreed to by the author-  
24 ized public chartering agency;

25 “(D) provides a program of elementary or  
26 secondary education, or both;



1           “(E) is nonsectarian in its programs, ad-  
2           missions policies, employment practices, and all  
3           other operations, and is not affiliated with a  
4           sectarian school or religious institution;

5           “(F) does not charge tuition;

6           “(G) complies with the Age Discrimination  
7           Act of 1975, title VI of the Civil Rights Act of  
8           1964, title IX of the Education Amendments of  
9           1972, section 504 of the Rehabilitation Act of  
10          1973, and part B of the Individuals with Dis-  
11          abilities Education Act;

12          “(H) is a school to which parents choose to  
13          send their children, and that admits students  
14          on the basis of a lottery, or in another non-  
15          discriminatory manner consistent with State  
16          law, if more students apply for admission than  
17          can be accommodated;

18          “(I) agrees to comply with the same Fed-  
19          eral and State audit requirements as do other  
20          elementary and secondary schools in the State,  
21          unless such requirements are specifically waived  
22          for the purpose of this program;

23          “(J) meets all applicable Federal, State,  
24          and local health and safety requirements;

1           “(K) operates in accordance with State  
2 law; and

3           “(L) has a written performance contract  
4 with the authorized public chartering agency in  
5 the State that includes a description of how  
6 student performance will be measured in char-  
7 ter schools pursuant to State assessments that  
8 are required of other schools and pursuant to  
9 any other assessments mutually agreeable to  
10 the authorized public chartering agency and the  
11 charter school.

12           “(2) The term ‘developer’ means an individual  
13 or group of individuals (including a public or private  
14 nonprofit organization), which may include teachers,  
15 administrators and other school staff, parents, or  
16 other members of the local community in which a  
17 charter school project will be carried out.

18           “(3) The term ‘eligible applicant’ means an au-  
19 thorized public chartering agency participating in a  
20 partnership with a developer to establish a charter  
21 school in accordance with this part.

22           “(4) The term ‘authorized public chartering  
23 agency’ means a State educational agency, local edu-  
24 cational agency, or other public entity that has the

1 authority pursuant to State law and approved by the  
2 Secretary to authorize or approve a charter school.

3 **“SEC. 4211. AUTHORIZATION OF APPROPRIATIONS.**

4 “For the purpose of carrying out this part, there are  
5 authorized to be appropriated \$200,000,000 for fiscal year  
6 2002 and such sums as may be necessary for each of the  
7 4 succeeding fiscal years.”.

8 **PART C—SCHOOL CHOICE RESEARCH AND**  
9 **DEMONSTRATION**

10 **SEC. 421. SCHOOL CHOICE RESEARCH AND DEMONSTRATION**  
11 **TION**

12 Part C of title IV is amended to read as follows:

13 **“PART C—EDUCATIONAL OPPORTUNITY FUND**

14 **“SEC. 4311. PURPOSE.**

15 “The purpose of this part is to determine the effec-  
16 tiveness of school choice in improving the academic  
17 achievement of disadvantaged students and the overall  
18 quality of public schools and local educational agencies.

19 **“SEC. 4312. PROGRAM AUTHORIZED.**

20 “The Secretary is authorized to make competitive  
21 awards to eligible entities to carry out and evaluate,  
22 through contracts or grants, research projects that dem-  
23 onstrate how school choice options increase the academic  
24 achievement of students, schools, and local educational  
25 agencies.

1 **“SEC. 4313. ELIGIBLE ENTITIES.**

2 “For purposes of this part an eligible entity is—

3 “(1) a State educational agency;

4 “(2) a county agency;

5 “(3) a municipal agency;

6 “(4) a local educational agency;

7 “(5) a nonprofit corporation; or

8 “(6) a consortia thereof.

9 **“SEC. 4314. APPLICATIONS.**

10 “Each eligible entity desiring an award under this  
11 part shall submit an application to the Secretary that shall  
12 include—

13 “(1) a description of the proposed research  
14 project, including a designation from which local  
15 educational agency or agencies eligible students will  
16 be selected to participate in a choice program;

17 “(2) a description of the annual costs of the  
18 project;

19 “(3) a description of the research design that  
20 the eligible entity will employ in carrying out the  
21 project;

22 “(4) a description of the project evaluation that  
23 will be conducted by an independent third party en-  
24 tity, including—

1           “(A) the name and qualifications of the  
2           independent entity that will conduct the evalua-  
3           tion; and

4           “(B) a description of how the evaluation  
5           will measure the academic achievement of stu-  
6           dents participating in the program, parental  
7           satisfaction and the effect of the project on the  
8           schools and agencies designated in paragraph  
9           (1);

10          “(5) a description of how the eligible entity will  
11          ensure the participation of students selected for the  
12          control group;

13          “(6) a description of the assessment that the el-  
14          igible entity will use to assess annually the progress  
15          of participants in the research project in grades 3  
16          through 8 in mathematics and reading and how it is  
17          comparable to assessments used by the agency or  
18          agencies described under paragraph (1);

19          “(7) an assurance that the eligible entity will  
20          assess all students that are participating in the pro-  
21          gram or in the control group at the beginning of the  
22          project;

23          “(8) an assurance that the eligible entity will  
24          report annually to the Secretary on the impact of  
25          the project on student achievement, including a dis-

1 cussion of the meaning and an attestation of validity  
2 of the achievement data;

3 “(9) an assurance that, if the number of stu-  
4 dents applying to participate in the project is greater  
5 than the number of students the project can serve,  
6 participants will be selected by lottery;

7 “(10) a description of how the amount that will  
8 be provided directly to students for tuition, fees,  
9 transportation, or supplemental services will be de-  
10 termined;

11 “(11) an assurance that schools participating  
12 under this part will abide by the nondiscrimination  
13 requirements set forth in section 4319;

14 “(12) an assurance that eligible students receiv-  
15 ing assistance under this part will not be defined by  
16 reference to religion and that grants will be allocated  
17 on the basis of neutral, secular criteria that neither  
18 favor nor disfavor religion, and will be made avail-  
19 able to children attending secular and nonsecular in-  
20 stitutions on a nondiscriminatory basis; and

21 “(13) an assurance that no private school will  
22 be required to participate in the project without its  
23 consent.

1 **“SEC. 4315. PRIORITIES.**

2 “In awarding grants under this program, the Sec-  
3 retary shall give priority to applications that—

4 “(1) provide students and families with the  
5 widest range of educational options;

6 “(2) target resources to students and families  
7 that lack the financial resources to take advantage  
8 of available educational options;

9 “(3) are of sufficient size to have a significant  
10 impact on the public and private schools of the com-  
11 munity that the project serves;

12 “(4) propose using rigorous methodologies and  
13 third party evaluators with experience in evaluating  
14 school choice proposals; and

15 “(5) propose serving students of varying age  
16 and grade levels.

17 **“SEC. 4316. USE OF FUNDS.**

18 “(a) IN GENERAL.—A grantee may reserve up to 10  
19 percent of its award for research and evaluation activities,  
20 of which not more than 2 percent may be used for admin-  
21 istrative purposes.

22 “(b) GRANTS TO STUDENTS.—A grantee shall use at  
23 least 90 percent of its award to provide grants to eligible  
24 students, who shall use the grants to—

1           “(1) pay the eligible educational expenses, in-  
2           cluding tuition, fees, and transportation expenses re-  
3           quired to attend the school of their choice; or

4           “(2) purchase supplemental educational serv-  
5           ices.

6           “(c) ASSISTANCE.—All grants provided to students  
7           by the project shall be deemed assistance to students rath-  
8           er than to schools.

9           **“SEC. 4317. ELIGIBLE STUDENTS.**

10          “For purposes of the activities funded under this  
11          part, an eligible student is defined as a student who—

12           “(1) is eligible for a free or reduced-price lunch  
13           subsidy under the National School Lunch program;  
14           and

15           “(2) attended a public elementary or secondary  
16           school or was not yet of school age in the year pre-  
17           ceding participation in this program.

18          **“SEC. 4318. REPORTING REQUIREMENTS.**

19          “(a) IN GENERAL.—Each grantee receiving an award  
20          under this program shall, beginning with the second year  
21          of the project, report annually to the Secretary  
22          regarding—

23           “(1) the activities carried out during the pre-  
24           ceding 12 months with program funds; and



1           “(2) the results of the assessments given to stu-  
2           dents participating in the program and students se-  
3           lected for the control group.

4           “(b) PERFORMANCE REPORTS.—In addition, each  
5           grantee shall, in the third year of the research project,  
6           report annually to the Secretary regarding—

7           “(1) the academic performance of students par-  
8           ticipating in the project; and

9           “(2) parental satisfaction; and

10           “(3) changes in the overall performance and  
11           quality of public and private elementary and sec-  
12           ondary schools affected by the project, as well as  
13           other indicators such as teacher quality, innovative  
14           reforms, or special programs.

15           “(c) REPORT TO CONGRESS.—The Secretary shall  
16           submit to the appropriate congressional committees an an-  
17           nual report on the findings of the reports submitted under  
18           subsections (a) and (b), and include the comments of the  
19           independent review panel in accordance with section  
20           4019(3).

21           **“SEC. 4319. NONDISCRIMINATION.**

22           “(a) APPLICATION.—Except as provided in subpara-  
23           graph (B), title VI of the Civil Rights Act of 1964, title  
24           IX of the Education Amendments of 1972, and section  
25           504 of the Rehabilitation Act of 1973, do not apply to

1 a private school that enrolls an eligible child who receives  
2 funds under this part by virtue of that child's use of those  
3 funds to enroll at that school.

4 “(b) RIGHT AT PRIVATE SCHOOLS.—The eligible en-  
5 tity shall ensure that a private school that enrolls an eligi-  
6 ble child described in subparagraph (A) shall afford the  
7 child the same rights against discrimination provided by  
8 the statutes identified in that subparagraph, and shall af-  
9 ford those same rights to any eligible child who applies  
10 to enroll in that school.

11 **“SEC. 4320. INDEPENDENT REVIEW PANEL.**

12 “(a) ESTABLISHMENT.—The Secretary shall estab-  
13 lish an independent review panel to advise the Secretary  
14 on technical and methodological issues and in overseeing  
15 the activities funded under this part.

16 “(b) MEMBERSHIP.—The Secretary shall appoint  
17 members of the independent review panel from among  
18 qualified individuals who are—

19 “(A) specialists in school choice research,  
20 as well as experts in statistics, evaluation, re-  
21 search, and assessment; and

22 “(B) other individuals with technical ex-  
23 pertise who will contribute to the overall rigor  
24 and quality of the evaluations.

1       “(c) POWERS.—The independent review panel shall  
2 consult with and advise the Secretary—

3               “(1) to ensure that the evaluations funded  
4 under this part adhere to the highest possible stand-  
5 ards of quality with respect to research design and  
6 statistical analysis; and

7               “(2) to evaluate and comment on the degree to  
8 which annual reports submitted in accordance with  
9 section 4318 meet the requirements under subpara-  
10 graph (A) with such comments included with the re-  
11 port submitted to the appropriate Congressional  
12 committees.

13 **“SEC. 4321. AUTHORIZATION OF APPROPRIATIONS.**

14       “There are authorized to be appropriated  
15 \$25,000,000 for fiscal year 2002 and such sums as may  
16 be necessary for each of the 4 succeeding fiscal years.”.

17       **PART D—MAGNET SCHOOLS ASSISTANCE**

18 **SEC. 431. MAGNET SCHOOLS ASSISTANCE.**

19       Part D of title IV is amended to read as follows:

20       **“PART D—MAGNET SCHOOLS ASSISTANCE**

21 **“SEC. 4401. STATEMENT OF PURPOSE.**

22       ““The purpose of this part is to assist in the desegre-  
23 gation of schools served by local educational agencies by  
24 providing financial assistance to eligible local educational  
25 agencies for—

1           “(1) the elimination, reduction, or prevention of  
2           minority group isolation in elementary and sec-  
3           ondary schools with substantial proportions of mi-  
4           nority students;

5           “(2) the development and implementation of  
6           magnet school projects that will assist local edu-  
7           cational agencies in achieving systemic reforms and  
8           providing all students the opportunity to meet chal-  
9           lenging State content standards and challenging  
10          State student performance standards;

11          “(3) the development and design of innovative  
12          educational methods and practices that promote di-  
13          versity and increase choices in public elementary and  
14          secondary schools and educational programs; and

15          “(4) courses of instruction within magnet  
16          schools that will substantially strengthen the knowl-  
17          edge of academic subjects and the grasp of tangible  
18          and marketable vocational and technical skills of  
19          students attending such schools.

20       **“SEC. 4402. PROGRAM AUTHORIZED.**

21          “The Secretary, in accordance with this part, is au-  
22          thorized to make grants to eligible local educational agen-  
23          cies, and consortia of such agencies where appropriate, to  
24          carry out the purpose of this part for magnet schools that  
25          are—

1           “(1) part of an approved desegregation plan;  
2           and

3           “(2) designed to bring students from different  
4           social, economic, ethnic, and racial backgrounds to-  
5           gether.

6   **“SEC. 4403. DEFINITION.**

7           “For the purpose of this part, the term ‘magnet  
8   school’ means a public elementary or secondary school or  
9   public elementary or secondary education center that of-  
10   fers a special curriculum capable of attracting substantial  
11   numbers of students of different racial backgrounds.

12   **“SEC. 4404. ELIGIBILITY.**

13           “A local educational agency, or consortium of such  
14   agencies where appropriate, is eligible to receive assistance  
15   under this part to carry out the purpose of this part if  
16   such agency or consortium—

17           “(1) is implementing a plan undertaken pursu-  
18           ant to a final order issued by a court of the United  
19           States, or a court of any State, or any other State  
20           agency or official of competent jurisdiction, that re-  
21           quires the desegregation of minority-group-seg-  
22           regated children or faculty in the elementary and  
23           secondary schools of such agency; or

24           “(2) without having been required to do so, has  
25           adopted and is implementing, or will, if assistance is

1 made available to such local educational agency or  
2 consortium of such agencies under this part, adopt  
3 and implement a plan that has been approved by the  
4 Secretary as adequate under title VI of the Civil  
5 Rights Act of 1964 for the desegregation of minor-  
6 ity-group-segregated children or faculty in such  
7 schools.

8 **“SEC. 4405. APPLICATIONS AND REQUIREMENTS.**

9 “(a) APPLICATIONS.—An eligible local educational  
10 agency, or consortium of such agencies, desiring to receive  
11 assistance under this part shall submit an application to  
12 the Secretary at such time, in such manner, and con-  
13 taining such information and assurances as the Secretary  
14 may reasonably require.

15 “(b) INFORMATION AND ASSURANCES.—Each such  
16 application shall include—

17 “(1) a description of—

18 “(A) how assistance made available under  
19 this part will be used to promote desegregation,  
20 including how the proposed magnet school  
21 project will increase interaction among students  
22 of different social, economic, ethnic, and racial  
23 backgrounds;

24 “(B) the manner and extent to which the  
25 magnet school project will increase student

1 achievement in the instructional area or areas  
2 offered by the school;

3 “(C) how an applicant will continue the  
4 magnet school project after assistance under  
5 this part is no longer available, including, if ap-  
6 plicable, an explanation of why magnet schools  
7 established or supported by the applicant with  
8 funds under this part cannot be continued with-  
9 out the use of funds under this part;

10 “(D) how funds under this part will be  
11 used to improve student academic performance  
12 for all students attending the magnet schools;  
13 and

14 “(E) the criteria to be used in selecting  
15 students to attend the proposed magnet school  
16 projects; and

17 “(2) assurances that the applicant will—

18 “(A) use funds under this part for the pur-  
19 pose specified in section 4401;

20 “(B) employ fully qualified teachers in the  
21 courses of instruction assisted under this part;

22 “(C) not engage in discrimination based on  
23 race, religion, color, national origin, sex, or dis-  
24 ability in—

1           “(i) the hiring, promotion, or assign-  
2           ment of employees of the agency or other  
3           personnel for whom the agency has any ad-  
4           ministrative responsibility;

5           “(ii) the assignment of students to  
6           schools, or to courses of instruction within  
7           the school, of such agency, except to carry  
8           out the approved plan; and

9           “(iii) designing or operating extra-  
10          curricular activities for students;

11          “(D) carry out a high-quality education  
12          program that will encourage greater parental  
13          decisionmaking and involvement; and

14          “(E) give students residing in the local at-  
15          tendance area of the proposed magnet school  
16          projects equitable consideration for placement  
17          in those projects.

18 **“SEC. 4406. PRIORITY.**

19          “‘In approving applications under this part, the Sec-  
20          retary shall give priority to applicants that—

21                 “(1) demonstrate the greatest need for assist-  
22                 ance, based on the expense or difficulty of effectively  
23                 carrying out an approved desegregation plan and the  
24                 projects for which assistance is sought;



1           “(2) propose to carry out new magnet school  
2 projects, or significantly revise existing magnet  
3 school projects; and

4           “(3) propose to select students to attend mag-  
5 net school projects by methods such as lottery, rath-  
6 er than through academic examination.

7 **“SEC. 4407. USE OF FUNDS.**

8           “(a) IN GENERAL.—Grant funds made available  
9 under this part may be used by an eligible local edu-  
10 cational agency or consortium of such agencies—

11           “(1) for planning and promotional activities di-  
12 rectly related to the development, expansion, con-  
13 tinuation, or enhancement of academic programs  
14 and services offered at magnet schools;

15           “(2) for the acquisition of books, materials, and  
16 equipment, including computers and the mainte-  
17 nance and operation thereof, necessary for the con-  
18 duct of programs in magnet schools;

19           “(3) for the payment, or subsidization of the  
20 compensation, of elementary and secondary school  
21 teachers who are fully qualified, and instructional  
22 staff where applicable, who are necessary for the  
23 conduct of programs in magnet schools;

1           “(4) with respect to a magnet school program  
2           offered to less than the entire student population of  
3           a school, for instructional activities that—

4                   “(A) are designed to make available the  
5                   special curriculum that is offered by the magnet  
6                   school project to students who are enrolled in  
7                   the school but who are not enrolled in the mag-  
8                   net school program; and

9                   “(B) further the purpose of this part; and

10           “(5) for activities, which may include profes-  
11           sional development, that will build the recipient’s ca-  
12           pacity to operate magnet school programs once the  
13           grant period has ended.

14           “(b) SPECIAL RULE.—Grant funds under this part  
15           may be used in accordance with paragraphs (2) and (3)  
16           of subsection (a) only if the activities described in such  
17           paragraphs are directly related to improving the students’  
18           academic performance based on the State’s challenging  
19           content standards and challenging student performance  
20           standards or directly related to improving the students’  
21           reading skills or knowledge of mathematics, science, his-  
22           tory, geography, English, foreign languages, art, or music,  
23           or to improving vocational and technical skills.

1 **“SEC. 4408. 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. 4409. 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. 4410. EVALUATIONS.**

2       “(a) RESERVATION.—The Secretary may reserve not  
3 more than 2 percent of the funds appropriated under sec-  
4 tion 4411(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. 4411. 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 \$110,000,000 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. 432. CONTINUATION OF AWARDS.**

16 Notwithstanding the amendment made by section  
17 431, or any other provision of this Act, any local edu-  
18 cational agency, or consortium of such agencies, that was  
19 awarded a grant under section 5111 of the Elementary  
20 and Secondary Education Act of 1965 (20 U.S.C. 7211)  
21 prior to the date of the enactment of this Act shall con-  
22 tinue to receive funds in accordance with the terms of such  
23 award until the date on which the award period terminates  
24 under such terms.

1     **TITLE V—SAFE SCHOOLS FOR**  
2             **THE 21ST CENTURY**

3     **SEC. 501. SAFE SCHOOLS.**

4             Title V is amended to read as follows:

5     **“TITLE V—SAFE SCHOOLS FOR**  
6             **THE 21ST CENTURY**

7     **“PART A—SUPPORTING DRUG AND VIOLENCE**  
8             **PREVENTION AND EDUCATION FOR STU-**  
9             **DENTS AND COMMUNITIES**

10    **“SEC. 5001. SHORT TITLE.**

11            “This part may be cited as the ‘Safe Schools for the  
12 21st Century Act of 2001’.

13    **“SEC. 5002. PURPOSE.**

14            “The purpose of this part is to support programs that  
15 prevent the use of drugs, prevent violence, provide before  
16 and after school activities and supervision for school age  
17 youth, involve parents and communities, and are coordi-  
18 nated with related Federal, State, and community efforts  
19 and resources to foster a learning environment in which  
20 students increase their academic achievement, through the  
21 provision of Federal assistance to—

22            “(1) States for grants to local educational agen-  
23 cies and consortia of such agencies to establish, op-  
24 erate, and improve local programs of drug and vio-

1 lence prevention in elementary and secondary  
2 schools;

3 “(2) States for grants to local educational agen-  
4 cies, in partnership with community-based organiza-  
5 tions, religious organizations, and other public enti-  
6 ties and private organizations, for before and after  
7 school programs for youth; and

8 “(4) public and private nonprofit and for-profit  
9 organizations to conduct training, demonstrations,  
10 and evaluations.

11 **“SEC. 5003. AUTHORIZATION OF APPROPRIATIONS.**

12 “There are authorized to be appropriated—

13 “(1) \$1,470,000,000 for fiscal year 2002, and  
14 such sums as may be necessary for each of the 4  
15 succeeding fiscal years, for State grants under sub-  
16 part 1; and

17 “(2) \$20,000,000 for fiscal year 2002, and for  
18 each of the 4 succeeding fiscal years, for national  
19 programs under subpart 2.

20 **“Subpart I—School Safety**

21 **“SEC. 5111. RESERVATIONS AND ALLOTMENTS.**

22 “(a) RESERVATIONS.—From the amount made avail-  
23 able under section 5003(1) to carry out this part for each  
24 fiscal year, the Secretary—

1           “(1) shall reserve 0.5 percent or \$73,500,000  
2           (whichever is greater) of such amount for grants  
3           under this subpart to Guam, American Samoa, the  
4           United States Virgin Islands, and the Common-  
5           wealth of the Northern Mariana Islands, to be allot-  
6           ted in accordance with the Secretary’s determination  
7           of their respective needs; and

8           “(2) shall reserve 0.5 percent or \$73,500,000  
9           (whichever is greater) of such amount for the Sec-  
10          retary of the Interior to carry out programs under  
11          this part for Indian youth.

12          “(b) STATE ALLOTMENTS.—

13                 “(1) IN GENERAL.—Except as provided in para-  
14                 graph (2), the Secretary shall, for each fiscal year,  
15                 allocate among the States—

16                         “(A) one-half of the remainder not re-  
17                         served under subsection (a) according to the  
18                         ratio between the school-aged population of  
19                         each State and the school-aged population of all  
20                         the States; and

21                         “(B) one-half of such remainder according  
22                         to the ratio between the amount each State re-  
23                         ceived under part A of title I for the preceding  
24                         year and the sum of such amounts received by  
25                         all the States.



1           “(2) MINIMUM.—For any fiscal year, no State  
2 shall be allotted under this subsection an amount  
3 that is less than one-half of 1 percent of the total  
4 amount allotted to all the States under this sub-  
5 section.

6           “(c) REALLOTMENT OF UNUSED FUNDS.—If any  
7 State does not apply for an allotment under this subpart  
8 for a fiscal year, the Secretary shall reallocate the amount  
9 of the State’s allotment to the remaining States in accord-  
10 ance with this section.

11 **“SEC. 5112. WITHIN-STATE DISTRIBUTION.**

12           “(a) GOVERNOR’S ALLOCATION.—

13           “(1) IN GENERAL.—The chief executive officer  
14 of a State may reserve not more than 10 percent of  
15 the total amount allocated to a State under section  
16 5111(b) for each fiscal year for programs and activi-  
17 ties in accordance with section 5115.

18           “(2) ADMINISTRATIVE COSTS.—The chief execu-  
19 tive officer of a State may use not more than 1  
20 percent of the amount described in paragraph (1)  
21 for the administrative costs incurred in carrying out  
22 the duties of such officer under this section.

23           “(3) GRANT AWARDS.—The chief executive offi-  
24 cer of a State shall use the remainder of funds not  
25 reserved under paragraph (2) to award competitive

1 grants and contracts to local educational agencies,  
2 community-based organizations, religious organiza-  
3 tions, and other public entities and private organiza-  
4 tions for programs or activities described in section  
5 5115. Such officer shall award grants based on—

6 “(A) the quality of the activity or program  
7 proposed; and

8 “(B) how closely the program or activity is  
9 aligned with the appropriate principles of effec-  
10 tiveness described in section 5115(a).

11 “(b) STATE FUNDS.—

12 “(1) IN GENERAL.—An amount equal to the  
13 total amount allotted to a State under section  
14 5111(b), less the amount reserved under subsection  
15 (a) and paragraphs (2) and (3) of this subsection,  
16 for each fiscal year shall be made available to the  
17 State and its local educational agencies for activities  
18 in accordance with section 5115.

19 “(2) STATE ACTIVITIES.—A State may use not  
20 more than 4 percent of the amount available under  
21 subsection (a) for State activities described in sec-  
22 tion 5115(b).

23 “(3) STATE ADMINISTRATION.—A State may  
24 use not more than 1 percent of the amount made  
25 available under subsection (a) for the administrative

1 costs of carrying out its responsibilities under this  
2 part.

3 “(c) DISTRIBUTION TO LOCAL EDUCATIONAL AGEN-  
4 CY.—

5 “(1) IN GENERAL.—

6 (A) DISTRIBUTION.— A State shall dis-  
7 tribute not less than 95 percent of the amount  
8 made available under subsection (b) for each  
9 fiscal year as follows:

10 “(i) 70 percent of such amount to  
11 local educational agencies, based on the  
12 relative enrollments in public and private  
13 nonprofit elementary and secondary  
14 schools within the boundaries of such  
15 agencies.

16 “(ii) 30 percent of such amount to  
17 local educational agencies that the State  
18 determines have the greatest need for addi-  
19 tional funds to carry out activities under  
20 this part.

21 “(B) SPECIAL CONSIDERATION.—In  
22 awarding funds under clause (ii) of subpara-  
23 graph (A), a State shall give special consider-  
24 ation to agencies that pursue a comprehensive  
25 approach to drug and violence prevention by

1 providing or incorporating mental health serv-  
2 ices in their programs.

3 “(C) PARTNERSHIPS.—In awarding funds  
4 under clause (ii) of subparagraph (A) a State  
5 shall distribute a portion of such funds to local  
6 educational agencies that partner with commu-  
7 nity-based organizations, religious organiza-  
8 tions, other public entities, or private organiza-  
9 tions, or consortia of such organizations, to  
10 support before and after school programs and  
11 activities.

12 “(D) ADMINISTRATIVE COSTS.—Of the  
13 amount received under paragraph (1), a local  
14 educational agency may use not more than 1  
15 percent for the administrative costs of carrying  
16 out its responsibilities under this part.

17 “(E) OBJECTIVE DATA.—In determining  
18 which local educational agencies have the great-  
19 est need for additional funds, a State shall con-  
20 sider objective data such as—

21 “(i) low student performance on State  
22 academic assessments;

23 “(ii) high rates of drug use among  
24 youth;

1                   “(iii) high rates of violence among  
2 youth;

3                   “(iv) a high need for before and after  
4 school activities among youth;

5                   “(v) local fiscal capacity to fund drug  
6 and violence prevention activities and pro-  
7 grams or before and after school activities  
8 without Federal assistance; and

9                   “(vi) a high degree of geographically  
10 rural isolation.

11                  “(F) GEOGRAPHIC DIVERSITY.—The dis-  
12 tribution of funds shall reflect the geographical  
13 diversity of local educational agencies in the  
14 State.

15                  “(2) RETURN OF FUNDS TO STATE; REALLOCA-  
16 TION.—

17                  “(A) RETURN.—Except as provided in  
18 subparagraph (B), upon the expiration of the 1-  
19 year period beginning on the date that a local  
20 educational agency receives its allocation—

21                   “(i) such agency shall return to the  
22 State any funds from such allocation that  
23 remain unobligated; and

24                   “(ii) the State shall reallocate any  
25 such amount to local educational agencies

1           that have submitted plans for using such  
2           amount for programs or activities on a  
3           timely basis.

4           “(B) CARRYOVER.—In any fiscal year, a  
5           local educational agency, may retain for obliga-  
6           tion in the succeeding fiscal year—

7                   “(i) an amount equal to not more  
8                   than 25 percent of the allocation it re-  
9                   ceived under this title for such fiscal year;  
10                  or

11                   “(ii) upon a demonstration of good  
12                   cause by such agency or consortium and  
13                   approval by the State, an amount that ex-  
14                   ceeds 25 percent of such allocation.

15 **“SEC. 5113. STATE APPLICATION.**

16           “(a) IN GENERAL.—In order to receive an allotment  
17           under section 5111 for any fiscal year, a State shall sub-  
18           mit to the Secretary, at such time as the Secretary may  
19           require, an application that—

20                   “(1) describes the activities to be funded under  
21                   sections 5112(a)(3) and 5112(b)(2);

22                   “(2) describes how activities funded under this  
23                   part will support State academic achievement goals  
24                   in accordance with section 1111;

1           “(3) describes how funds under this part will be  
2           coordinated with programs under this Act, and other  
3           programs, as appropriate, in accordance with the  
4           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, including  
16          religious organizations;

17          “(5) provides an assurance that the State will  
18          cooperate with, and assist, the Secretary in con-  
19          ducting data collection as required by section 5115;

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 part;

1           “(7) describes the results of the State’s needs  
2           assessment for drug and violence prevention pro-  
3           grams and before and after school activities, which  
4           shall be based on the results of on-going State eval-  
5           uation activities;

6           “(8)(A) provides a statement of the State’s per-  
7           formance measures for drug and violence prevention  
8           that shall be developed in consultation between the  
9           State and local officials and that consist of—

10                   “(i) performance indicators for drug and  
11                   violence prevention; and

12                   “(ii) levels of performance for each per-  
13                   formance indicator;

14           “(B) a description of the procedures the State  
15           will use for assessing and publicly reporting progress  
16           toward meeting those performance measures; and

17           “(C) a plan for monitoring the implementation  
18           of, and providing technical assistance regarding, the  
19           activities and programs conducted by local edu-  
20           cational agencies under this part.

21           “(b) GENERAL APPROVAL.—A State application sub-  
22           mitted pursuant to subsection (a) shall be deemed to be  
23           approved by the Secretary unless the Secretary makes a  
24           written determination, prior to the expiration of the 90-  
25           day period beginning on the date that the Secretary re-



1 ceives the application, that the application is in violation  
2 of this part.

3 “(c) DISAPPROVAL.—The Secretary shall not finally  
4 disapprove a State application, except after giving the  
5 State notice and opportunity for a hearing.

6 **“SEC. 5114. LOCAL EDUCATIONAL AGENCY APPLICATION.**

7 “(a) IN GENERAL.—In order to be eligible to receive  
8 a distribution under section 5112(c) for any fiscal year,  
9 a local educational agency shall submit, at such time as  
10 the State requires, an application to the State. Such an  
11 application shall be amended, as necessary, to reflect  
12 changes in the activities and programs of the local edu-  
13 cational agency.

14 “(b) DEVELOPMENT.—

15 “(1) CONSULTATION.—

16 “(A) IN GENERAL.—A local educational  
17 agency shall develop its application through  
18 timely and meaningful consultation with State  
19 and local government representatives and com-  
20 munity organizations, including religious orga-  
21 nizations, with relevant expertise and interest in  
22 drug and violence prevention and before and  
23 after school activities, school personnel, stu-  
24 dents, and parents.

1           “(B) CONTINUED CONSULTATION.—On an  
2           ongoing basis, the local educational agency shall  
3           consult with such representatives and organiza-  
4           tions in order to seek advice regarding how best  
5           to coordinate such agency’s activities under this  
6           part with other related strategies, programs,  
7           and activities being conducted in the commu-  
8           nity.

9           “(2) DESIGN AND DEVELOPMENT.—To ensure  
10          timely and meaningful consultation, a local edu-  
11          cational agency at the initial stages of design and  
12          development of a program or activity shall consult,  
13          in accordance with subsection (c), with appropriate  
14          entities and persons on issues regarding the design  
15          and development of the program or activity, includ-  
16          ing efforts to meet the principles of effectiveness de-  
17          scribed in section 5115(a).

18          “(c) CONTENTS OF APPLICATIONS.—An application  
19          submitted by a local educational agency under this section  
20          shall contain—

21                 “(1) an assurance that the activities or pro-  
22                 grams to be funded support State academic achieve-  
23                 ment goals in accordance with section 1111;

24                 “(2) in the case of drug and violence prevention  
25                 activities, a detailed explanation of the local edu-

1        cational agency’s comprehensive plan for drug and  
2        violence prevention, which shall include a description  
3        of—

4                “(A) how the plan will be coordinated with  
5                programs under this Act, other Federal, State,  
6                and local programs for drug and violence pre-  
7                vention, and before and after school activities,  
8                as appropriate, in accordance with the provi-  
9                sions of section 8306;

10               “(B) the local educational agency’s per-  
11               formance measures for drug and violence pre-  
12               vention, that shall consist of—

13                        “(i) performance indicators for drug  
14                        and violence prevention; and

15                        “(ii) levels of performance for each  
16                        performance indicator;

17               “(C) how such agency will assess and pub-  
18               licly report progress toward attaining its per-  
19               formance measures;

20               “(D) the drug and violence prevention ac-  
21               tivity or program to be funded, including how  
22               the activity or program will meet the principles  
23               of effectiveness described in section 5115(a),  
24               and the means of evaluating such activity or  
25               program;

1           “(3) in the case of before and after school  
2 activities—

3           “(A) a description of the activity to be  
4 funded;

5           “(B) a description of how the activity is  
6 expected to improve student academic perform-  
7 ance or contribute to drug and violence preven-  
8 tion;

9           “(C) a description of how the activity will  
10 meet the principles of effectiveness described in  
11 section 5115(a); and

12           “(D) a description of the partnership with  
13 a community-based organization, a religious or-  
14 ganization, and another public entity or private  
15 organization, if appropriate.

16           “(4) a certification that a meaningful assess-  
17 ment has been conducted to determine community  
18 needs, available resources in the private sector, and  
19 capacity in the private sector, the findings of such  
20 assessments, and a description of the mechanisms  
21 used to provide effective notice to the community of  
22 an intention to submit an application under this  
23 title;

24           “(5) an assurance that drug prevention pro-  
25 grams supported under this part convey a clear and

1 consistent message that the use of drugs is wrong  
2 and harmful; and

3 “(6) such other information and assurances as  
4 the State may reasonably require.

5 “(d) PEER REVIEW.—

6 “(1) IN GENERAL.—In reviewing local applica-  
7 tions under this section, a State shall use a peer re-  
8 view process or other methods of assuring the qual-  
9 ity of such applications.

10 “(2) CONSIDERATIONS.—

11 (A) IN GENERAL.—In determining whether  
12 to approve the application of a local educational  
13 agency under this section, a State shall consider  
14 the quality of the local educational agency’s  
15 comprehensive plan, including the degree to  
16 which the principles of effectiveness described  
17 in section 5115(a) are met.

18 “(B) GENERAL APPROVAL.—A local edu-  
19 cational agency’s application submitted to the  
20 State under this subpart shall be deemed to be  
21 approved by the State unless the State makes  
22 a written determination, prior to the expiration  
23 of the 90-day period beginning on the date that  
24 the State receives the application, that the ap-  
25 plication is in violation of this subpart.

1           “(C) DISAPPROVAL.—The State shall not  
2           finally disapprove a local educational agency ap-  
3           plication, except after giving such agency notice  
4           and an opportunity for a hearing.

5 **“SEC. 5115. AUTHORIZED ACTIVITIES.**

6           “(a) PRINCIPLES OF EFFECTIVENESS.—

7           “(1) IN GENERAL.—For a program or activity  
8           developed pursuant to this part to meet the prin-  
9           ciples of effectiveness, such program or activity  
10          shall—

11                   “(A) be based upon an assessment of ob-  
12                   jective data—

13                           “(i) regarding the drug and violence  
14                           problems in the elementary and secondary  
15                           schools and communities to be served, in-  
16                           cluding an objective analysis of the current  
17                           conditions and consequences regarding  
18                           drug use and violence, including delin-  
19                           quency and serious discipline problems,  
20                           among students who attend such schools  
21                           (including private school students who par-  
22                           ticipate in the drug and violence prevention  
23                           program) that is based on ongoing local  
24                           assessment or evaluation activities; or

1                   “(ii) regarding the need for before  
2                   and after school programs and activities in  
3                   such schools and communities;

4                   “(B) be based upon an established set of  
5                   performance measures aimed at ensuring that  
6                   all elementary and secondary schools and com-  
7                   munities served by the local educational agency  
8                   have a drug-free, safe, and orderly learning en-  
9                   vironment; and

10                  “(C) be based upon scientifically based re-  
11                  search that provides evidence that the program  
12                  to be used will be effective.

13                  “(2) PERIODIC EVALUATION.—The program or  
14                  activity shall undergo a periodic evaluation to assess  
15                  its progress toward achieving its goals and objec-  
16                  tives. The results shall be used to refine, improve,  
17                  and strengthen the program, and to refine the per-  
18                  formance measures. The results shall also be made  
19                  available to the public upon request, with public no-  
20                  tice of such availability provided.

21                  “(3) WAIVER.—A local educational agency may  
22                  apply to the State for a waiver of the requirement  
23                  of paragraph (1)(C) to allow innovative activities or  
24                  programs that demonstrate substantial likelihood of  
25                  success.

1 “(b) STATE ACTIVITIES.—

2 “(1) IN GENERAL.—A State shall use the funds  
3 described in section 5112(b)(1), either directly, or  
4 through grants and contracts, to plan, develop, and  
5 implement capacity building, technical assistance,  
6 accountability, program improvement services, and  
7 coordination activities for local educational agencies,  
8 community-based organizations, religious organiza-  
9 tions, other public entities, and private organizations  
10 that are designed to support the implementation of  
11 programs and activities under this part.

12 “(2) DATA COLLECTION.—

13 “(A) IN GENERAL.—A State shall use the  
14 funds described in section 5112(b)(2), either di-  
15 rectly or through grants and contracts, to es-  
16 tablish and implement a statewide system of  
17 collecting data regarding crimes occurring on  
18 school property.

19 “(B) STATISTICS.—Such data collection  
20 shall include statistics concerning the occur-  
21 rence on school property of the following crimi-  
22 nal offenses and prohibited activities as re-  
23 ported to school security authorities or local po-  
24 lice agencies—

25 “(i) murder;



1                   “(ii) sex offenses, forcible or nonfore-  
2                   ible;

3                   “(iii) robbery;

4                   “(iv) aggravated assault;

5                   “(v) burglary;

6                   “(vi) manslaughter;

7                   “(vii) arson; and

8                   “(viii) arrests or persons referred for  
9                   school disciplinary action for liquor law  
10                  violations, drug-related offenses, and weap-  
11                  ons possessions.

12                  “(C) COMPILATION OF STATISTICS.—The  
13                  statistics shall be compiled in accordance with  
14                  definitions of such crimes as determined in the  
15                  State criminal code, but shall not identify vic-  
16                  tims of crimes or persons accused of crimes.

17                  “(D) REPORTING.—Such data and statis-  
18                  tics shall be reported to the public and shall be  
19                  reported on a school-by-school basis.

20                  “(E) LIMITATION.—Notwithstanding sub-  
21                  part 3, nothing in this subsection shall be con-  
22                  strued to authorize the Secretary to require  
23                  particular policies, procedures, or practices with  
24                  respect to crimes on school property or school  
25                  security.

1           “(3) SAFE SCHOOLS.—The State shall establish  
2           and implement a statewide policy requiring that stu-  
3           dents attending persistently dangerous public ele-  
4           mentary and secondary schools, as determined by  
5           the State, or who become a victim of a violent crimi-  
6           nal offense, as defined by State law, while in or on  
7           the grounds of a public elementary school or sec-  
8           ondary school that the student attends, be allowed to  
9           attend a safe public school, including a public char-  
10          ter school, or a private school if no safe public school  
11          or public charter school can accommodate the stu-  
12          dent, in the same State as the unsafe public elemen-  
13          tary or secondary school, and allowing payment of  
14          reasonable transportation costs and tuition costs for  
15          such students.

16          “(4) CODE OF CONDUCT—The State shall es-  
17          tablish and implement a student code of conduct pol-  
18          icy that clearly states responsibilities of students,  
19          teachers, and administrators in maintaining a class-  
20          room environment that allows a teacher to commu-  
21          nicate effectively with all students in the class and  
22          that allows all students in the class to learn.

23          “(c) LOCAL EDUCATIONAL AGENCY ACTIVITIES.—

24                  “(1) PROGRAM REQUIREMENTS.—A local edu-  
25                  cational agency shall use funds described in section

1 5112(e) to develop, implement, and evaluate com-  
2 prehensive programs and activities, which are coordi-  
3 nated with other school and community-based serv-  
4 ices and programs, that shall—

5 “(A) support State academic achievement  
6 goals in accordance with section 1111;

7 “(B) be consistent with the principles of  
8 effectiveness described in subsection (a);

9 “(C) be designed to—

10 “(i) prevent or reduce drug use or vio-  
11 lence, delinquency, serious discipline prob-  
12 lems, and poor academic performance; and

13 “(ii) create a well disciplined environ-  
14 ment conducive to learning, which includes  
15 consultation between teachers, principals,  
16 and other school personnel to identify early  
17 warning signs of drug use and violence and  
18 to provide behavioral interventions as part  
19 of classroom management efforts; and

20 “(D) include activities to promote the in-  
21 volvement of parents in the activity or program,  
22 to promote coordination with community groups  
23 and coalitions, including religious organizations,  
24 and government agencies, and to distribute in-

1           formation about the local educational agency’s  
2           needs, goals, and programs under this part.

3           “(2) AUTHORIZED ACTIVITIES.—Each local  
4           educational agency, or consortium of such agencies,  
5           that receives a subgrant under section 5112(c) may  
6           use such funds to carry out activities, such as—

7                   “(A) developmentally appropriate drug and  
8                   violence prevention programs in both elemen-  
9                   tary and secondary schools that incorporate a  
10                  variety of prevention strategies and activities,  
11                  which may include—

12                           “(i) teaching students that most peo-  
13                           ple do not use drugs;

14                           “(ii) teaching students to recognize  
15                           social and peer pressure to use drugs and  
16                           the skills for resisting drug use;

17                           “(iii) teaching students about the dan-  
18                           gers of emerging drugs;

19                           “(iv) engaging students in the learn-  
20                           ing process;

21                           “(v) incorporating activities in sec-  
22                           ondary schools that reinforce prevention  
23                           activities implemented in elementary  
24                           schools; and

1           “(vi) involving families and commu-  
2           nities in setting clear expectations against  
3           drug use and enforcing consequences for  
4           drug use;

5           “(B) before and after school activities that  
6           advance student achievement, including—

7                   “(i) remedial education activities and  
8                   academic enrichment learning programs,  
9                   including providing additional assistance to  
10                  students in order to allow them to improve  
11                  their academic achievement;

12                  “(ii) drug and violence prevention ac-  
13                  tivities;

14                  “(iii) math and science education ac-  
15                  tivities;

16                  “(iv) arts and music education activi-  
17                  ties;

18                  “(v) entrepreneurial education pro-  
19                  grams; and

20                  “(vi) mentoring programs;

21           “(C) establishing or enhancing programs  
22           or initiatives that improve academic achieve-  
23           ment;

24           “(D) training and development of school  
25           personnel and parents in youth drug and vio-

1 lence prevention, including training in early  
2 identification, intervention, and prevention of  
3 threatening behavior;

4 “(E) law enforcement and security activi-  
5 ties, including—

6 “(i) acquisition and installation of  
7 metal detectors;

8 “(ii) hiring and training of security  
9 personnel, that are related to youth drug  
10 and violence prevention;

11 “(iii) reporting of criminal offenses on  
12 school property;

13 “(iv) development of comprehensive  
14 school security assessments;

15 “(F) 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 disciplining and teaching students at  
23 risk of violent behavior;

24 “(G) establishing and implementing a sys-  
25 tem for transferring suspension and expulsion

1 records by a local educational agency to any  
2 public or private elementary or secondary  
3 school;

4 “(H) allowing students attending a persist-  
5 ently dangerous public elementary or secondary  
6 school, as determined by the State, or who be-  
7 come a victim of a violent criminal offense, as  
8 defined by State law, while in or on the grounds  
9 of a public elementary school or secondary  
10 school that the student attends, to attend a safe  
11 public school, including a public charter school,  
12 or a private school if no safe public school or  
13 safe public charter school can accommodate the  
14 student, in the same State as the unsafe public  
15 elementary and or secondary school, and allow-  
16 ing payment of reasonable transportation costs  
17 and tuition costs for such students;

18 “(I) the development and implementation  
19 of character education and training programs  
20 that reflect values, that take into account the  
21 views of parents or guardians of the student for  
22 whom the program is intended, which may in-  
23 clude honesty, citizenship, courage, justice, re-  
24 spect, personal responsibility, and trust-  
25 worthiness;

1           “(J) testing students for illegal drug use  
2 or conducting student locker searches for illegal  
3 drugs or drug paraphernalia;

4           “(K) emergency intervention services fol-  
5 lowing traumatic crisis events, such as a shoot-  
6 ing, major accident, or a drug-related incident,  
7 that has disrupted the learning environment;

8           “(L) establishing and maintaining a school  
9 violence hotline;

10           “(M) expanding and improving school-  
11 based mental health services, including early  
12 identification of drug use and violence, assess-  
13 ment, and direct individual or group counseling  
14 services provided to students, parents, and  
15 school personnel by qualified school based men-  
16 tal health services personnel;

17           “(N) alternative education programs or  
18 services for students who have been expelled or  
19 suspended from the regular educational set-  
20 tings, including programs or services to assist  
21 students to reenter the regular education set-  
22 ting upon return from treatment or alternative  
23 education programs; and



1                   “(O) the evaluation of any of the activities  
2                   authorized under this subsection and the collec-  
3                   tion of any data required by this part.

4           “(d) GOVERNORS’ ACTIVITIES.—A chief executive of-  
5   ficer of a State shall use funds made available under sec-  
6   tion 5112(a)(3) for competitive grants or contracts with  
7   local educational agencies, community-based organiza-  
8   tions, religious organizations, and other public entities and  
9   private organizations to support drug and violence preven-  
10   tion programs and activities and before and after school  
11   activities in accordance with the activities described in  
12   subsection (c).

13   **“SEC. 5116. EVALUATION AND REPORTING.**

14           “(a) DATA COLLECTION.—

15                   “(1) IN GENERAL.—The National Center for  
16   Education Statistics shall collect data to determine  
17   the frequency, seriousness, and incidence of drug use  
18   by youth in schools and communities in the States  
19   using, if appropriate, data submitted by the States  
20   pursuant to subsection (b).

21                   “(2) REPORT.—The Secretary shall submit to  
22   the Congress a report on the data collected under  
23   this subsection.

24           “(b) STATE REPORT.—

1           “(1) IN GENERAL.—Not later than October 1,  
2           2004, and every third year thereafter, the chief execu-  
3           tive officer of a State, in consultation with the  
4           State educational agency, shall submit to the Sec-  
5           retary a report on the implementation and effective-  
6           ness of State and local programs under section  
7           5115.

8           “(2) SPECIAL RULE.—The report required by  
9           this subsection shall be—

10                   “(A) based on the State’s ongoing evalua-  
11                   tion activities, and shall include data on the  
12                   prevalence of drug use and violence by youth in  
13                   schools and communities; and

14                   “(B) made available to the public upon re-  
15                   quest, with public notice of such availability  
16                   provided.

17           “(c) LOCAL EDUCATIONAL AGENCY REPORT.—Each  
18           local educational agency receiving funds under this part  
19           shall submit to the State such information, and at such  
20           intervals as the State reasonably requires to complete the  
21           State report required by subsection (b), information on the  
22           prevalence of drug use and violence by youth in the schools  
23           and the community and the progress of the local edu-  
24           cational agency toward meeting its performance measures.

1 The report shall be made available to the public upon re-  
2 quest, with public notice of such availability provided.

3 **“Subpart 2—National Programs**

4 **“SEC. 5121. FEDERAL ACTIVITIES.**

5 “(a) PROGRAM AUTHORIZED.—

6 “(1) IN GENERAL.—From funds made available  
7 to carry out this part under section 5003(2), the  
8 Secretary, in consultation with the Secretary of  
9 Health and Human Services, the Director of the Of-  
10 fice of National Drug Control Policy, the Chair of  
11 the Ounce of Prevention Council, and the Attorney  
12 General, shall evaluate the effectiveness of programs  
13 and activities that prevent the illegal use of drugs  
14 and violence by youth, that promote safety and dis-  
15 cipline for students in elementary and secondary  
16 schools, and that provide before and after school su-  
17 pervision and enrichment, based on the needs re-  
18 ported by States and local educational agencies.

19 “(2) COORDINATION.—The Secretary shall  
20 carry out activities described in paragraph (1) di-  
21 rectly, or through grants, contracts, or cooperative  
22 agreements with public and private nonprofit and  
23 for-profit organizations, including religious organiza-  
24 tions, and individuals, or through agreements with

1 other Federal agencies, and shall coordinate such ac-  
2 tivities with other appropriate 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 and

18 “(C) continuing technical assistance to  
19 chief executive officers, State agencies, and  
20 local educational agencies to build capacity to  
21 develop and implement high-quality, effective  
22 programs consistent with the principles of effec-  
23 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 3—Gun Possession**

5 **“SEC. 5125. GUN-FREE SCHOOL REQUIREMENTS.**

6       “(a) REQUIREMENTS.—

7               “(1) STATE LAW.—Each State receiving funds  
8 under this Act shall have in effect a State law re-  
9 quiring each local educational agency—

10                       “(A) to expel from school for a period of  
11 not less than one year a student who is deter-  
12 mined to have brought a firearm to a school  
13 under the jurisdiction of a local educational  
14 agency in that State, except that such State law  
15 shall allow the chief administering officer of  
16 such local educational agency to modify such  
17 expulsion requirement for a student on a case-  
18 by-case basis; and

19                       “(B) to have a policy requiring each ele-  
20 mentary and secondary school to refer to the  
21 criminal justice or juvenile delinquency system  
22 any student who brings a firearm to school.

23               “(2) CONSTRUCTION.—Nothing in this part  
24 shall be construed to prevent a State from allowing  
25 a local educational agency that has expelled a stu-

1       dent from such student’s regular school setting from  
2       providing educational services to such student in an  
3       alternative setting.

4       “(b) SPECIAL RULE.—The provisions of this section  
5 shall be construed in a manner consistent with the Individ-  
6 uals with Disabilities Education Act.

7       “(c) DEFINITIONS.—For the purpose of this part—

8               “(1) the term ‘firearm’ has the same meaning  
9       given to such term under section 921(a)(3) of title  
10       18, United States Code; and

11               “(2) the term ‘school’ does not include a home  
12       school, regardless of whether a home school is treat-  
13       ed as a private school under State law.

14                       **“Subpart 4—General Provisions**

15       **“SEC. 5131. DEFINITIONS.**

16       “For the purposes of this part, the following terms  
17 have the following meanings:

18               “(1) BEFORE AND AFTER SCHOOL ACTIVI-  
19       TIES.—The term ‘before and after school activities’  
20       means academic, recreational, and enrichment activi-  
21       ties for school-age youth outside of the regular  
22       school hours or school year.

23               “(2) CONTROLLED SUBSTANCE.—The term  
24       ‘controlled substance’ means a drug or other sub-  
25       stance identified under Schedule I, II, III, IV, or V

1 in section 202(c) of the Controlled Substances Act  
2 (21 U.S.C. 812(e)).

3 “(3) DRUG.—The term ‘drug’ includes con-  
4 trolled substances; the illegal use of alcohol and to-  
5 bacco; and the harmful, abusive, or addictive use of  
6 substances, including inhalants and anabolic  
7 steroids.

8 “(4) DRUG AND VIOLENCE PREVENTION.—The  
9 term ‘drug and violence prevention’ means—

10 “(A) with respect to drugs, prevention,  
11 early intervention, rehabilitation referral, or  
12 education related to the illegal use of drugs;  
13 and

14 “(B) with respect to violence, the pro-  
15 motion of school safety, such that students and  
16 school personnel are free from violent and dis-  
17 ruptive acts, on school premises, going to and  
18 from school, and at school-sponsored activities,  
19 through the creation and maintenance of a  
20 school environment that is free of weapons and  
21 fosters individual responsibility and respect for  
22 the rights of others.

23 “(5) NONPROFIT.—The term ‘nonprofit,’ as ap-  
24 plied to a school, agency, organization, or institution  
25 means a school, agency, organization, or institution

1 owned and operated by one or more nonprofit cor-  
2 porations or associations, no part of the net earnings  
3 of which inures, or may lawfully inure, to the benefit  
4 of any private shareholder or individual.

5 “(6) SCHOOL-AGED POPULATION.—The term  
6 ‘school-aged population’ means the population aged  
7 5 through 17, as determined by the Secretary on the  
8 basis of the most recent satisfactory data available  
9 from the Department of Commerce.

10 “(7) SCHOOL BASED MENTAL HEALTH SERV-  
11 ICES PROVIDER.—The term ‘school based mental  
12 health services provider’ includes a State licensed or  
13 State certified school counselor, school psychologist,  
14 school social worker, or other State licensed or cer-  
15 tified mental health professional qualified under  
16 State law to provide such services to children and  
17 adolescents.

18 “(8) SCHOOL PERSONNEL.—The term ‘school  
19 personnel’ includes teachers, principals, administra-  
20 tors, guidance counselors, social workers, psycholo-  
21 gists, nurses, librarians, and other support staff who  
22 are employed by a school or who perform services for  
23 the school on a contractual basis.



1           “(9) STATE.—The term ‘State’ means each of  
2           the 50 States, the District of Columbia, and the  
3           Commonwealth of Puerto Rico.

4   **“SEC. 5132. MESSAGE AND MATERIALS.**

5           “(a) ‘WRONG AND HARMFUL’ MESSAGE.—Drug pre-  
6           vention programs supported under this title shall convey  
7           a clear and consistent message that the use of drugs is  
8           wrong and harmful.

9           “(b) CURRICULUM.—The Secretary shall not pre-  
10          scribe the use of specific curricula for programs supported  
11          under this part.

12   **“SEC. 5133. PARENTAL CONSENT.**

13          “Upon receipt of written notification from the par-  
14          ents or legal guardians of a student, the local educational  
15          agency shall withdraw such student from any program or  
16          activity funded under this title. The local educational  
17          agency shall make reasonable efforts to inform parents or  
18          legal guardians of the content of such programs or activi-  
19          ties funded under this title, other than classroom instruc-  
20          tion.

21   **“SEC. 5134. PROHIBITED USES OF FUNDS.**

22          “No funds under this part may be used for—

23                  “(1) construction (except for minor remodeling  
24                  needed to accomplish the purposes of this part);

1           “(2) medical services, drug treatment or reha-  
2           bilitation, except for pupil services or referral to  
3           treatment for students who are victims of, or wit-  
4           nesses to, use of drugs or crime; and

5           “(3) activities or programs that discriminate  
6           against or denigrate the religious or moral beliefs of  
7           students who participate in such activities or pro-  
8           grams or of the parents or legal guardians of such  
9           students.

10 **“SEC. 5135. CONTINUATION AWARDS.**

11           “From funds made available under section 5003(2),  
12 the Secretary is authorized to continue funding multi-year  
13 grants awarded prior to fiscal year 2001 under part I of  
14 title X, as such part was in effect on the day preceding  
15 the date of the enactment of the No Child Left Behind  
16 Act of 2001, or the Middle School Coordinator Initiative  
17 (as described in title III of the Department of Education  
18 Act, 2000, (as enacted into law by section 1004(a)(4) of  
19 Public Law 106–113) and prior appropriations Acts, prior  
20 to the date of the enactment of the No Child Left Behind  
21 Act for the duration of the original grant period.

22 **“SEC. 5136. SERVICES PROVIDED BY CHARITABLE, RELI-**  
23 **GIUS, OR PRIVATE ORGANIZATIONS.**

24           “(a) IN GENERAL.—A State may administer and pro-  
25 vide services under the programs and activities described

1 in this part through grants and contracts with charitable,  
2 religious, or private organizations.

3 “(b) RELIGIOUS ORGANIZATIONS.—The purpose of  
4 this section is to allow States to provide grants to or to  
5 contract with religious organizations on the same basis as  
6 any other nongovernmental provider without impairing the  
7 religious character of such organizations, and without di-  
8 minishing the religious freedom of beneficiaries of assist-  
9 ance funded under such program.

10 “(c) NONDISCRIMINATION AGAINST RELIGIOUS OR-  
11 GANIZATIONS.—In the event a State exercises its authority  
12 under subsection (a), religious organizations are eligible,  
13 on the same basis as any other private organization, as  
14 grant recipients or contractors, to provide assistance  
15 under any program described in this part if the programs  
16 sponsored by such religious organization are implemented  
17 in a manner consistent with Article I of the Constitution.  
18 Except as provided in subsection (i), neither the Federal  
19 Government, a State, nor a local educational agency re-  
20 ceiving funds under this part may discriminate against an  
21 organization that is or applies to be a contractor to pro-  
22 vide assistance on the basis that the organization has a  
23 religious character.

24 “(d) RELIGIOUS CHARACTER AND FREEDOM.—

1           “(1) RELIGIOUS ORGANIZATIONS.—A religious  
2 organization that receives a grant or contract under  
3 this part shall retain its religious character and con-  
4 trol over the definition, development, practice, and  
5 expression of its religious beliefs.

6           “(2) ADDITIONAL SAFEGUARDS.—Neither the  
7 Federal Government, a State, nor local government  
8 shall require a religious organization to—

9                   “(A) alter its form of internal governance;

10                   or

11                   “(B) remove religious art, icons, scripture,  
12 or other symbols;

13 in order to be eligible to receive a grant or contract  
14 under this part.

15           “(e) EMPLOYMENT PRACTICES.—A religious organi-  
16 zation’s exemption provided under section 702 of the Civil  
17 Rights Act of 1964 (42 U.S.C. 2000e–1), regarding em-  
18 ployment practices, shall not be affected by its participa-  
19 tion in, or receipt of funds from, programs under this part.

20           “(f) NONDISCRIMINATION AGAINST BENE-  
21 FICIARIES.—Except as otherwise provided in law, a reli-  
22 gious organization shall not discriminate against an indi-  
23 vidual in regard to rendering assistance funded under any  
24 program described in this part on the basis of religion,

1 a religious belief, or refusal to actively participate in a reli-  
2 gious practice.

3 “(g) FISCAL ACCOUNTABILITY.—

4 “(1) IN GENERAL.—Except as provided in para-  
5 graph (2), any religious organization receiving a  
6 grant or contracting to provide assistance funded  
7 under any program described in this title shall be  
8 subject to the same regulations as other recipients  
9 or contractors to account in accord with generally  
10 accepted auditing principles for the use of such  
11 funds provided under such programs.

12 “(2) LIMITED AUDIT.—Such organization shall  
13 segregate government funds provided under such  
14 program into a separate account. Only the Govern-  
15 ment funds shall be subject to audit by the Govern-  
16 ment.

17 “(h) LIMITATIONS ON USE OF FUNDS FOR CERTAIN  
18 PURPOSES.—No funds provided directly to institutions or  
19 organizations to provide services and administer programs  
20 under this Act part shall be expended for sectarian wor-  
21 ship, instruction, or proselytization.

22 “(i) PREEMPTION.—Nothing in this section shall be  
23 construed to preempt any provision of a State constitution  
24 or State statute that prohibits or restricts the expenditure  
25 of State funds in or by religious organizations.

1       “(j) PROTECTION FOR BENEFICIARIES.—A chari-  
2 table, religious, or private organization shall not subject  
3 a participant during a program assisted under this title  
4 to sectarian worship, instruction, or proselytization.

5 **“SEC. 5137. DISCIPLINE OF CHILDREN WITH DISABILITIES.**

6       “(a) AUTHORITY OF SCHOOL PERSONNEL.—Each  
7 State receiving funds under this Act shall require each  
8 local educational agency to have in effect a policy under  
9 which school personnel of such agency may discipline (in-  
10 cluding expel or suspend) a child with a disability who—

11               “(1) carries or possesses a weapon to or at a  
12 school, on school premises, or to or at a school func-  
13 tion, under the jurisdiction of a State or a local edu-  
14 cational agency,

15               “(2) knowingly possesses or uses illegal drugs  
16 or sells or solicits the sale of a controlled substance  
17 at a school, on school premises, or at a school func-  
18 tion, under the jurisdiction of a State or a local edu-  
19 cational agency, or

20               “(3) commits an aggravated assault or battery  
21 (as defined under State or local law) at a school, on  
22 school premises, or at a school function, under the  
23 jurisdiction of a State or local educational agency, or

1 in the same manner in which such personnel may dis-  
2 cipline a child without a disability. Such personnel may  
3 modify the disciplinary action on a case-by-case basis.

4 “(b) RULE OF CONSTRUCTION.—Nothing in sub-  
5 section (a) shall be construed to prevent a child with a  
6 disability who is disciplined pursuant to the authority pro-  
7 vided under paragraphs (1) and (3) of subsection (a), from  
8 asserting a defense that the possession or use of the illegal  
9 drugs (or the sale or solicitation of the controlled sub-  
10 stance) or the carrying or possession of the weapon was  
11 unintentional or innocent.

12 “(c) FREE APPROPRIATE PUBLIC EDUCATION.—

13 “(1) CEASING TO PROVIDE EDUCATION.—Not-  
14 withstanding any other provision of Federal law, a  
15 child expelled or suspended under subsection (a)  
16 shall not be entitled to continue educational services,  
17 including a free appropriate public education, re-  
18 quired under Federal law during the term of such  
19 expulsion or suspension, if the State in which the  
20 local educational agency responsible for providing  
21 educational services to such child does not require a  
22 child without a disability to receive educational serv-  
23 ices after being expelled or suspended.

24 “(2) PROVIDING EDUCATION.—Notwithstanding  
25 paragraph (1), the local educational agency respon-

1 sible for providing educational services to a child  
2 with a disability who is expelled or suspended under  
3 paragraph (1) may choose to continue to provide  
4 educational services or mental health services to  
5 such child. If the local educational agency so chooses  
6 to continue to provide the services—

7 “(A) nothing in any other provision of  
8 Federal law shall require the local educational  
9 agency to provide such child with any particular  
10 level of service; and

11 “(B) the location where the local edu-  
12 cational agency provides the services shall be  
13 left to the discretion of the local educational  
14 agency.

15 “(3) DEFINITIONS.—For purposes of this sub-  
16 section:

17 “(A) CONTROLLED SUBSTANCE.—The  
18 term ‘controlled substance’ shall have the same  
19 meaning as the term is defined in section 5131.

20 “(B) ILLEGAL DRUG.—The term ‘illegal  
21 drug’ means a controlled substance, but does  
22 not include such a substance that is legally pos-  
23 sessed or used under the supervision of a li-  
24 censed health-care professional or that is legally  
25 possessed or used under any other authority



1 under the Controlled Substances Act or under  
2 any other provision of Federal law.”.

3 “(C) WEAPON.—The term ‘weapon’ has  
4 the meaning given the term ‘dangerous weapon’  
5 under subsection (g)(2) of section 930 of title  
6 18, United States Code.

7 **“PART B—ENHANCING EDUCATION THROUGH**  
8 **TECHNOLOGY**

9 **“SEC. 5201. SHORT TITLE.**

10 “This title may be cited as the ‘Enhancing Education  
11 Through Technology Act of 2001’.

12 **“SEC. 5202. PURPOSES.**

13 “The purposes of this part are as follows:

14 “(1) To provide assistance to States and local-  
15 ities for implementing innovative technology initia-  
16 tives that lead to increased student academic  
17 achievement and that may be evaluated for effective-  
18 ness and replicated if successful.

19 “(2) To encourage the establishment or expan-  
20 sion of initiatives, including those involving public-  
21 private partnerships, designed to increase access to  
22 technology, particularly in high-need local edu-  
23 cational agencies.

24 “(3) To assist States and localities in the acqui-  
25 sition, development, interconnection, implementation,

1 improvement, and maintenance of an effective edu-  
2 cational technology infrastructure.

3 “(4) To promote initiatives that provide school  
4 principals, administrators, and teachers with the ca-  
5 pacity to effectively utilize technology in ways which  
6 integrate such technology with challenging State  
7 content and student achievement standards, through  
8 such means as high quality professional development  
9 programs.

10 “(5) To enhance the ongoing professional devel-  
11 opment of principals, administrators, and teachers  
12 by providing constant access to updated research in  
13 teaching and learning via electronic means.

14 “(6) To support the development of electronic  
15 networks and other innovative methods, such as dis-  
16 tance learning, of delivering challenging courses and  
17 curricula for students who would otherwise not have  
18 access to such courses and curricula, especially in  
19 isolated regions.

20 “(7) To support the rigorous evaluation of pro-  
21 grams funded under this part, especially the impact  
22 of such initiatives on student academic performance,  
23 and ensuring timely information on the results of  
24 such evaluations are widely accessible through elec-  
25 tronic means.

1           “(8) To support local efforts for the use of  
2           technology to promote parent and family involve-  
3           ment in education and communication among par-  
4           ents, teachers and students.

5   **“SEC. 5203. AUTHORIZATION OF APPROPRIATIONS; FUND-**  
6                           **ING RULE.**

7           “(a) IN GENERAL.—There are authorized to be ap-  
8           propriated to carry out this part—

9                   “(1) \$872,000,000 for fiscal year 2002; and

10                   “(2) such sums as may be necessary for each  
11           of fiscal years 2003 through 2006.

12           “(b) ALLOCATION OF FUNDS BETWEEN NATIONAL  
13   AND STATE AND LOCAL INITIATIVES.—Except as pro-  
14   vided in subsection (c), the amount of funds made avail-  
15   able under subsection (a) shall be allocated as follows:

16                   “(1) Not less than 95 percent shall be made  
17           available for State and local technology initiatives  
18           under subpart 1.

19                   “(2) Not more than 5 percent may be made  
20           available for activities of the Secretary under sub-  
21           part 2.

22   **“SEC. 5204. DEFINITIONS.**

23           “‘In this part:

24                   “(1) The term ‘distance learning’ means the  
25           transmission of educational or instructional pro-

1       gramming to geographically dispersed individuals  
2       and groups via telecommunications.

3           “(2) The term ‘eligible local entity’ means—

4               “(A) a high-need local educational agency;

5               or

6               “(B) an eligible local partnership.

7           “(3) The term ‘eligible local partnership’ means  
8       a partnership that includes at least one high-need  
9       local educational agency and at least one—

10               “(A) local educational agency that can  
11       demonstrate that teachers in schools served by  
12       that agency are using technology effectively in  
13       their classrooms;

14               “(B) institution of higher education;

15               “(C) for-profit business or organization  
16       that develops, designs, manufactures, or pro-  
17       duces technology products or services, or has  
18       substantial expertise in the application of tech-  
19       nology;

20               “(D) public or private non-profit organiza-  
21       tion with demonstrated experience in the appli-  
22       cation of educational technology; or

23               “(E) local educational agency which has  
24       the potential to become an exemplary model for  
25       wide-scale adoption by other local educational

1 agencies on how to effectively integrate tech-  
2 nology and proven research-based teaching  
3 practices which result in improvement in class-  
4 room instruction in the core academic subject  
5 areas, and the preparation of students to meet  
6 challenging State content and student achieve-  
7 ment standards.

8 “(4) The term ‘high-need local educational  
9 agency’ means a local educational agency that—

10 “(A) is among the local educational agen-  
11 cies in the State with the highest numbers or  
12 percentages of children from families with in-  
13 comes below the poverty line, as defined by the  
14 Office of Management and Budget and revised  
15 annually in accordance with section 673(2) of  
16 the Community Services Block Grant Act (42  
17 U.S.C. 9902(2));

18 “(B) includes one or more low-performing  
19 schools; and

20 “(C) has a substantial need for assistance  
21 in acquiring and using technology.

1 **“Subpart 1—State and Local Technology for Success**  
2 **Grants**

3 **“SEC. 5211. DETERMINATION OF AMOUNT OF STATE ALLOT-**  
4 **MENT.**

5 “(a) IN GENERAL.—Except as otherwise provided in  
6 this subpart, each State shall be eligible to receive a grant  
7 under this subpart for a fiscal year in an allotment deter-  
8 mined as follows:

9 “(1) 50 percent shall bear the same relationship  
10 to the amount made available under section  
11 5203(b)(1) for such year as the amount such state  
12 received under part A for title I for such year bears  
13 to the amount received for such year under such  
14 part by all States.

15 “(2) 50 percent shall be determined on the  
16 basis of the State’s relative population of individuals  
17 age 5 through 17, as determined by the Secretary on  
18 the basis of the most recent satisfactory data.

19 “(b) RESERVATION OF FUNDS FOR BUREAU OF IN-  
20 DIAN AFFAIRS AND OUTLYING AREAS.—Of the amount  
21 made available to carry out this subpart under section  
22 5203(b)(1) for a fiscal year—

23 “(1) the Secretary shall reserve  $\frac{1}{2}$  of 1 percent  
24 for the Secretary of the Interior for programs under  
25 this subpart for schools operated or funded by the  
26 Bureau of Indian Affairs; and

1           “(2) the Secretary shall reserve  $\frac{1}{2}$  of 1 percent  
2           to provide assistance to the outlying areas.

3           “(c) MINIMUM ALLOTMENT.—The amount of any  
4           State’s allotment under subsection (a) for any fiscal year  
5           may not be less than  $\frac{1}{2}$  of 1 percent of the amount made  
6           available under section 5203(b)(1) for such year.

7           “(d) REALLOTMENT OF UNUSED FUNDS.—If any  
8           State does not apply for an allotment under this subpart  
9           for a fiscal year, the Secretary shall reallocate the amount  
10          of the State’s allotment to the remaining States in accord-  
11          ance with this section.

12          **“SEC. 5212. USE OF ALLOTMENT BY STATE.**

13          “Of the amount provided to a State from its allot-  
14          ment under section 5211—

15                 “(1) the State may use not more than 5 percent  
16                 to carry out activities under section 5215; and

17                 “(2) not less than 95 percent shall be distrib-  
18                 uted to local educational agencies by the State as  
19                 follows:

20                         “(A) At least 80 percent shall be used for  
21                         activities described in section 5216, to be dis-  
22                         tributed through a formula developed by the  
23                         State which shall target funds to high-need  
24                         local educational agencies which have submitted  
25                         plans to the State under section 5214.

1           “(B) Not more than 20 percent shall be  
2           awarded through a State-determined competi-  
3           tive process to eligible local entities which have  
4           submitted plans to the State under section  
5           5214, to be used to carry out activities con-  
6           sistent with this subpart.

7   **“SEC. 5213. STATE PLANS.**

8           “(a) IN GENERAL.—To be eligible to receive a grant  
9           under this subpart, a State shall submit a new or updated  
10          statewide, long-range strategic educational technology  
11          plan to the Secretary at such time, in such manner, and  
12          containing such information as the Secretary may reason-  
13          ably require.

14          “(b) CONTENTS.—Each State plan submitted under  
15          this section shall include the following:

16                 “(1) A description of how the State will use  
17                 funds provided under this subpart to improve the  
18                 academic achievement of all students and to improve  
19                 the capacity of all teachers to provide instruction in  
20                 the State, through the use of education technology.

21                 “(2) A description of the State’s goals for using  
22                 advanced technology to improve student achievement  
23                 aligned to challenging State content and student  
24                 achievement standards, including a description of  
25                 how the State will take steps to ensure that all stu-



1       dents in the State, particularly those residing in dis-  
2       tricts served by high-need local educational agencies,  
3       will have increased access to educational technology.

4           “(3) A description of the accountability meas-  
5       ures the State will use for the evaluation of the ex-  
6       tent to which education technology funded under  
7       this subpart has been successfully integrated into  
8       teaching strategies and school curriculum, has in-  
9       creased the ability of teachers to teach, and has en-  
10      abled students to meet challenging State content and  
11      student achievement standards.

12          “(4) A description of how the State will encour-  
13      age the development and utilization of innovative  
14      strategies for the delivery of specialized or rigorous  
15      academic courses and curricula through the use of  
16      technology and distance learning, particularly for  
17      those areas of the State which are isolated and  
18      which would not otherwise have access to such  
19      courses and curricula.

20          “(5) An assurance that financial assistance pro-  
21      vided under this subpart shall supplement, not sup-  
22      plant, State and local funds.

23          “(6) A description of how the State will ensure  
24      that every teacher within a school funded under this

1 subpart will be computer-literate and proficient (as  
2 determined by the State) by 2006.

3 “(7) A description of how the State will ensure  
4 that grants to eligible local applicants are of suffi-  
5 cient size, scope, and quality to meet the purposes  
6 of this part effectively.

7 “(c) DEEMED APPROVAL.—A State plan submitted  
8 to the Secretary under this section shall be deemed to be  
9 approved by the Secretary unless the Secretary makes a  
10 written determination prior to the expiration of the 90-  
11 day period which begins on the date the Secretary receives  
12 the application that the plan is in violation of the provi-  
13 sions of this subpart.

14 “(d) DISAPPROVAL.—The Secretary may issue a final  
15 disapproval of a State’s application under this subpart  
16 only after giving the State notice and an opportunity for  
17 a hearing.

18 “(e) DISSEMINATION OF INFORMATION ON STATE  
19 PLANS.—The Secretary shall make information on State  
20 plans under this subpart widely available to schools and  
21 the general public, including through dissemination on the  
22 Internet, in a timely and user-friendly manner.

23 **“SEC. 5214. LOCAL PLANS.**

24 “(a) IN GENERAL.—An applicant seeking to receive  
25 funds from a State under this subpart shall submit a new

1 or updated long-range local strategic educational tech-  
2 nology plan consistent with the objectives of the statewide  
3 education technology plan described in section 5213(a) to  
4 the State at such time, in such manner, and accompanied  
5 by such information as the State may reasonably require.

6 “(b) CONTENTS OF LOCAL PLAN.—Each local plan  
7 described in this section shall include the following:

8 “(1) A description of how the applicant will use  
9 Federal funds provided under this subpart to im-  
10 prove the academic achievement of all students and  
11 to improve the capacity of all teachers to provide in-  
12 struction through the use of education technology.

13 “(2) A description of the applicant’s specific  
14 goals for using advanced technology to improve stu-  
15 dent achievement aligned to challenging State con-  
16 tent and student achievement standards, including a  
17 description of how the applicant will take steps to  
18 ensure that all students in the local educational area  
19 (particularly those in high poverty and high-need  
20 schools) have increased access to educational tech-  
21 nology, and a description of how such technology will  
22 be used to improve the academic achievement for  
23 such students.

24 “(3) A description of how the applicant will  
25 promote—

1           “(A) the utilization of teaching strategies  
2           and curricula, based upon scientifically based  
3           research, which effectively integrate technology  
4           into instruction, leading to improvements in  
5           student academic achievement as measured by  
6           challenging State content and student achieve-  
7           ment standards; and

8           “(B) sustained and intensive, high quality  
9           professional development, based upon scientif-  
10          ically based research, which increases teacher  
11          capacity to create improved learning environ-  
12          ments through the integration of technology  
13          into instruction through proven strategies and  
14          improved content as described in subparagraph  
15          (A).

16          “(4) A description of how the applicant will in-  
17          tegrate technology across the curriculum and a time  
18          line for such integration, including a description of  
19          how the applicant will make effective use of new and  
20          emerging technologies and teaching practices that  
21          are linked to such emerging technologies to provide  
22          challenging content and improved classroom instruc-  
23          tion.

24          “(5) A description of how the applicant will co-  
25          ordinate education technology activities funded

1 under this subpart, including (but not limited to)  
2 professional development, with any such activities  
3 provided under other Federal, State, and local pro-  
4 grams, including those authorized under title I, title  
5 II, title IV, and (where applicable) the Individuals  
6 with Disabilities Education Act (20 U.S.C. 1400 et  
7 seq.) and the Carl D. Perkins Vocational and Tech-  
8 nical Education Act of 1998 (20 U.S.C. 2301 et  
9 seq.).

10 “(6) A description of the process the applicant  
11 will use for the evaluation of the extent to which  
12 funds provided under this subpart were effective in  
13 integrating technology into school curriculum, in-  
14 creasing the ability of teachers to teach, and ena-  
15 bling students to meet challenging State content and  
16 student achievement standards.

17 “(7) If requested by the State—

18 “(A) a description of how the applicant will  
19 use funds provided under this subpart in a  
20 manner which is consistent with any broad edu-  
21 cation technology priorities which may be estab-  
22 lished by the State consistent with this subpart;  
23 and

24 “(B) an assurance that any technology ob-  
25 tained with funds provided under this subpart

1 will have compatibility and interconnectivity  
2 with technology obtained with funds provided  
3 previously under title III (as in effect the day  
4 preceding the date of enactment of the No  
5 Child Left Behind Act of 2001).

6 “(8) A description of the applicant’s Internet  
7 filtering or blocking technology and related enforce-  
8 ment policies.

9 **“SEC. 5215. STATE ACTIVITIES.**

10 “(a) IN GENERAL.—From funds made available  
11 under section 5212(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 joint public and  
22 private initiatives to provide interest-free or reduced  
23 loans for the acquisition of educational technology  
24 for high-need local educational agencies and stu-  
25 dents attending schools within such districts.

1           “(3) Assisting applicants in providing sustained  
2           and intensive high-quality professional development  
3           based upon scientifically based research in the inte-  
4           gration 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 to use the Internet to  
11                   communicate with other teachers and to re-  
12                   trieve Internet-based learning resources; and

13                   “(C) lead to improvements in classroom in-  
14                   struction in the core academic subject areas,  
15                   which effectively prepare students to meet chal-  
16                   lenging State content and student achievement  
17                   standards.

18           “(4) Assisting applicants in providing all stu-  
19           dents (including students with disabilities and stu-  
20           dents with limited English proficiency) with access  
21           to educational technology.

22           “(5) Establishing or expanding access to tech-  
23           nology in neighborhoods served by high-need local  
24           educational agencies, with special emphasis for ac-  
25           cess provided through technology centers in partner-

1 ship with libraries and with the support of the pri-  
2 vate sector.

3 “(6) Developing enhanced performance meas-  
4 urement systems to determine the effectiveness of  
5 education technology programs funded under this  
6 subpart, especially in determining the extent to  
7 which education technology funded under this sub-  
8 part has been successfully integrated into teaching  
9 strategies and school curriculum, has increased the  
10 ability of teachers to teach, and has enabled stu-  
11 dents to meet challenging State content and student  
12 achievement standards.

13 “(b) LIMITATION ON ADMINISTRATIVE COSTS.—Of  
14 the 5 percent of the State’s allotment under section 5211  
15 which may be used to carry out activities under this sec-  
16 tion, not more than 2 percent may be used by the State  
17 for administrative costs.

18 **“SEC. 5216. LOCAL ACTIVITIES.**

19 “(a) PROFESSIONAL DEVELOPMENT.—A recipient of  
20 funds made available under section 5212(2)(A) shall use  
21 not less than 20 percent of such funds to provide sustained  
22 and intensive high-quality professional development based  
23 on scientifically based research in the integration of ad-  
24 vanced technologies (including emerging technologies) into  
25 curriculum and in using those technologies to create new



1 learning environments, including training in the use of  
2 technology to—

3 “(1) access data and resources to develop cur-  
4 ricula and instructional materials;

5 “(2) enable teachers to use the Internet to com-  
6 municate with other teachers and retrieve Internet-  
7 based learning resources; and

8 “(3) lead to improvements in classroom instruc-  
9 tion in the core academic subject areas, which effec-  
10 tively prepare students to meet challenging State  
11 content and student achievement standards.

12 “(b) WAIVER.—Subsection (a) does not apply to a re-  
13 cipient of funds under section 5212(2)(A) who dem-  
14 onstrates, to the satisfaction of the State, that such recipi-  
15 ent already provides sustained and intensive high-quality  
16 professional development based on scientifically based re-  
17 search in the integration of technology (including emerg-  
18 ing technologies) into the curriculum.

19 “(c) OTHER ACTIVITIES.—In addition to the activi-  
20 ties described in subsection (a), a recipient of funds made  
21 available under section 5212(2)(A) shall use such funds  
22 to carry out other activities consistent with this subpart,  
23 which may include the following:

24 “(1) Adapting or expanding existing and new  
25 applications of technology to enable teachers to in-

1       crease student academic achievement through the  
2       use of teaching practices and advanced technologies  
3       which are based upon scientifically based research  
4       and are designed to prepare students to meet chal-  
5       lenging State content and student achievement  
6       standards, and for developing and utilizing innova-  
7       tive strategies to deliver rigorous academic pro-  
8       grams.

9               “(2) Developing, expanding, or acquiring edu-  
10       cation technology as a means to improve the aca-  
11       demic achievement of all students.

12              “(3) The establishment or expansion of initia-  
13       tives, especially those involving public-private part-  
14       nerships, designed to increase access to technology,  
15       particularly for high-need local educational agencies.

16              “(4) Using technology to promote parent and  
17       family involvement and support communications be-  
18       tween parents, teachers, and students.

19              “(5) Acquiring filtering, blocking, or other tech-  
20       nologies and activities which are designed to protect  
21       students from harmful materials which may be  
22       accessed on the Internet.

23              “(6) Using technology to collect, manage, and  
24       analyze data to inform school improvement efforts.

1           “(7) Implementing enhanced performance  
2 measurement systems to determine the effectiveness  
3 of education technology programs funded under this  
4 subpart, especially in determining the extent to  
5 which education technology funded under this sub-  
6 part has been successfully integrated into teaching  
7 strategies and school curriculum, has increased the  
8 ability of teachers to teach, and has enabled stu-  
9 dents to meet challenging State content and student  
10 achievement standards.

11           “(8) Preparing one or more teachers in elemen-  
12 tary, middle, and secondary schools as technology  
13 leaders who are provided with the means to serve as  
14 experts and train other teachers in the effective use  
15 of technology.

16           “(9) Establishing or expanding access to tech-  
17 nology in neighborhoods served by high-need local  
18 educational agencies, with special emphasis for ac-  
19 cess provided through technology centers in partner-  
20 ship with libraries and with the support of the pri-  
21 vate sector.

1           **“Subpart 2—National Technology Initiatives**

2   **“SEC. 5221. NATIONAL TECHNOLOGY INITIATIVES.**

3           “(a) IN GENERAL.—Using funds made available  
4 under section 5203(b)(2), the Secretary may carry out the  
5 following initiatives:

6                   “(1) The funding of programs built upon sci-  
7 entifically based research, which utilize technology in  
8 education, through the competitive awarding of  
9 grants or contracts, pursuant to a peer review pro-  
10 cess, to States, local educational agencies (including  
11 eligible local entities), institutions of higher edu-  
12 cation, and public and private or nonprofit or for-  
13 profit agencies.

14                   “(2) The provision of technical assistance to  
15 States, local educational agencies, and other grant-  
16 ees under this subpart (directly or through the com-  
17 petitive award of grants or contracts) in order to as-  
18 sist such States, local educational agencies, and  
19 other grantees to achieve the purposes of this part  
20 subpart.

21           “(b) STUDY OF USE OF TECHNOLOGY TO IMPROVE  
22 ACADEMIC ACHIEVEMENT.—Using funds made available  
23 under section 5203(b)(2), the Secretary shall conduct an  
24 independent, long-term study utilizing scientifically based  
25 research methods and control groups, on the effectiveness  
26 of the uses of educational technology on improving student

1 academic achievement, and shall include in the study an  
2 identification of effective uses of educational technology  
3 that have a measurable positive impact on student achieve-  
4 ment.

5 “(c) PRIORITIES.—In funding initiatives under sub-  
6 section (a), the Secretary shall place a priority on projects  
7 which—

8 “(1) develop innovative models using electronic  
9 networks or other forms of distance learning to pro-  
10 vide challenging courses which are otherwise not  
11 readily available to students in a particular school  
12 district, particularly in rural areas; and

13 “(2) increase access to technology to those re-  
14 siding in districts served by high-need local edu-  
15 cational agencies.

16 **“SEC. 5222. REQUIREMENTS FOR RECIPIENTS OF FUNDS.**

17 “(a) APPLICATION.—In order to receive a grant or  
18 contract under this subpart, an entity shall submit an ap-  
19 plication to the Secretary (at such time and in such form  
20 as the Secretary may require), and shall include in the  
21 application—

22 “(1) a description of the project proposed to be  
23 carried out with the grant or contract and how it  
24 would carry out the purposes of this subpart; and

1           “(2) a detailed plan for the independent evalua-  
2           tion of the project built upon scientifically based re-  
3           search principles to determine the impact on the  
4           academic achievement of students served under such  
5           project, as measured by challenging State content  
6           and student achievement standards.

7           “(b) NON-FEDERAL SHARE.—

8           “(1) IN GENERAL.—Subject to paragraphs (2)  
9           and (3), the Secretary may require any recipient of  
10          a grant or contract under this subpart to share in  
11          the cost of the activities assisted under such grant  
12          or contract, which may be in the form of cash or in-  
13          kind contributions fairly valued.

14          “(2) INCREASE.—The Secretary may increase  
15          the non-Federal share required of a recipient of a  
16          grant or contract under this subpart after the first  
17          year such recipient receives funds under such grant  
18          or contract.

19          “(3) MAXIMUM.—The non-Federal share re-  
20          quired under this subsection may not exceed 50 per-  
21          cent of the cost of the activities assisted under a  
22          grant or contract under this subpart.

23          “(4) NOTICE.—The Secretary shall publish in  
24          the Federal Register the non-Federal share required  
25          under this subsection.

1 **“SEC. 5223. EVALUATION AND DISSEMINATION.**

2       “(a) EVALUATION AUTHORITY.—In order to identify  
3 effective uses of educational technology that have a meas-  
4 urable positive impact on student achievement, the Sec-  
5 retary shall—

6           “(1) develop tools and provide resources, includ-  
7 ing technical assistance, for recipients of funds  
8 under this subpart to effectively evaluate their activi-  
9 ties; and

10           “(2) conduct independent evaluations of the ac-  
11 tivities assisted under this subpart.

12       “(b) POST-GRANT EVALUATION INFORMATION AND  
13 DISSEMINATION.—

14           “(1) IN GENERAL.—The Secretary shall make  
15 information on each project funded with a grant or  
16 contract under this subpart widely available to  
17 schools and the general public, including through  
18 dissemination on the Internet, in a timely and user-  
19 friendly manner.

20           “(2) SPECIFIC INFORMATION REQUIRED.—The  
21 information made available and disseminated under  
22 paragraph (1) shall at a minimum include the fol-  
23 lowing:

24           “(A) Upon the awarding of such a grant or  
25 contract under this subpart, the identification  
26 of the grant or contract recipient, the amount

1 of the grant or contract, the stated goals of the  
2 grant or contract, the methods by which the  
3 grant or contract will be evaluated in meeting  
4 such stated goals, and the timeline for meeting  
5 such goals.

6 “(B) Not later than one year after the  
7 awarding of such a grant or contract, informa-  
8 tion on the progress of the grant or contract re-  
9 cipient in carrying out the grant or contract, in-  
10 cluding a detailed description of the use of the  
11 funds provided, the extent to which the stated  
12 goals have been reached, and the results (or  
13 progress of) the evaluation of the project, meet-  
14 ing the requirements of scientifically based re-  
15 search, funded under the grant or contract.

16 “(C) Not later than two years after the  
17 awarding of such a grant or contract (and up-  
18 dated thereafter as appropriate), a follow-up to  
19 the information described in subparagraph (B).

20 **“PART C—CHARACTER EDUCATION**

21 **“SEC. 5301. CHARACTER EDUCATION PROGRAM.**

22 “(a) PROGRAM AUTHORIZED.—

23 “(1) IN GENERAL.—After consultation with ex-  
24 perts in the field of character education, the Sec-  
25 retary may make grants to, or enter into contracts



1 with, State educational agencies, local educational  
2 agencies, public or private agencies or organizations  
3 (including religious organizations), or consortia of  
4 such agencies or organizations for the design and  
5 implementation of character education programs  
6 that—

7 “(A) can be integrated into State content  
8 standards for the core academic subjects; and

9 “(B) can be carried out in conjunction  
10 with other educational reform efforts.

11 “(2) DURATION.—Each grant or contract under  
12 this section shall be made for a period not to exceed  
13 5 years, of which the grant recipient may not use  
14 more than 1 year for planning and program design.

15 “(b) CONTRACTS UNDER PROGRAM.—

16 “(1) EVALUATION.—Each recipient of assist-  
17 ance under this section may contract with outside  
18 sources, including institutions of higher education  
19 and private and nonprofit organizations (including  
20 religious organizations), for the purposes of—

21 “(A) evaluating the program for which the  
22 assistance is made available;

23 “(B) measuring the integration of such  
24 program into the curriculum and teaching

1 methods of schools where the program is car-  
2 ried out; and

3 “(C) measuring the success of such pro-  
4 gram in fostering the elements of character se-  
5 lected by the recipient under subsection (c)(1).

6 “(2) MATERIALS AND PROGRAM DEVELOP-  
7 MENT.—Each recipient of assistance under this sec-  
8 tion may contract with outside sources, including in-  
9 stitutions of higher education and private and non-  
10 profit organizations (including religious organiza-  
11 tions), for assistance in—

12 “(A) developing curricula, materials, teach-  
13 er training, and other activities related to char-  
14 acter education; and

15 “(B) integrating character education into  
16 the curriculum and teaching methods of schools  
17 where the program is carried out.

18 “(c) ELEMENTS OF CHARACTER.—

19 “(1) SELECTION.—

20 “(A) IN GENERAL.—Each agency, organi-  
21 zation, or consortium receiving assistance under  
22 this section may select the elements of char-  
23 acter that will be taught under the program for  
24 which the assistance is made available.

1           “(B) CONSIDERATION OF VIEWS.—In se-  
2           lecting elements of character under paragraph  
3           (1), the agency, organization, or consortium  
4           shall consider the views of the parents or  
5           guardians of the students to be taught under  
6           the program.

7           “(2) EXAMPLE ELEMENTS.—Elements of char-  
8           acter that may be selected under this subsection in-  
9           clude each of the following:

10                   “(A) Trustworthiness.

11                   “(B) Respect.

12                   “(C) Responsibility.

13                   “(D) Fairness.

14                   “(E) Caring.

15                   “(F) Citizenship.

16           “(d) APPLICATION.—

17                   “(1) IN GENERAL.—Each agency, organization,  
18                   or consortium seeking assistance under this section  
19                   shall submit an application to the Secretary at such  
20                   time and in such manner as the Secretary may re-  
21                   quire.

22                   “(2) REQUIRED INFORMATION.—Each applica-  
23                   tion for assistance under this section shall include  
24                   information that—

1           “(A) demonstrates that the program to be  
2           assisted has clear goals and objectives that are  
3           based on scientifically based research;

4           “(B) describes the activities that will be  
5           carried out with the assistance and how such  
6           activities will meet the goals and objectives de-  
7           scribed in paragraph (1); and

8           “(C) describes how the program to be as-  
9           sisted will be linked to other efforts to improve  
10          educational achievement, including—

11                   “(i) broader educational reforms that  
12                   are being instituted by the applicant or its  
13                   partners; and

14                   “(ii) applicable State content stand-  
15                   ards for student achievement.

16          “(e) SELECTION OF RECIPIENTS.—

17                   “(1) PEER REVIEW.—

18                           “(A) IN GENERAL.—In selecting agencies,  
19                           organizations, or consortia to receive assistance  
20                           under this section from among the applicants  
21                           for such assistance, the Secretary shall use a  
22                           peer review process.

23                           “(B) USE OF FUNDS.—The Secretary may  
24                           use funds appropriated under this section for

1 the cost of carrying out peer reviews under this  
2 paragraph.

3 “(2) SELECTION CRITERIA.—Each selection  
4 under paragraph (1) shall be made on the basis of  
5 the quality of the application submitted, taking into  
6 consideration such factors as—

7 “(A) the extent of parental, student, and  
8 community involvement in the program; and

9 “(B) the likelihood that the goals of the  
10 program will be realistically achieved.

11 “(3) DIVERSITY OF PROGRAMS.—In making se-  
12 lections under this subsection, the Secretary shall  
13 ensure, to the extent practicable under paragraph  
14 (2), that the programs assisted under this section—

15 “(A) are equitably distributed among the  
16 geographic regions of the United States, and  
17 among urban, suburban, and rural areas; and

18 “(B) serve schools with a high percentage  
19 of students from economically disadvantaged  
20 families and students from racial and ethnic  
21 minority groups.

22 “(f) EVALUATIONS.—

23 “(1) IN GENERAL.—The Secretary may not  
24 make assistance available to an agency, organiza-  
25 tion, or consortium under this section unless the

1 agency, organization, or consortium agrees to trans-  
2 mit to the Secretary, not later than 5 years after re-  
3 ceipt of the assistance, a report containing an eval-  
4 uation of each program assisted.

5 “(2) ATTAINMENT OF GOALS AND OBJEC-  
6 TIVES.—In conducting an evaluation referred to in  
7 paragraph (1), the agency, organization, or consor-  
8 tium receiving the assistance under this section shall  
9 evaluate the degree to which the program for which  
10 the assistance was made available attained the goals  
11 and objectives set for the program in the application  
12 for assistance submitted under subsection (d).

13 “(3) DISSEMINATION.—

14 “(A) IN GENERAL.—The Secretary shall  
15 disseminate each evaluation received under this  
16 subsection by making it publicly available upon  
17 request.

18 “(B) PUBLIC NOTICE.—When the Sec-  
19 retary receives an evaluation under this sub-  
20 section, the Secretary shall provide public notice  
21 that it is available.

22 “(g) MATCHING FUNDS.—As a condition of receipt  
23 of assistance under this section, the Secretary may require  
24 that each recipient provide matching funds from non-Fed-  
25 eral sources.

1 **“SEC. 5302. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated to carry out  
3 this part \$25,000,000 for fiscal year 2002 and such sums  
4 as may be necessary for each of fiscal years 2003 through  
5 2006.”.

6 **TITLE VI—IMPACT AID**  
7 **PROGRAM**

8 **SEC. 601. PAYMENTS UNDER SECTION 8002 WITH RESPECT**  
9 **TO FISCAL YEARS IN WHICH INSUFFICIENT**  
10 **FUNDS ARE APPROPRIATED.**

11 (a) FOUNDATION PAYMENTS FOR PRE-1995 RECIPI-  
12 ENTS.—Section 8002(h)(1) (20 U.S.C. 7702(h)(1)) is  
13 amended—

14 (1) in subparagraph (A), by striking “and was  
15 eligible to receive a payment under section 2 of the  
16 Act of September 30, 1950” and inserting “and that  
17 filed, or has been determined pursuant to statute to  
18 have filed a timely application, and met, or has been  
19 determined pursuant to statute to meet, the eligi-  
20 bility requirements of section 2(a)(1)(C) of the Act  
21 of September 30, 1950”; and

22 (2) in subparagraph (B), by striking “(or if the  
23 local educational agency was not eligible to receive a  
24 payment under such section 2 for fiscal year 1994”  
25 and inserting “(or if the local educational agency did  
26 not meet, or has not been determined pursuant to

1 statute to meet, the eligibility requirements of sec-  
2 tion 2(a)(1)(C) of the Act of September 30, 1950  
3 for fiscal year 1994”.

4 (b) PAYMENTS FOR 1995 RECIPIENTS.—Section  
5 8002(h)(2) (20 U.S.C. 7702(h)(2)) is amended—

6 (1) in subparagraph (A), by adding at the end  
7 before the period “, or whose application for fiscal  
8 year 1995 was determined pursuant to statute to be  
9 timely filed for purposes of payments for subsequent  
10 fiscal years”; and

11 (2) in subparagraph (B)(ii), by striking “for  
12 each local educational agency that received a pay-  
13 ment under this section for fiscal year 1995” and in-  
14 serting “for each local educational agency described  
15 in subparagraph (A)”.

16 (c) REMAINING FUNDS.—Section 8002(h)(4)(B) (20  
17 U.S.C. 7702(h)(4)(B)) is amended—

18 (1) by striking “(in the same manner as per-  
19 centage shares are determined for local educational  
20 agencies under paragraph (2)(B)(ii))” and inserting  
21 “(by dividing the maximum amount that the agency  
22 is eligible to receive under subsection (b) by the total  
23 of the maximum amounts for all such agencies)”;  
24 and





1 (A) in subparagraph (A), by striking “has  
2 no capacity to issue bonds or is at such agen-  
3 cy’s limit in bonded indebtedness” and inserting  
4 “has no practical capacity to issue bonds, or  
5 has minimal capacity to issue bonds and is at  
6 such agency’s limit in bonded indebtedness”;  
7 and

8 (B) by adding at the end the following:

9 “For purposes of subparagraph (A), a local  
10 educational agency has no practical capacity to issue  
11 bonds if the total assessed valuation of property  
12 available to the agency for taxation purposes is less  
13 than \$25,000,000 and has minimal capacity to issue  
14 bonds if the total assessed valuation of property  
15 available to the agency for taxation purposes is not  
16 less than \$25,000,000 but not more than  
17 \$50,000,000.”.

18 (2) CONFORMING AMENDMENTS.—(A) Section  
19 8007(b)(2) (20 U.S.C. 7707(b)(2)), as amended by  
20 paragraph (1)), is further amended—

21 (i) in the matter preceding subparagraph  
22 (A), by striking “A local educational agency”  
23 and inserting “(A) A local educational agency”;

24 (ii) by redesignating the second subpara-  
25 graph (A) as clause (i);

1 (iii) by redesignating subparagraph (B) as  
2 clause (ii) (and redesignating clauses (i) and  
3 (ii) contained therein as subclauses (I) and (II),  
4 respectively);

5 (iv) by striking “For purposes” and insert-  
6 ing “(B) For purposes”; and

7 (v) in subparagraph (B) (as redesignated  
8 by clause (iv))—

9 (I) by striking “For purposes of sub-  
10 subparagraph (A)” and inserting “For pur-  
11 poses of subparagraph (A)(i)”;

12 (II) by striking “has no practical ca-  
13 pacity” and inserting “(i) has no practical  
14 capacity”; and

15 (III) by striking “has minimal capac-  
16 ity” and inserting “(ii) has minimal capac-  
17 ity”.

18 (B) Section 8007(b)(4)(C) of such Act (20  
19 U.S.C. 7707(b)(4)(C)) is amended by striking “has  
20 the authority” and inserting “has minimal capac-  
21 ity”.

22 (C) Section 8007(b)(6) of such Act (20 U.S.C.  
23 7707(b)(6)) is amended in subparagraphs (A), (B),  
24 (C)(i), and (D) by striking “paragraph (2)(B)(ii)”

1 each place it appears and inserting “paragraph  
2 (2)(A)(ii)(II)”.

3 (b) **AUTHORIZATION OF APPROPRIATIONS.**—Section  
4 8014(e) (20 U.S.C. 7714(e)) is amended by striking “for  
5 each of the three succeeding fiscal years” and inserting  
6 “for fiscal year 2001, \$62,000,000 for fiscal year 2002,  
7 and such sums as may be necessary for each of the four  
8 succeeding fiscal years”.

9 **SEC. 604. STATE CONSIDERATION OF PAYMENTS IN PRO-**  
10 **VIDING STATE AID.**

11 Section 8009(b)(1) (20 U.S.C. 7709(b)(1)) is amend-  
12 ed by inserting after “section 8003(a)(2)(B)” the fol-  
13 lowing: “and, with respect to a local educational agency  
14 that receives a payment under section 8003(b)(2), the  
15 amount in excess of the amount that the agency would  
16 receive if the agency were deemed to be an agency eligible  
17 to receive a payment under section 8003(b)(1) and not  
18 section 8003(b)(2)”.

19 **SEC. 605. AUTHORIZATION OF APPROPRIATIONS.**

20 Section 8014 (20 U.S.C. 7714) is amended by strik-  
21 ing “three succeeding fiscal years” each place it appears  
22 and inserting “six succeeding fiscal years”.

23 **SEC. 606. REDESIGNATION OF PROGRAM.**

24 (a) **REDESIGNATION.**—(1) Title VIII (20 U.S.C.  
25 7701 et seq.) is redesignated as title VI.

1           (2) Sections 8001 through 8005 (20 U.S.C. 7701–  
2 7705) are redesignated as sections 6001 through 6005,  
3 respectively.

4           (3) Sections 8007 through 8014 (20 U.S.C. 7707–  
5 7714) are redesignated as sections 6006 through 6013,  
6 respectively.

7           (b) CONFORMING AMENDMENTS.—(1) Title VI (as  
8 redesignated by subsection (a)) is amended by striking  
9 “8002”, “8003”, “8004”, “8005”, “8008”, “8009”,  
10 “8011”, “8013”, and “8014” each place such terms ap-  
11 pear and inserting “6002”, “6003”, “6004”, “6005”,  
12 “6007”, “6008”, “6010”, “6012”, and “6013”, respec-  
13 tively.

14           (2) Section 6005 (as redesignated by subsection (a))  
15 is amended in the heading by striking “**8002 AND 8003**”  
16 and inserting “**6002 AND 6003**”.

17           (3) Section 6009(c)(1) (as redesignated by subsection  
18 (a)) is amended in the heading by striking “8003” and in-  
19 serting “6003”.

20           (c) SAVINGS PROVISION.—Funds appropriated for  
21 title VIII of the Elementary and Secondary Education Act  
22 of 1965 (as in effect on the day before the date of the  
23 enactment of this Act) shall be available for use under title  
24 VI of such Act, as added by this section.

1       **TITLE VII—ACCOUNTABILITY**

2       **SEC. 701. FLEXIBILITY AND ACCOUNTABILITY.**

3       Title VII is amended to read as follows:

4       **“TITLE VII—FLEXIBILITY AND**  
 5               **ACCOUNTABILITY**

6               **“PART A—STATE ACCOUNTABILITY FOR**  
 7               **IMPROVING ACADEMIC ACHIEVEMENT**

8       **“SEC. 7101. STATE FINANCIAL AWARDS.**

9               “(a) IN GENERAL.—Beginning in the 2002–2003  
 10 school year, the Secretary shall make in accordance with  
 11 this section financial awards, to be known as ‘Achievement  
 12 in Education Awards’, to States that have made signifi-  
 13 cant progress in improving educational achievement.

14              “(b) CRITERIA OF PROGRESS.—For the purposes of  
 15 subsection (a), the Secretary shall judge progress using  
 16 each of the following criteria, giving the greatest weight  
 17 to the criterion described in paragraph (1):

18                      “(1) The progress of the State’s students from  
 19 economically disadvantaged families and students  
 20 from racial and ethnic minority groups—

21                              “(A) on the assessments administered by  
 22 the State under section 1111; and

23                              “(B) beginning in the 2003–2004 school  
 24 year, on assessments of 4th and 8th grade  
 25 reading and mathematics under—

1 “(i) the State assessments carried out  
2 as part of the National Assessment of  
3 Educational Progress under section 411 of  
4 the National Education Statistics Act of  
5 1994 (20 U.S.C. 9010); or

6 “(ii) an assessment selected by the  
7 State that—

8 “(I) is administered annually;

9 “(II) yields high quality data  
10 that are valid and reliable;

11 “(III) meets widely recognized  
12 professional and technical standards;

13 “(IV) is developed by an entity  
14 independent from each State and local  
15 government agency in the State;

16 “(V) is not identical to the as-  
17 sessment used to meet the State as-  
18 sessment requirements under section  
19 1111;

20 “(VI) provides results in such a  
21 form that they may be expressed in  
22 terms of achievement levels that are  
23 consistent with the achievement levels  
24 (basic, proficient, and advanced) set  
25 forth in section 1111;

1           “(VII) provides results in such a  
2           form that they may be disaggregated,  
3           at a minimum, according to income  
4           level and major racial and ethnic  
5           group; and

6           “(VIII) is administered to all stu-  
7           dents or to a representative sample of  
8           students in the 4th and 8th grades  
9           statewide, with a sample size that is  
10          sufficiently large to produce statis-  
11          tically significant estimates of state-  
12          wide student achievement.

13          “(2) The overall improvement in the achieve-  
14          ment of all of the State’s students, as measured  
15          by—

16                 “(A) the assessments administered by the  
17                 State under section 1111; and

18                 “(B) beginning in the 2003–2004 school  
19                 year, the assessments described in paragraph  
20                 (1)(B).

21          “(3) The progress of the State in improving the  
22          English proficiency of students who enter school  
23          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;

15           “(2) the degree of progress shown by a State  
16 with respect to the criteria set forth in subsections  
17 (b) and (c); and

18           “(3) whether the State has entered into a per-  
19 formance agreement with the Secretary under part  
20 B.

21       “(e) USE OF FUNDS.—

22           “(1) IN GENERAL.—A State receiving a finan-  
23 cial award under this section shall use the proceeds  
24 of such award only to make financial awards to pub-  
25 lic elementary and secondary schools in the State

1 that have made the most significant progress with  
2 respect to the criteria described in subsection (b).

3 “(2) USE BY SCHOOLS.—In consultation with  
4 the school’s teachers, the principal of each elemen-  
5 tary or secondary school that receives a financial  
6 award from a State under this section may use the  
7 proceeds of such award for any educational purpose  
8 permitted under State law.

9 “(3) RESPONSIBLE STATE AGENCY.—The State  
10 educational agency for each State shall be the agen-  
11 cy responsible for making awards under this sub-  
12 section.

13 “(f) PEER REVIEW.—In selecting States for awards  
14 under subsection (a), the Secretary shall use a peer-review  
15 process.

16 “(g) COSTS OF INDEPENDENT ASSESSMENTS.—

17 “(1) IN GENERAL.—Subject to paragraph (2),  
18 the Secretary shall make grants to States to offset  
19 the costs of administering assessments administered  
20 by the States to meet the requirements of  
21 (b)(1)(B)(ii).

22 “(2) LIMITATIONS.—Grants made by the Sec-  
23 retary in any year to a State under paragraph (1)—

24 “(A) may be awarded only to offset the  
25 costs of a single administration of an assess-

1           ment described in such paragraph in the State  
2           for that year; and

3           “(B) may not exceed the costs of admin-  
4           istering in the State for that year the State as-  
5           sessments that would be carried out under the  
6           National Assessment of Educational Progress  
7           described in subsection (b)(1)(B).

8           “(3) ALLOCATION.—The Secretary may deter-  
9           mine the appropriate methodology of allocating  
10          grants to States under this subsection.

11 **“SEC. 7102. STATE SANCTIONS.**

12          “(a) FAILURE TO MAKE PROGRESS.—

13           “(1) LOSS OF ADMINISTRATIVE FUNDS.—The  
14          Secretary shall reduce, by 30 percent, the amount of  
15          funding that a State may reserve for State adminis-  
16          tration under the State formula grant programs au-  
17          thorized by this Act if the Secretary determines that,  
18          for 2 consecutive years—

19           “(A) the State’s students from economi-  
20          cally disadvantaged families and students from  
21          racial and ethnic minority groups failed to  
22          make adequate yearly progress on the assess-  
23          ments administered by the State under section  
24          1111; and

1           “(B) the State’s students from economi-  
2           cally disadvantaged families and students from  
3           racial and ethnic minority groups failed to  
4           make measurable progress in reading and  
5           mathematics, as measured by the 4th and 8th  
6           grade assessments described in subsection  
7           (b)(1)(B).

8           “(2) FURTHER REDUCTIONS.—In each of the first 2  
9           years after the years described in paragraph (1), the Sec-  
10          retary may increase the reduction described in such para-  
11          graph by any amount up to a total of an additional 45  
12          percent.

13          “(b) OTHER FAILURES.—In addition to any action  
14          taken under subsection (a)(1) or (a)(2), the Secretary  
15          shall reduce, by 10 percent, the amount of funding that  
16          a State may reserve for State administration under the  
17          State formula grant programs authorized by this Act if  
18          the Secretary determines that, for 2 consecutive years, the  
19          State failed to make adequate yearly progress—

20                 “(1) with respect to the achievement of children  
21                 with limited English proficiency under section  
22                 1111(b)(2)(C)(iii)(II)(dd); or

23                 “(2) with respect to the acquisition of English  
24                 language proficiency by children with limited

1 English proficiency under section  
2 1111(b)(2)(C)(iii)(III).

3 “(c) USE OF FUNDS FOR IMPROVEMENT.—

4 “(1) IN GENERAL.—The Secretary shall require  
5 that any funds reduced under this section be allo-  
6 cated by the State to local educational agencies in  
7 the State for school improvement purposes described  
8 in section 1116.

9 “(2) TREATMENT OF FUNDS.—Funds described  
10 in paragraph (1) shall not count toward the amounts  
11 that are required to be reserved by a State for  
12 school improvement under section 1003.

13 **“SEC. 7103. DEVELOPMENT OF STATE STANDARDS AND AS-**  
14 **SESSMENTS.**

15 “(a) IN GENERAL.—The Secretary shall make finan-  
16 cial awards to States to enable the States—

17 “(1) to pay the costs of the development of the  
18 additional State assessments and standards required  
19 by section 1111(b); and

20 “(2) if a State has developed the assessments  
21 and standards referred to in paragraph (1), to ad-  
22 minister such assessments or to carry out other ac-  
23 tivities described in this title and other activities re-  
24 lated to ensuring accountability for results in the  
25 State’s schools and local educational agencies, such

1 as developing content and achievement standards  
2 and aligned assessments in other subjects not re-  
3 quired by section 1111.

4 “(b) BONUSES.—The Secretary shall make a one-  
5 time bonus payment to each State that completes the de-  
6 velopment of the assessments described in subsection (a)  
7 ahead of the deadline set forth in section 1111.

8 **“SEC. 7104. AUTHORIZATION OF APPROPRIATIONS.**

9 “(a) AWARDS AND BONUS PAYMENTS.—For the pur-  
10 poses of making awards under section 7101 and bonus  
11 payments under section 7103(b), there are authorized to  
12 be appropriated \$40,000,000 for fiscal year 2002 and  
13 such sums as may be necessary for each of fiscal years  
14 2003 through 2006.

15 “(b) GRANTS FOR INDEPENDENT ASSESSMENTS; AD-  
16 MINISTRATION OF STATE ASSESSMENTS UNDER  
17 NAEP.—For the purposes of making grants to offset the  
18 costs of independent assessments under section 7101(g)  
19 and for the purposes of administering the State assess-  
20 ments carried out under the National Assessment of Edu-  
21 cational Progress referred to in section 7101(b)(1)(B)(i),  
22 there are authorized to be appropriated to the Secretary  
23 \$69,000,000 for fiscal year 2002 and such sums as may  
24 be necessary for each of fiscal years 2003 through 2006.

1       “(c) DEVELOPMENT AND ADMINISTRATION OF  
2 STATE STANDARDS AND ASSESSMENTS.—For the pur-  
3 poses of carrying out subsection 7103(a), there are au-  
4 thorized to be appropriated \$320,000,000 for fiscal year  
5 2002 and such sums as may be necessary for each of the  
6 fiscal years 2003 through 2005.

7           **“PART B—PERFORMANCE AGREEMENTS**

8           **“SEC. 7201. SHORT TITLE.**

9           This part may be cited as the “Academic Achieve-  
10 ment for All Act” or “Straight A’s Act”.

11          **“SEC. 7202. PURPOSE.**

12          “The purpose of this part is to create options for  
13 States and communities—

14               “(1) to improve the academic achievement of all  
15 students, and to focus the resources of the Federal  
16 Government upon such achievement;

17               “(2) to improve teacher quality and subject  
18 matter mastery, especially in mathematics, reading,  
19 and science;

20               “(3) to empower parents and schools to effec-  
21 tively address the needs of their children and stu-  
22 dents;

23               “(4) to give States and communities maximum  
24 freedom in determining how to boost academic  
25 achievement and implement education reforms;

1           “(5) to eliminate Federal barriers to imple-  
2           menting effective State and local education pro-  
3           grams;

4           “(6) to hold States and communities account-  
5           able for boosting the academic achievement of all  
6           students, especially disadvantaged children; and

7           “(7) to narrow achievement gaps between the  
8           lowest and highest performing groups of students so  
9           that no child is left behind.

10 **“SEC. 7203. PERFORMANCE AGREEMENT.**

11           “(a) **AUTHORITY.**—In accordance with this part, the  
12 Secretary shall enter into performance agreements with  
13 States under which, except as otherwise provided in this  
14 part, States may consolidate and use funds under 7204.

15           “(b) **REQUIRED TERMS OF PERFORMANCE AGREE-**  
16 **MENT.**—Each performance agreement entered into by the  
17 Secretary under this part shall have each of the following  
18 terms:

19           “(1) **TERM.**— The performance agreement shall  
20           be for a term of 5 years.

21           “(2) **APPLICATION OF PROGRAM REQUIRE-**  
22 **MENTS.**—The performance agreement shall provide  
23           that no requirements of any program described in  
24           section 7204(b) and included by the State in the



1 scope of the agreement shall apply to the State, ex-  
2 cept as otherwise provided in this part.

3 “(3) LIST OF PROGRAMS.—The performance  
4 agreement shall list which of the programs described  
5 in section 7204(b) are included in the scope of the  
6 performance agreement.

7 “(4) USE OF FUNDS TO IMPROVE STUDENT  
8 ACHIEVEMENT.— The performance agreement shall  
9 contain a 5-year plan describing how the State in-  
10 tends to combine and use the funds from programs  
11 included in the scope of the performance agreement  
12 to advance the education priorities of the State, im-  
13 prove student achievement, and narrow achievement  
14 gaps.

15 “(5) ACCOUNTABILITY SYSTEM REQUIRE-  
16 MENTS.—If title I is included in the scope of the  
17 performance agreement the agreement shall include  
18 a certification that the State—

19 “(A) has developed and implemented the  
20 challenging State content standards, chal-  
21 lenging State student achievement standards,  
22 and aligned assessments described in section  
23 1111(b);

1           “(B) has developed and implemented a sys-  
2 tem to produce annual state report cards in ac-  
3 cordance with section 1111(c)(1);

4           “(C) agrees to participate in the National  
5 Assessment of Educational Progress (carried  
6 out under section 411 of the National Edu-  
7 cation Statistics Act of 1994 (20 U.S.C. 9010))  
8 or some other assessment in accordance with  
9 section 1111(c)(2); and

10           “(C) has developed and implemented a  
11 statewide system for turning around low-per-  
12 forming schools and holding its local edu-  
13 cational agencies and schools accountable for  
14 improving student achievement in accordance  
15 with section 1116.

16           “(6) ACHIEVEMENT GOALS.—

17           “(A) STUDENT ACADEMIC ACHIEVE-  
18 MENT.—

19           “(i) PART A OF TITLE I INCLUDED.—

20           If part A of title I is included in the scope  
21 of the performance agreement, the agree-  
22 ment shall require that the State establish  
23 annual student achievement goals for the  
24 term of the agreement—

1           “(I) that are designed to meet  
2           the adequate yearly progress require-  
3           ments set forth in subparagraphs (B)  
4           and (C) of section 1111(b)(2); and

5           “(II) include goals for improving  
6           the achievement of all groups of stu-  
7           dents that are sufficient to ensure  
8           that student achievement gains exceed  
9           that which is required to meet the re-  
10          quirements of the State’s definition of  
11          adequate yearly progress under sec-  
12          tion 1111(b)(2)(B).

13          “(ii) PART A OF TITLE I NOT IN-  
14          CLUDED.—If part A of title I is not in-  
15          cluded in the scope of a performance  
16          agreement, the agreement shall require the  
17          State to establish academic achievement  
18          goals for such other programs.

19          “(B) CONSISTENCY OF ACHIEVEMENT  
20          MEASURES.—The performance agreement shall  
21          require that the State maintain, at a minimum,  
22          the same level of challenging State student  
23          achievement standards and assessments  
24          throughout the term of the performance agree-  
25          ment.

1       “(c) OPTIONAL TERMS.—At the option of the State,  
2 the performance agreement entered into under this part  
3 may require the State to establish and meet goals for any  
4 additional indicators of achievement such as graduation,  
5 dropout, or attendance rates.

6       “(d) APPROVAL OF PERFORMANCE AGREEMENT.—

7           “(1) IN GENERAL.—Not later than 60 days  
8 after the receipt of a proposed performance agree-  
9 ment submitted by a State, the Secretary shall ap-  
10 prove the agreement or provide the State with a  
11 written determination that the performance agree-  
12 ment fails to satisfy the requirements of this part.

13           “(2) TREATMENT AS APPROVED.—Each per-  
14 formance agreement for which the Secretary fails to  
15 take the action required in paragraph (1) in the  
16 time period described in such paragraph shall be  
17 considered to be approved.

18           “(3) REQUIREMENT TO EXECUTE APPROVED  
19 AGREEMENTS.—In accordance with this part, the  
20 Secretary shall enter into each approved perform-  
21 ance agreement approved under this subsection.

22       “(e) LIMITATIONS.—The Secretary may not enter  
23 into a performance agreement with a State under this sec-  
24 tion unless each of the following conditions has been met:

1           “(1) LOCAL INPUT.—The State has provided  
2 parents, teachers, schools, and school districts in the  
3 State with notice and an opportunity to comment on  
4 the proposed terms of the performance agreement in  
5 accordance with State law.

6           “(2) FISCAL RESPONSIBILITIES.—The State  
7 agrees to use fiscal control and fund accounting pro-  
8 cedures that will ensure proper disbursement of, and  
9 accounting for, Federal funds consolidated and used  
10 under the performance agreement.

11           “(3) CIVIL RIGHTS.—The performance agree-  
12 ment contains an assurance that the State will meet  
13 the requirements of applicable Federal civil rights  
14 laws in carrying out the agreement and in consoli-  
15 dating and using the funds under the agreement.

16           “(4) PRIVATE SCHOOL PARTICIPATION.—The  
17 State agrees that in consolidating and using funds  
18 under the performance agreement—

19           “(A) the State will provide for the equi-  
20 table participation of students and professional  
21 staff in private schools; and

22           “(B) that sections 8504, 8505, and 8506  
23 shall apply to all services and assistance pro-  
24 vided with such funds in the same manner as

1           such sections apply to services and assistance  
2           provided in accordance with section 8503.

3           “(5) STATE FINANCIAL PARTICIPATION.—The  
4           State agrees that it will not reduce the level of  
5           spending of State funds for elementary and sec-  
6           ondary education during the term of the perform-  
7           ance agreement.

8           “(6) ANNUAL REPORTS.—The State agrees that  
9           not later than 1 year after the date on which the  
10          Secretary and the State entered into the perform-  
11          ance agreement, and annually thereafter during the  
12          term of the agreement, the State shall disseminate  
13          widely to parents and the general public, transmit to  
14          the Secretary, distribute to print and broadcast  
15          media, and post on the Internet, a report that  
16          includes—

17                 “(A) student achievement data as de-  
18                 scribed in section 1111(b)(2); and

19                 “(B) a detailed description of how the  
20                 State used the funds consolidated under the  
21                 agreement to improve student academic  
22                 achievement and reduce achievement gaps.

23          “(f) AMENDMENT TO PERFORMANCE AGREEMENT.—

24                 “(1) IN GENERAL.—In each of the following  
25                 circumstances, the Secretary shall agree to amend a

1 performance agreement entered into with a State  
2 under this part:

3 “(A) REDUCTION IN SCOPE OF PERFORM-  
4 ANCE AGREEMENT.—Not later than 1 year  
5 after entering into the performance agreement,  
6 a State seeks to amend the agreement to re-  
7 move from the scope any program described in  
8 section 7204(b).

9 “(B) EXPANSION OF SCOPE OF PERFORM-  
10 ANCE AGREEMENT.—Not later than 1 year  
11 after entering into the performance agreement,  
12 a State seeks to amend the agreement to in-  
13 clude in its scope any additional program de-  
14 scribed in section 7204(b) or any additional  
15 achievement indicators for which the State will  
16 be held accountable.

17 “(2) APPROVAL OF AMENDMENT.—

18 “(1) IN GENERAL.—Not later than 60  
19 days after the receipt of a proposed perform-  
20 ance agreement amendment submitted by a  
21 State, the Secretary shall approve the amend-  
22 ment or provide the State with a written deter-  
23 mination that the amendment fails to satisfy  
24 the requirements of this part.

1           “(B) TREATMENT AS APPROVED.—Each  
2           amendment for which the Secretary fails to  
3           take the action required in subparagraph (A) in  
4           the time period described in such subparagraph  
5           shall be considered to be approved.

6           “(3) TREATMENT OF PROGRAM FUNDS WITH-  
7           DRAWN FROM AGREEMENT.—Beginning on the effec-  
8           tive date of an amendment executed under para-  
9           graph (1)(A), each program requirement of each  
10          program removed from the scope of a performance  
11          agreement shall apply to the State’s use of funds  
12          made available under the program.

13 **“SEC. 7204. CONSOLIDATION AND USE OF FUNDS.**

14          “(a) IN GENERAL.—

15               “(1) AUTHORITY.—Under a performance agree-  
16               ment entered into under this part, a State may con-  
17               solidate, subject to subsection (c), Federal funds  
18               made available to the State under the provisions list-  
19               ed in subsection (b) and use such funds for any ele-  
20               mentary and secondary educational purpose per-  
21               mitted under the law of the State.

22               “(2) PROGRAM REQUIREMENTS.—Except as  
23               otherwise provided in this part, a State may use  
24               funds under paragraph (1) notwithstanding the pro-



1       gram requirements of the program under which the  
2       funds were made available to the State.

3       “(b) ELIGIBLE PROGRAMS.—Funds made available  
4       under programs under each of the following provisions of  
5       this Act may be consolidated and used under subsection  
6       (a):

7               “(1) Parts A, B, C, or D of title I.

8               “(2) Title II.

9               “(3) Part A of title III.

10              “(4) Part A of title IV.

11              “(5) Parts A or B of title V.

12       **“SEC. 7205. WITHIN-STATE DISTRIBUTION OF FUNDS.**

13              “(a) AUTHORITY.—

14                      “(1) IN GENERAL.—The distribution of funds  
15                      consolidated under a performance agreement entered  
16                      into under this part by a State to local educational  
17                      agencies in the State shall be determined by the  
18                      Governor of the State and the State legislature.

19                      “(2) DISTRIBUTION BY ALTERNATIVE AUTHOR-  
20                      ITY.—In each State in which the State constitution  
21                      or State law designates an individual, entity, or  
22                      agency other than the Governor or State Legislature  
23                      as the party responsible for public elementary and  
24                      secondary education policy, the distribution of funds  
25                      under subsection (a) shall be determined by such in-

1       dividual, entity, or agency, in consultation with the  
2       Governor and State Legislature.

3           “(3) RULE OF CONSTRUCTION.—Nothing in  
4       this subsection shall be construed to supersede or  
5       modify any provision of a State constitution or State  
6       law.

7           “(b) LOCAL INPUT.—In accordance with State law,  
8       each State shall provide parents, teachers, and local  
9       schools and school districts notice and opportunity to com-  
10      ment on the proposed distribution of funds under this sec-  
11      tion.

12          “(c) AMOUNT OF PART A TITLE I FUNDS.—

13           “(1) IN GENERAL.—The Secretary may not  
14      enter into a performance agreement with a State  
15      under this part if the agreement includes in its scope  
16      part A of title I and the agreement does not provide  
17      an assurance that each local educational agency will  
18      receive under the performance agreement, subject to  
19      Federal appropriations, an amount equal to or  
20      greater than the amount such agency received under  
21      part A of title I in the fiscal year preceding the fis-  
22      cal year in which the performance agreement is en-  
23      tered into.

24           “(2) PROPORTIONATE REDUCTION.—If the  
25      amount made available to the State from the Sec-

1       retary for a fiscal year is insufficient to pay to each  
2       local educational agency the amount made available  
3       under part A of title I to such agency for the pre-  
4       ceding fiscal year, the State shall reduce the amount  
5       each local educational agency receives by a uniform  
6       percentage.

7       **“SEC. 7206. LOCAL PARTICIPATION.**

8       “(a) IN GENERAL.—If a State chooses not to enter  
9       into a performance agreement with the Secretary under  
10      this part, any local educational agency in such State may  
11      enter in accordance with this section into a performance  
12      agreement with the Secretary in accordance with this sec-  
13      tion.

14      “(b) TERMS OF AGREEMENT.—

15           “(1) IN GENERAL.—Except as otherwise pro-  
16      vided in this section, each requirement and limita-  
17      tion under this part that is applicable to a State  
18      with respect to a performance agreement under this  
19      part shall be applicable to a local educational agency  
20      with respect to a performance agreement under this  
21      section, as appropriate.

22           “(2) EXCEPTIONS.—Each of the following pro-  
23      visions shall not apply to a local educational agency  
24      with respect to a performance agreement under this  
25      section:



1 funds allocated to the State under the programs included  
2 in the scope of the performance agreement.

3 “(c) LOCAL EDUCATIONAL AGENCY.—A local edu-  
4 cational agency that has entered into a performance agree-  
5 ment with the Secretary under section 7206 may use for  
6 administrative purposes not more than 4 percent of the  
7 total amount of funds allocated to the agency under the  
8 programs included in the scope of the performance agree-  
9 ment.

10 **“SEC. 7208. PERFORMANCE REVIEW AND PENALTIES.**

11 “(a) MIDTERM REVIEW.—The Secretary may not  
12 enter into a performance agreement under this part unless  
13 the agreement includes a provision permitting the Sec-  
14 retary, after notice and an opportunity for a hearing, to  
15 terminate the agreement if, during the term of the agree-  
16 ment, student achievement declines for 3 consecutive years  
17 in the academic achievement categories established under  
18 the agreement.

19 “(b) FINAL REVIEW.—If, at the end of the 5-year  
20 term of a performance agreement entered into under this  
21 part, a State has not substantially met the achievement  
22 goals submitted in the performance agreement, the Sec-  
23 retary may not renew the agreement under section 7209  
24 and beginning on the date on which such term ends the  
25 State shall be required to comply with each of the program

1 requirements in effect on such date for each program in-  
2 cluded in the performance agreement.

3       “(c) SANCTIONS.—The Secretary may not enter into  
4 a performance agreement under this part unless the agree-  
5 ment provides that if the State fails to meet the terms  
6 of its annual academic achievement goals under the agree-  
7 ment it shall be subject to the sanctions set forth in sec-  
8 tion 7102, and that under each of paragraphs (1) and (2)  
9 of that section the Secretary may reduce the funds that  
10 a State may reserve for State administrative costs for each  
11 program included in the performance agreement by an ad-  
12 ditional 10 percent.

13 **“SEC. 7209. RENEWAL OF PERFORMANCE AGREEMENT.**

14       “(a) IN GENERAL.—Except as provided in section  
15 7208(b) and in accordance with this section, the Secretary  
16 shall renew for 1 additional 5-year term a performance  
17 agreement entered into under this part if the State that  
18 is party to the agreement has met or has substantially  
19 met, by the end of the original term of the agreement,  
20 the achievement goals contained in the agreement.

21       “(b) NOTIFICATION.—The Secretary may not renew  
22 a performance agreement under this part unless, not less  
23 than 6 months before the end of the original term of the  
24 agreement, the State seeking the renewal notifies the Sec-  
25 retary of its intention to renew.



1 **“SEC. 7213. ALL STUDENTS DEFINED.**

2 “In this part, the term ‘all students’ means all stu-  
3 dents attending public schools or charter schools that are  
4 participating in the State’s accountability and assessment  
5 system.

6 **“PART C—TRANSFERABILITY OF FUNDS**

7 **“SEC. 7301. SHORT TITLE.**

8 “This part may be cited as the ‘State and Local  
9 Transferability Act’.

10 **“SEC. 7302. PURPOSE.**

11 “The purpose of this part is to allow States and local  
12 educational agencies the flexibility—

13 “(1) to target Federal funds to Federal pro-  
14 grams that most effectively address the unique needs  
15 of States and localities; and

16 “(2) to transfer Federal funds allocated to  
17 other activities to allocations for activities authorized  
18 under title I programs.

19 **“SEC. 7303. TRANSFERABILITY OF FUNDS.**

20 **“(a) TRANSFERS BY STATES.—**

21 **“(1) IN GENERAL.—**In accordance with this  
22 part, a State may transfer up to 100 percent of the  
23 nonadministrative State funds allocated to the State  
24 for use for State-level activities under each of the  
25 following provisions to 1 or more of the State’s allo-  
26 cations under any other of such provisions:



1           “(A) Title II.

2           “(B) Part A of title III.

3           “(C) Part A of title IV.

4           “(D) Part A or B of title V.

5           “(2) SUPPLEMENTAL FUNDS FOR TITLE I.—In  
6 accordance with this part, a State may transfer any  
7 funds allocated to the State under a provision listed  
8 in paragraph (1) to its allocation under title I.

9           “(b) TRANSFERS BY LOCAL EDUCATIONAL AGEN-  
10 CIES.—

11           “(1) AUTHORITY TO TRANSFER FUNDS.—

12           “(A) IN GENERAL.—In accordance with  
13 this part, a local educational agency may trans-  
14 fer funds allocated to it under each of the pro-  
15 visions listed in paragraph (2) to 1 or more of  
16 its allocations under any other such provision.

17           “(B) SUPPLEMENTAL FUNDS FOR TITLE  
18 I.—In accordance with this part, a local edu-  
19 cational agency may transfer funds allocated to  
20 such agency under a provision listed in para-  
21 graph (2) to its allocation under title I.

22           “(C) STATE APPROVAL.—

23           “(i) IN GENERAL.—In any fiscal year,  
24 a local educational agency may not trans-  
25 fer under this paragraph any amount of

1 funds for use under a provision listed in  
2 paragraph (2) if the total of all funds  
3 transferred for such use exceeds 35 per-  
4 cent of the funds allocated to the agency  
5 under that provision for the fiscal year, un-  
6 less the State in which the local edu-  
7 cational agency is located has approved  
8 each such transfer.

9 “(ii) REQUESTS TO BE IN WRITING.—

10 Each request by a local educational agency  
11 for State approval under this subpara-  
12 graph shall be made in writing to the  
13 State.

14 “(iii) DECISION WITHIN 60 DAYS.—

15 Each request by a local educational agency  
16 for State approval under this subpara-  
17 graph shall be deemed approved by the  
18 State, unless not later than 60 days after  
19 receipt of the request the State disapproves  
20 the request or notifies the agency in writ-  
21 ing of steps that the agency needs to take  
22 before the State will approve the transfer.

23 “(vi) APPROVAL CRITERIA.—In re-

24 viewing a request by a local educational  
25 agency for State approval under this sub-

1 paragraph, a State shall consider the de-  
2 gree to which the transfer that is the sub-  
3 ject of the request—

4 “(I) enables the local educational  
5 agency to direct resources to a Fed-  
6 eral program that more effectively ad-  
7 dresses the needs of the agency’s stu-  
8 dents, particularly the most disadvan-  
9 tagged students; and

10 “(II) allows the local educational  
11 agency to target or focus resources to  
12 address specific areas of need or areas  
13 of priority and without the transfer  
14 such targeting or focusing is pre-  
15 vented, or significantly impeded, by  
16 the Federal program requirements.

17 “(2) APPLICABLE PROVISIONS.—A local edu-  
18 cational agency may transfer funds under this sub-  
19 section from allocations made under each of the fol-  
20 lowing provisions:

21 “(A) Title II.

22 “(B) Part A of title IV.

23 “(C) Part A or B of title V.

24 “(c) NO TRANSFER OF TITLE I FUNDS.—A State or  
25 a local educational agency may not transfer under this

1 part to any other program any funds allocated to it under  
2 title I.

3 “(d) MODIFICATION OF PLANS AND APPLICATIONS;  
4 NOTIFICATION.—

5 “(1) STATE TRANSFERS.—Each State that  
6 makes a transfer of funds under this section shall—

7 “(A) modify to account for such transfer  
8 each State plan, or application submitted by the  
9 State, to which such funds relate;

10 “(B) not later than 30 days after the date  
11 of such transfer, submit a copy of such modi-  
12 fied plan or application to the Secretary; and

13 “(C) not later than 30 days before the ef-  
14 fective date of such transfer, notify the Sec-  
15 retary of such transfer.

16 “(2) LOCAL TRANSFERS.—Each local edu-  
17 cational agency that makes a transfer under this  
18 section shall—

19 “(A) modify to account for such transfer  
20 each local plan, or application submitted by the  
21 agency, to which such funds relate;

22 “(B) not later than 30 days after the date  
23 of such transfer, submit a copy of such modi-  
24 fied plan or application to the State; and

1           “(C) not later than 30 days before the ef-  
 2           fective date of such transfer, notify the State of  
 3           such transfer.

4           “(f) APPLICABLE RULES.—Except as otherwise pro-  
 5           vided in this part, funds transferred under this section are  
 6           subject to each of the rules and requirements applicable  
 7           to the funds allocated by the Secretary under the provision  
 8           to which the transferred funds are transferred.”.

9                           **TITLE VIII—GENERAL**  
 10                           **PROVISIONS**

11   **SEC. 801. GENERAL PROVISIONS.**

12           The Elementary and Secondary Education Act, as  
 13           amended by this Act, is further amended by adding at the  
 14           end of title VII the following:

15                           **“TITLE VIII—GENERAL**  
 16                           **PROVISIONS**

17                           **“PART A—DEFINITIONS**

18   **“SEC. 8101. DEFINITIONS.**

19           “Except as otherwise provided, for the purposes of  
 20           this Act, the following terms have the following meanings:

21                   “(1) Average daily attendance—

22                           “(A) Except as provided otherwise by  
 23                           State law or this paragraph, the term ‘average  
 24                           daily attendance’ means—

1           “(i) the aggregate number of days of  
2           attendance of all students during a school  
3           year; divided by

4           “(ii) the number of days school is in  
5           session during such school year.

6           “(B) The Secretary shall permit the con-  
7           version of average daily membership (or other  
8           similar data) to average daily attendance for  
9           local educational agencies in States that provide  
10          State aid to local educational agencies on the  
11          basis of average daily membership or such other  
12          data.

13          “(C) If the local educational agency in  
14          which a child resides makes a tuition or other  
15          payment for the free public education of the  
16          child in a school located in another school dis-  
17          trict, the Secretary shall, for purposes of this  
18          Act—

19                 “(i) consider the child to be in attend-  
20                 ance at a school of the agency making such  
21                 payment; and

22                 “(ii) not consider the child to be in at-  
23                 tendance at a school of the agency receiv-  
24                 ing such payment.

1           “(D) If a local educational agency makes a  
2           tuition payment to a private school or to a pub-  
3           lic school of another local educational agency  
4           for a child with disabilities, as defined in sec-  
5           tion paragraph (5), the Secretary shall, for the  
6           purposes of this Act, consider such child to be  
7           in attendance at a school of the agency making  
8           such payment.

9           “(2) AVERAGE PER-PUPIL EXPENDITURE.—The  
10          term ‘average per-pupil expenditure’ means, in the  
11          case of a State or of the United States—

12                 “(A) without regard to the source of  
13          funds—

14                         “(i) the aggregate current expendi-  
15                         tures, during the third fiscal year pre-  
16                         ceding the fiscal year for which the deter-  
17                         mination is made (or, if satisfactory data  
18                         for that year are not available, during the  
19                         most recent preceding fiscal year for which  
20                         satisfactory data are available) of all local  
21                         educational agencies in the State or, in the  
22                         case of the United States for all States  
23                         (which, for the purpose of this paragraph,  
24                         means the 50 States and the District of  
25                         Columbia); plus

1                   “(ii) any direct current expenditures  
2                   by the State for the operation of such  
3                   agencies; divided by

4                   “(B) the aggregate number of children in  
5                   average daily attendance to whom such agencies  
6                   provided free public education during such pre-  
7                   ceding year.

8                   “(3) BEGINNING TEACHER.—The term ‘begin-  
9                   ning teacher’ means an educator in a public school  
10                  who has been teaching less than a total of 3 com-  
11                  plete school years.

12                  “(4) CHILD.—The term ‘child’ means any per-  
13                  son within the age limits for which the State pro-  
14                  vides free public education.

15                  “(5) CHILD WITH DISABILITY.—The term ‘child  
16                  with a disability’ means a child—

17                  “(A) with mental retardation, hearing im-  
18                  pairments, hearing impairments (including  
19                  deafness), speech or language impairments, vis-  
20                  ual impairments (including blindness), serious  
21                  emotional disturbance (hereinafter referred to  
22                  as ‘emotional disturbance’), orthopedic impair-  
23                  ments, autism, traumatic brain injury, other  
24                  health impairments, or specific learning disabili-  
25                  ties; and



1           “(B) who, by reason thereof, needs special  
2           education and related services.

3           “(6) COMMUNITY-BASED ORGANIZATION.—The  
4           term ‘community-based organization’ means a public  
5           or private nonprofit organization of demonstrated ef-  
6           fectiveness that—

7                   “(A) is representative of a community or  
8                   significant segments of a community; and

9                   “(B) provides educational or related serv-  
10                  ices to individuals in the community.

11           “(7) CONSOLIDATED LOCAL APPLICATION.—  
12           The term ‘consolidated local application’ means an  
13           application submitted by a local educational agency  
14           pursuant to section 14305.

15           “(8) CONSOLIDATED LOCAL PLAN.—The term  
16           ‘consolidated local plan’ means a plan submitted by  
17           a local educational agency pursuant to section  
18           14305.

19           “(9) CONSOLIDATED STATE APPLICATION.—  
20           The term ‘consolidated State application’ means an  
21           application submitted by a State educational agency  
22           pursuant to section 14302.

23           “(10) CONSOLIDATED STATE PLAN.—The term  
24           ‘consolidated State plan’ means a plan submitted by

1 a State educational agency pursuant to section  
2 14302.

3 “(11) COUNTY.—The term ‘county’ means one  
4 of the divisions of a State used by the Secretary of  
5 Commerce in compiling and reporting data regard-  
6 ing counties.

7 “(12) COVERED PROGRAM.—The term ‘covered  
8 program’ means each of the programs authorized  
9 by—

10 “(A) part A of title I;

11 “(B) part B of title I;

12 “(C) part C of title I;

13 “(D) part D of title I;

14 “(E) part F of title I;

15 “(F) part G of title I;

16 “(G) part A of title II;

17 “(H) part A of title III;

18 “(I) part A of title V;

19 “(J) part B of title V; and

20 “(K) part A of title IV:

21 “(13) CURRENT EXPENDITURES.—The term  
22 ‘current expenditures’ means expenditures for free  
23 public education—

24 “(A) including expenditures for adminis-  
25 tration, instruction, attendance, pupil transpor-

1           tation services, operation and maintenance of  
2           plant, fixed charges, and net expenditures to  
3           cover deficits for food services and student body  
4           activities; but

5           “(B) not including expenditures for com-  
6           munity services, capital outlay, and debt serv-  
7           ice, or any expenditures made from funds re-  
8           ceived under title I and title VI.

9           “(14) DEPARTMENT.—The term ‘Department’  
10          means the Department of Education.

11          “(15) EDUCATIONAL SERVICE AGENCY.—The  
12          term ‘educational service agency’ means a regional  
13          public multiservice agency authorized by State stat-  
14          ute to develop, manage, and provide services or pro-  
15          grams to local educational agencies.

16          “(16) EFFECTIVE SCHOOLS PROGRAM.—The  
17          term ‘effective schools program’ means a school-  
18          based program that may encompass preschool  
19          through secondary school levels and that has the ob-  
20          jectives of—

21                 “(A) promoting school-level planning, in-  
22                 structional improvement, and staff development;

23                 “(B) increasing the academic achievement  
24                 levels of all children and particularly education-  
25                 ally disadvantaged children; and

1           “(C) achieving as ongoing conditions in the  
2 school the following factors identified through  
3 scientifically based research as distinguishing  
4 effective from ineffective schools:

5           “(i) Strong and effective administra-  
6 tive and instructional leadership that cre-  
7 ates consensus on instructional goals and  
8 organizational capacity for instructional  
9 problem solving.

10          “(ii) Emphasis on the acquisition of  
11 basic and advanced academic skills.

12          “(iii) A safe and orderly school envi-  
13 ronment that allows teachers and pupils to  
14 focus their energies on academic achieve-  
15 ment.

16          “(iv) Continuous review of students  
17 and programs to evaluate the effects of in-  
18 struction.

19          “(17) ELEMENTARY SCHOOL.—The term ‘ele-  
20 mentary school’ means a nonprofit institutional day  
21 or residential school, including a public elementary  
22 charter school, that provides elementary education,  
23 as determined under State law.

24          “(18) ESSENTIAL COMPONENTS OF READING  
25 INSTRUCTION.—The term ‘essential components of

1 reading instruction’ means explicit and systematic  
2 instruction in—

3 “(A) phonemic awareness;

4 “(B) phonics;

5 “(C) vocabulary development;

6 “(D) reading fluency; and

7 “(E) reading comprehension strategies.

8 “(19) FAMILY LITERACY SERVICES.—The term  
9 ‘family literacy services’ means services provided to  
10 participants on a voluntary basis that are of suffi-  
11 cient intensity in terms of hours, and of sufficient  
12 duration, to make sustainable changes in a family,  
13 and that integrate all of the following activities:

14 “(A) Interactive literacy activities between  
15 parents and their children.

16 “(B) Training for parents regarding how  
17 to be the primary teacher for their children and  
18 full partners in the education of their children.

19 “(C) Parent literacy training that leads to  
20 economic self-sufficiency.

21 “(D) An age-appropriate education to pre-  
22 pare children for success in school and life ex-  
23 periences.

1           “(20) FREE PUBLIC EDUCATION.—The term  
2           ‘free public education’ means education that is  
3           provided—

4                   “(A) at public expense, under public super-  
5                   vision and direction, and without tuition charge;  
6                   and

7                   “(B) as elementary or secondary school  
8                   education as determined under applicable State  
9                   law, except that such term does not include any  
10                  education provided beyond grade 12.

11           “(21) FULLY QUALIFIED.—The term ‘fully  
12           qualified’—

13                   “(A) when used with respect to a public el-  
14                   ementary or secondary school teacher (other  
15                   than a teacher teaching in a public charter  
16                   school), means that the teacher has obtained  
17                   State certification as a teacher (including cer-  
18                   tification obtained through alternative routes to  
19                   certification) or passed the State teacher licens-  
20                   ing exam and holds a license to teach in such  
21                   State; and

22                   “(B) when used with respect to—

23                           “(i) an elementary school teacher,  
24                           means that the teacher holds a bachelor’s  
25                           degree and demonstrates knowledge and

1 teaching skills in reading, writing, mathe-  
2 matics, science, and other areas of the ele-  
3 mentary school curriculum; and

4 “(ii) a middle or secondary school  
5 teacher, means that the teacher holds a  
6 bachelor’s degree and demonstrates a high  
7 level of competency in all subject areas in  
8 which he or she teaches through—

9 “(I) a passing level of perform-  
10 ance on a rigorous State or local aca-  
11 demic subject areas test; or

12 “(II) completion of an academic  
13 major in each of the subject areas in  
14 which he or she provides instruction.

15 “(22) GIFTED AND TALENTED.—The term  
16 ‘gifted and talented’, when used with respect to stu-  
17 dents, children or youth, means students, children or  
18 youth who give evidence of high performance capa-  
19 bility in areas such as intellectual, creative, artistic,  
20 or leadership capacity, or in specific academic fields,  
21 and who require services or activities not ordinarily  
22 provided by the school in order to fully develop such  
23 capabilities.

24 “(23) INSTITUTION OF HIGHER EDUCATION.—  
25 The term ‘institution of higher education’ has the

1 meaning given that term in section 101 of the High-  
2 er Education Act of 1965.

3 “(24) LIMITED ENGLISH PROFICIENT STU-  
4 DENT.—The term ‘limited English proficient stu-  
5 dent’ means an individual aged 5 through 17 en-  
6 rolled in an elementary school or secondary school—

7 “(A) who—

8 “(i) was not born in the United States  
9 or whose native language is a language  
10 other than English;

11 “(ii)(I) is a Native American or Alas-  
12 ka Native, or a native resident of the out-  
13 lying areas; and

14 “(II) comes from an environment  
15 where a language other than English has  
16 had a significant impact on such individ-  
17 ual’s level of English language proficiency;  
18 or

19 “(iii) is migratory, whose native language  
20 is a language other than English, and who  
21 comes from an environment where a language  
22 other than English is dominant; and

23 “(B) who has sufficient difficulty speaking,  
24 reading, writing, or understanding the English



1 language, and whose difficulties may deny the  
2 individual—

3 “(i) the ability to meet the State’s  
4 proficient level of performance on State as-  
5 sessments described in section 1111(b)(4)  
6 in core academic subjects; or

7 “(ii) the opportunity to participate  
8 fully in society.

9 “(25) LOCAL EDUCATIONAL AGENCY.—(A) The  
10 term ‘local educational agency’ means a public board  
11 of education or other public authority legally con-  
12 stituted within a State for either administrative con-  
13 trol or direction of, or to perform a service function  
14 for, public elementary or secondary schools in a city,  
15 county, township, school district, or other political  
16 subdivision of a State, or for such combination of  
17 school districts or counties as are recognized in a  
18 State as an administrative agency for its public ele-  
19 mentary or secondary schools.

20 “(B) The term includes any other public insti-  
21 tution or agency having administrative control and  
22 direction of a public elementary or secondary school.

23 “(C) The term includes an elementary or sec-  
24 ondary school funded by the Bureau of Indian Af-  
25 fairs but only to the extent that such inclusion

1 makes such school eligible for programs for which  
2 specific eligibility is not provided to such school in  
3 another provision of law and such school does not  
4 have a student population that is smaller than the  
5 student population of the local educational agency  
6 receiving assistance under this Act with the smallest  
7 student population, except that such school shall not  
8 be subject to the jurisdiction of any State edu-  
9 cational agency other than the Bureau of Indian Af-  
10 fairs.

11 “(D) The term includes educational service  
12 agencies and consortia of such agencies.

13 “(26) MENTORING.—The term ‘mentoring’  
14 means a program in which an adult works with a  
15 child or youth on a 1-to-1 basis, establishing a sup-  
16 portive relationship, providing academic assistance,  
17 and introducing the child or youth to new experi-  
18 ences that enhance the child or youth’s ability to  
19 excel in school and become a responsible citizen.

20 “(26) NATIVE AMERICAN AND NATIVE AMER-  
21 ICAN LANGUAGE.—The terms ‘Native American’ and  
22 ‘Native American language’ shall have the same  
23 meaning given such terms in section 103 of the Na-  
24 tive American Languages Act of 1990.

1           “(27) OTHER STAFF.—The term ‘other staff’  
2 means pupil services personnel, librarians, career  
3 guidance and counseling personnel, education aides,  
4 and other instructional and administrative per-  
5 sonnel.

6           “(28) OUTLYING AREA.—The term ‘outlying  
7 area’ means the United States Virgin Islands,  
8 Guam, American Samoa, and the Commonwealth of  
9 the Northern Mariana Islands.

10           “(29) PARENT.—The term ‘parent’ includes a  
11 legal guardian or other person standing in loco  
12 parentis.

13           “(30) PUPIL SERVICES PERSONNEL; PUPIL  
14 SERVICES.—(A) The term ‘pupil services personnel’  
15 means school counselors, school social workers,  
16 school psychologists, and other qualified professional  
17 personnel involved in providing assessment, diag-  
18 nosis, counseling, educational, therapeutic, and other  
19 necessary services (including related services as such  
20 term is defined in section 602(22) of the Individuals  
21 with Disabilities Education Act) as part of a com-  
22 prehensive program to meet student needs.

23           “(B) The term ‘pupil services’ means the serv-  
24 ices provided by pupil services personnel.

1           “(31) READING.—The term ‘reading’ means a  
2 complex system of deriving meaning from print that  
3 requires all of the following:

4           “(A) Skills and knowledge to understand  
5 how phonemes, or speech sounds are connected  
6 in print.

7           “(B) Ability to decode unfamiliar words.

8           “(C) Ability to read fluently.

9           “(D) Sufficient background information  
10 and vocabulary to foster reading comprehen-  
11 sions.

12           “(E) Development of appropriate active  
13 strategies to construct meaning from print.

14           “(F) Development and maintenance of a  
15 motivation to read.

16           “(32) RIGOROUS DIAGNOSTIC READING ASSESS-  
17 MENT.—The term ‘rigorous diagnostic reading as-  
18 sessment’ means a diagnostic reading assessment  
19 that—

20           “(A) is valid, reliable, and grounded on sci-  
21 entifically based reading research;

22           “(B) measures progress in developing pho-  
23 nemic awareness and phonics skills, vocabulary,  
24 reading fluency, and reading comprehension;  
25 and

1           “(C) identifies students who may be at risk  
2           for reading failure or who are having difficulty  
3           reading.

4           “(33) SCIENTIFICALLY BASED RESEARCH.—  
5           The term ‘scientifically based research’—

6           “(A) means the application of rigorous,  
7           systematic, and objective procedures to obtain  
8           valid knowledge relevant to education activities  
9           and programs; and

10          “(B) shall include research that—

11           “(i) employs systematic, empirical  
12           methods that draw on observation or ex-  
13           periment;

14           “(ii) involves rigorous data analyses  
15           that are adequate to test the stated  
16           hypotheses and justify the general conclu-  
17           sions drawn;

18           “(iii) relies on measurements or obser-  
19           vational methods that provide valid data  
20           across evaluators and observers and across  
21           multiple measurements and observations;

22           “(iv) is evaluated using randomized  
23           experiments in which individuals, entities,  
24           programs, or activities are randomly as-  
25           signed to different variations (including a

1 control condition) to compare the relative  
2 effects of the variations; and

3 “(v) has been accepted by a peer-re-  
4 viewed journal or approved by a panel of  
5 independent experts through a comparably  
6 rigorous, objective, and scientific review.

7 “(34) SECONDARY SCHOOL.—The term ‘sec-  
8 ondary school’ means a nonprofit institutional day or  
9 residential school, including a public secondary char-  
10 ter school, that provides secondary education, as de-  
11 termined under State law, except that such term  
12 does not include any education beyond grade 12.

13 “(35) SECRETARY.—The term ‘Secretary’  
14 means the Secretary of Education.

15 “(36) STATE.—The term ‘State’ means each of  
16 the 50 States, the District of Columbia, the Com-  
17 monwealth of Puerto Rico, and each of the outlying  
18 areas.

19 “(37) STATE EDUCATIONAL AGENCY.—The  
20 term ‘State educational agency’ means the agency  
21 primarily responsible for the State supervision of  
22 public elementary and secondary schools.

23 “(38) TECHNOLOGY.—The term ‘technology’  
24 means the latest state-of-the-art technology products  
25 and services.

1 **“SEC. 8102. APPLICABILITY OF TITLE.**

2 “Parts B, C, D, and E of this title do not apply to  
3 title VI of this Act.

4 **“SEC. 8103. APPLICABILITY TO BUREAU OF INDIAN AFFAIRS**  
5 **OPERATED SCHOOLS.**

6 “For purposes of any competitive program under this  
7 Act, a consortia of schools operated by the Bureau of In-  
8 dian Affairs, a school operated under a contract or grant  
9 with the Bureau of Indian Affairs in consortia with an-  
10 other contract or grant school or tribal or community or-  
11 ganization, or a Bureau of Indian Affairs school in con-  
12 sortia with an institution of higher education, a contract  
13 or grant school and tribal or community organization shall  
14 be given the same consideration as a local educational  
15 agency.

16 **“PART B—FLEXIBILITY IN THE USE OF**  
17 **ADMINISTRATIVE AND OTHER FUNDS**

18 **“SEC. 8201. CONSOLIDATION OF STATE ADMINISTRATIVE**  
19 **FUNDS FOR ELEMENTARY AND SECONDARY**  
20 **EDUCATION PROGRAMS.**

21 “(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

22 “(1) IN GENERAL.—A State educational agency  
23 may consolidate the amounts specifically made avail-  
24 able to such agency for State administration under  
25 one or more of the programs under paragraph (2)  
26 if such State educational agency can demonstrate

1 that the majority of such agency's resources are de-  
2 rived from non-Federal sources.

3 “(2) APPLICABILITY.—This section applies to  
4 any program under this Act under which funds are  
5 authorized to be used for administration, and such  
6 other programs as the Secretary may designate.

7 “(b) USE OF FUNDS.—

8 “(1) IN GENERAL.—A State educational agency  
9 shall use the amount available under this section for  
10 the administration of the programs included in the  
11 consolidation under subsection (a).

12 “(2) ADDITIONAL USES.—A State educational  
13 agency may also use funds available under this sec-  
14 tion for administrative activities designed to enhance  
15 the effective and coordinated use of funds under pro-  
16 grams included in the consolidation under subsection  
17 (a), such as—

18 “(A) the coordination of such programs  
19 with other Federal and non-Federal programs;

20 “(B) the establishment and operation of  
21 peer-review mechanisms under this Act;

22 “(C) the administration of this title;

23 “(D) the dissemination of information re-  
24 garding model programs and practices;



1           “(E) technical assistance under any pro-  
2           gram under this Act;

3           “(F) State level activities designed to carry  
4           out this title;

5           “(G) training personnel engaged in audit  
6           and other monitoring activities; and

7           “(H) implementation of the Cooperative  
8           Audit Resolution and Oversight Initiative of the  
9           Department of Education.

10       “(c) RECORDS.—A State educational agency that  
11       consolidates administrative funds under this section shall  
12       not be required to keep separate records, by individual  
13       program, to account for costs relating to the administra-  
14       tion of programs included in the consolidation under sub-  
15       section (a).

16       “(d) REVIEW.—To determine the effectiveness of  
17       State administration under this section, the Secretary may  
18       periodically review the performance of State educational  
19       agencies in using consolidated administrative funds under  
20       this section and take such steps as the Secretary finds  
21       appropriate to ensure the effectiveness of such administra-  
22       tion.

23       “(e) UNUSED ADMINISTRATIVE FUNDS.—If a State  
24       educational agency does not use all of the funds available  
25       to such agency under this section for administration, such

1 agency may use such funds during the applicable period  
2 of availability as funds available under one or more pro-  
3 grams included in the consolidation under subsection (a).

4 **“SEC. 8202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.**

5 “A State educational agency that also serves as a  
6 local educational agency, in such agency’s applications or  
7 plans under this Act, shall describe how such agency will  
8 eliminate duplication in the conduct of administrative  
9 functions.

10 **“SEC. 8203. CONSOLIDATION OF FUNDS FOR LOCAL ADMIN-  
11 ISTRATION.**

12 “(a) GENERAL AUTHORITY.—In accordance with  
13 regulations of the Secretary and for any fiscal year, a local  
14 educational agency, with the approval of its State edu-  
15 cational agency, may consolidate and use for the adminis-  
16 tration of one or more programs under this Act (or such  
17 other programs as the Secretary shall designate) not more  
18 than the percentage, established in each such program, of  
19 the total available for the local educational agency under  
20 such programs.

21 “(b) STATE PROCEDURES.—Within one-year from  
22 the date of enactment of the No Child Left Behind Act  
23 of 2001, a State educational agency shall, in collaboration  
24 with local educational agencies in the State, establish pro-  
25 cedures for responding to requests from local educational

1 agencies to consolidate administrative funds under sub-  
2 section (a) and for establishing limitations on the amount  
3 of funds under such programs that may be used for ad-  
4 ministration on a consolidated basis.

5 “(c) CONDITIONS.—A local educational agency that  
6 consolidates administrative funds under this section for  
7 any fiscal year shall not use any other funds under the  
8 programs included in the consolidation for administration  
9 for that fiscal year.

10 “(d) USES OF ADMINISTRATIVE FUNDS.—A local  
11 educational agency that consolidates administrative funds  
12 under this section may use such consolidated funds for  
13 the administration of such programs and for uses, at the  
14 school district and school levels, comparable to those de-  
15 scribed in section 8201(b)(2).

16 “(e) RECORDS.—A local educational agency that con-  
17 solidates administrative funds under this section shall not  
18 be required to keep separate records, by individual pro-  
19 gram, to account for costs relating to the administration  
20 of such programs included in the consolidation.

21 **“SEC. 8204. CONSOLIDATED SET-ASIDE FOR DEPARTMENT**  
22 **OF THE INTERIOR FUNDS.**

23 “(a) GENERAL AUTHORITY.—

24 “(1) TRANSFER.—The Secretary shall transfer  
25 to the Department of the Interior, as a consolidated

1 amount for covered programs, the Indian education  
2 programs under subpart 1 of part B of title III, and  
3 the education for homeless children and youth pro-  
4 gram under subtitle B of title VII of the Stewart B.  
5 McKinney Homeless Assistance Act, the amounts al-  
6 lotted to the Department of the Interior under those  
7 programs.

8 “(2) AGREEMENT.—(A) The Secretary and the  
9 Secretary of the Interior shall enter into an agree-  
10 ment, consistent with the requirements of the pro-  
11 grams specified in paragraph (1), for the distribu-  
12 tion and use of those program funds under terms  
13 that the Secretary determines best meet the pur-  
14 poses of those programs.

15 “(B) The agreement shall—

16 “(i) set forth the plans of the Secretary of  
17 the Interior for the use of the amount trans-  
18 ferred and the performance measures to assess  
19 program effectiveness, including measurable  
20 goals and objectives; and

21 “(ii) be developed in consultation with In-  
22 dian tribes.

23 “(b) ADMINISTRATION.—The Department of the In-  
24 terior may use not more than 1.5 percent of the funds  
25 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 Governor and State edu-  
20 cational agency may submit a consolidated State  
21 plan or a consolidated State application meeting the  
22 requirements of this section for—

23 “(A) any programs under this Act in which  
24 the State participates; and

1           “(B) such other programs as the Secretary  
2           may designate.

3           “(2) CONSOLIDATED APPLICATIONS AND  
4           PLANS.—A Governor and State educational agency  
5           that submits a consolidated State plan or a consoli-  
6           dated State application under this section shall not  
7           be required to submit a separate State plan or appli-  
8           cation for a program included in the consolidated  
9           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           “(3) NECESSARY MATERIALS.—The Secretary  
2           shall require only descriptions, information, assur-  
3           ances, and other materials that are absolutely nec-  
4           essary for the consideration of the consolidated State  
5           plan or consolidated State application.

6           **“SEC. 8303. CONSOLIDATED REPORTING.**

7           “‘In order to simplify reporting requirements and re-  
8           duce reporting burdens, the Secretary shall establish pro-  
9           cedures and criteria under which a Governor and State  
10          educational agency may submit a consolidated State an-  
11          nual report. Such report shall contain information about  
12          the programs included in the report, including the State’s  
13          performance under those programs, and other matters as  
14          the Secretary determines, such as monitoring activities.  
15          Such a report shall take the place of separate individual  
16          annual reports for the programs subject to it.

17          **“SEC. 8304. GENERAL APPLICABILITY OF STATE EDU-**  
18          **CATIONAL AGENCY ASSURANCES.**

19          “(a) ASSURANCES.—A Governor and State edu-  
20          cational agency that submits a consolidated State plan or  
21          consolidated State application under this Act, whether  
22          separately or under section 8302, shall have on file with  
23          the Secretary a single set of assurances, applicable to each  
24          program for which such plan or application is submitted,  
25          that provides that—

1           “(1) each such program will be administered in  
2 accordance with all applicable statutes, regulations,  
3 program plans, and applications;

4           “(2)(A) the control of funds provided under  
5 each such program and title to property acquired  
6 with program funds will be in a public agency, in a  
7 nonprofit private agency, institution, or organiza-  
8 tion, or in an Indian tribe if the law authorizing the  
9 program provides for assistance to such entities; and

10           “(B) the public agency, nonprofit private agen-  
11 cy, institution, or organization, or Indian tribe will  
12 administer such funds and property to the extent re-  
13 quired by the authorizing law;

14           “(3) the State will adopt and use proper meth-  
15 ods of administering each such program, including—

16           “(A) the enforcement of any obligations  
17 imposed by law on agencies, institutions, orga-  
18 nizations, and other recipients responsible for  
19 carrying out each program;

20           “(B) the correction of deficiencies in pro-  
21 gram operations that are identified through au-  
22 dits, monitoring, or evaluation; and

23           “(C) the adoption of written procedures for  
24 the receipt and resolution of complaints alleging



1           violations of law in the administration of such  
2           programs;

3           “(4) the State will cooperate in carrying out  
4           any evaluation of each such program conducted by  
5           or for the Secretary or other Federal officials;

6           “(5) the State will use such fiscal control and  
7           fund accounting procedures as will ensure proper  
8           disbursement of, and accounting for, Federal funds  
9           paid to the State under each such program;

10          “(6) the State will—

11                 “(A) make reports to the Secretary as may  
12                 be necessary to enable the Secretary to perform  
13                 the Secretary’s duties under each such pro-  
14                 gram; and

15                 “(B) maintain such records, provide such  
16                 information to the Secretary, and afford access  
17                 to the records as the Secretary may find nec-  
18                 essary to carry out the Secretary’s duties; and

19           “(7) before the plan or application was sub-  
20           mitted to the Secretary, the State has afforded a  
21           reasonable opportunity for public comment on the  
22           plan or application and has considered such com-  
23           ment.



1 material that are absolutely necessary for the consider-  
2 ation of the local educational agency plan or application.

3 **“SEC. 8306. OTHER GENERAL ASSURANCES.**

4 “(a) ASSURANCES.—Any applicant other than a  
5 State that submits a plan or application under this Act,  
6 shall have on file with the State a single set of assurances,  
7 applicable to each program for which a plan or application  
8 is submitted, that provides that—

9 “(1) each such program will be administered in  
10 accordance with all applicable statutes, regulations,  
11 program plans, and applications;

12 “(2)(A) the control of funds provided under  
13 each such program and title to property acquired  
14 with program funds will be in a public agency or in  
15 a nonprofit private agency, institution, organization,  
16 or Indian tribe, if the law authorizing the program  
17 provides for assistance to such entities; and

18 “(B) the public agency, nonprofit private  
19 agency, institution, or organization, or Indian  
20 tribe will administer such funds and property to  
21 the extent required by the authorizing statutes;

22 “(3) the applicant will adopt and use proper  
23 methods of administering each such program,  
24 including—

1           “(A) the enforcement of any obligations  
2 imposed by law on agencies, institutions, orga-  
3 nizations, and other recipients responsible for  
4 carrying out each program; and

5           “(B) the correction of deficiencies in pro-  
6 gram operations that are identified through au-  
7 dits, monitoring, or evaluation;

8           “(4) the applicant will cooperate in carrying out  
9 any evaluation of each such program conducted by  
10 or for the State educational agency, the Secretary or  
11 other Federal officials;

12           “(5) the applicant will use such fiscal control  
13 and fund accounting procedures as will ensure prop-  
14 er disbursement of, and accounting for, Federal  
15 funds paid to such applicant under each such pro-  
16 gram;

17           “(6) the applicant will—

18           “(A) make reports to the Governor and  
19 State educational agency and the Secretary as  
20 may be necessary to enable such agency and the  
21 Secretary to perform their duties under each  
22 such program; and

23           “(B) maintain such records, provide such  
24 information, and afford access to the records as  
25 the Governor and State educational agency or

1 the Secretary may find necessary to carry out  
2 the State's or the Secretary's duties; and

3 “(7) before the application was submitted, the  
4 applicant afforded a reasonable opportunity for pub-  
5 lic comment on the application and has considered  
6 such comment.

7 “(b) GEPA PROVISION.—Section 442 of the General  
8 Education Provisions Act shall not apply to programs  
9 under this Act.

10 **“PART D—WAIVERS**

11 **“SEC. 8401. WAIVERS OF STATUTORY AND REGULATORY RE-**  
12 **QUIREMENTS.**

13 “(a) IN GENERAL.—Except as provided in subsection  
14 (c), the Secretary may waive any statutory or regulatory  
15 requirement of this Act or the Carl D. Perkins Vocational  
16 and Technical Education Act of 1998 for a State edu-  
17 cational agency, local educational agency, Indian tribe, or  
18 school through a local educational agency, that—

19 “(1) receives funds under a program authorized  
20 by this Act; and

21 “(2) requests a waiver under subsection (b).

22 “(b) REQUEST FOR WAIVER.—

23 “(1) IN GENERAL.—A State educational agen-  
24 cy, local educational agency, or Indian tribe which

1 desires a waiver shall submit a waiver application to  
2 the Secretary that—

3 “(A) indicates each Federal program af-  
4 fected and each statutory or regulatory require-  
5 ment requested to be waived;

6 “(B) describes the purpose and overall ex-  
7 pected results of waiving each such require-  
8 ment;

9 “(C) describes, for each school year, spe-  
10 cific, measurable, educational goals for the  
11 State educational agency and for each local  
12 educational agency, Indian tribe, or school that  
13 would be affected by the waiver;

14 “(D) explains why the waiver will assist  
15 the State educational agency and each affected  
16 local educational agency, Indian tribe, or school  
17 in reaching such goals.

18 “(2) ADDITIONAL INFORMATION.—Such  
19 requests—

20 “(A) may provide for waivers of require-  
21 ments applicable to State educational agencies,  
22 local educational agencies, Indian tribes, and  
23 schools; and

24 “(B) shall be developed and submitted—

1           “(i)(I) by local educational agencies  
2           (on behalf of such agencies and schools) to  
3           State educational agencies; and

4           “(II) by State educational agencies  
5           (on behalf of, and based upon the requests  
6           of, local educational agencies) to the Sec-  
7           retary; or

8           “(ii) by Indian tribes (on behalf of  
9           schools operated by such tribes) to the Sec-  
10          retary.

11          “(3) GENERAL REQUIREMENTS.—

12           “(A) In the case of a waiver request sub-  
13           mitted by a State educational agency acting in  
14           its own behalf, the State educational agency  
15           shall—

16           “(i) provide all interested local edu-  
17           cational agencies in the State with notice  
18           and a reasonable opportunity to comment  
19           on the request;

20           “(ii) submit the comments to the Sec-  
21           retary; and

22           “(iii) provide notice and information  
23           to the public regarding the waiver request  
24           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 8514.

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           “(A) 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 **“SEC. 8509. PRIVATE SCHOOLS.**

2 “Nothing in this Act shall be construed to affect any  
3 private school that does not receive funds or services under  
4 this Act.

5 **“SEC. 8510. PRIVACY OF ASSESSMENT RESULTS.**

6 “Any results from individual assessments referenced  
7 in this Act which become part of the education records  
8 of the student shall have the protections as provided in  
9 section 444 of the General Education Provisions Act.

10 **“SEC. 8511. GENERAL PROVISION REGARDING NON-**  
11 **RECIPIENT NONPUBLIC SCHOOLS.**

12 “Nothing in this Act or any other Act administered  
13 by the Department shall be construed to permit, allow,  
14 encourage, or authorize any Federal control over any as-  
15 pect of any private, religious, or home school, whether or  
16 not a home school is treated as a private school or home  
17 school under State law. This section shall not be construed  
18 to bar private, religious, or home schools from participa-  
19 tion in programs or services under this Act or any other  
20 Act administered by the Department.

21 **“SEC. 8512. SCHOOL PRAYER.**

22 “Notwithstanding any provision of law, no funds  
23 made available through the Department of Education  
24 under this Act, or any other Act, shall be available to any  
25 State or local educational agency which has a policy of  
26 denying or which effectively prevents participation in, con-

1 stitutionally protected prayer in public schools by individ-  
2 uals on a voluntary basis. Neither the United States nor  
3 any State nor any local educational agency shall require  
4 any person to participate in prayer or influence the form  
5 or content of any constitutionally protected prayer in such  
6 public schools.

7 **“SEC. 8513. ATTORNEYS FEES.**

8 “Notwithstanding any other provision of Federal law,  
9 a local educational agency or public elementary or sec-  
10 ondary school may use not more than 20 percent of its  
11 administrative funds from any program under this Act for  
12 payment of attorneys fees and related legal services in the  
13 defense of any legal action, brought against a local edu-  
14 cational agency, public elementary or secondary school, or  
15 agent of any of such entities, claiming such agency, school,  
16 or agent violated the constitutional prohibition against the  
17 establishment of religion by permitting, facilitating, or  
18 accommodating—

19 “(1) a student’s religious expression; or

20 “(2) the design or construction of any memorial  
21 which includes religious symbols, motifs, or saying  
22 as part of a memorial placed on the campus of a  
23 public elementary or secondary school in order to  
24 honor the memory of a person slain on that campus.

1 **“SEC. 8514. GENERAL PROHIBITIONS.**

2 “(a) PROHIBITION.—None of the funds authorized  
3 under this Act shall be used—

4 “(1) to develop or distribute materials, or oper-  
5 ate programs or courses of instruction directed at  
6 youth that are designed to promote or encourage,  
7 sexual activity, whether homosexual or heterosexual;

8 “(2) to distribute or to aid in the distribution  
9 by any organization of legally obscene materials to  
10 minors on school grounds;

11 “(3) to provide sex education or HIV preven-  
12 tion education in schools unless such instruction is  
13 age appropriate and emphasizes the health benefits  
14 of abstinence; or

15 “(4) to operate a program of contraceptive dis-  
16 tribution in schools.

17 “(b) LOCAL CONTROL.—Nothing in this section shall  
18 be construed to—

19 “(1) authorize an officer or employee of the  
20 Federal Government to mandate, direct, review, or  
21 control a State, local educational agency, or schools’  
22 instructional content, curriculum, and related activi-  
23 ties;

24 “(2) limit the application of the General Edu-  
25 cation Provisions Act (20 U.S.C.A. 1221 et seq.);

1           “(3) require the distribution of scientifically or  
2           medically false or inaccurate materials or to prohibit  
3           the distribution of scientifically or medically true or  
4           accurate materials; or

5           “(4) create any legally enforceable right.

6   **“SEC. 8515. PROHIBITION ON FEDERAL MANDATES, DIREC-**  
7                           **TION, AND CONTROL.**

8           “(a) GENERAL PROHIBITION.—Nothing in this Act  
9           shall be construed to authorize an officer or employee of  
10          the Federal Government to mandate, direct, or control a  
11          State, local educational agency, or school’s curriculum,  
12          program of instruction, or allocation of State or local re-  
13          sources, or mandate a State or any subdivision thereof to  
14          spend any funds or incur any costs not paid for under  
15          this Act.

16          “(b) PROHIBITION OF FEDERAL MANDATES, DIREC-  
17          TION, OR CONTROL.—Nothing in this Act shall be con-  
18          strued to authorize an officer or employee of the Federal  
19          Government to mandate, direct, or control a State, local  
20          educational agency, or school’s specific instructional con-  
21          tent or pupil performance standards and assessments, cur-  
22          riculum, or program of instruction as a condition of eligi-  
23          bility to receive funds under this Act.



1 content standards or student achievement standards ap-  
2 proved or certified by the Federal Government, in order  
3 to receive assistance under this Act.

4 “(b) CONSTRUCTION.—Nothing in this section shall  
5 be construed to affect requirements under title I of this  
6 Act.

7 **“SEC. 8519. PROHIBITION ON ENDORSEMENT OF CUR-**  
8 **RICULUM.**

9 “Notwithstanding any other prohibition of Federal  
10 law, no funds provided to the Department of Education  
11 or to any applicable program may be used by the Depart-  
12 ment to endorse, approve, or sanction any curriculum de-  
13 signed to be used in an elementary or secondary school.

14 **“SEC. 8520. RULE OF CONSTRUCTION ON PERSONALLY**  
15 **IDENTIFIABLE INFORMATION.**

16 “Nothing in this Act shall be construed to permit the  
17 development of a national database of personally identifi-  
18 able information on individuals involved in studies or in  
19 data collection efforts under this Act.

20 **“PART F—SENSE OF CONGRESS**

21 **“SEC. 8601. PAPERWORK REDUCTION.**

22 “(a) FINDINGS.—The Congress finds that—

23 “(1) instruction and other classroom activities  
24 provide the greatest opportunity for students, espe-

1 cially at-risk and disadvantaged students, to attain  
2 high standards and achieve academic success;

3 “(2) one of the greatest obstacles to estab-  
4 lishing an effective, classroom-centered education  
5 system is the cost of paperwork compliance;

6 “(3) paperwork places a burden on teachers  
7 and administrators who must complete Federal and  
8 State forms to apply for Federal funds and absorbs  
9 time and money which otherwise would be spent on  
10 students;

11 “(4) the Education at a Crossroads Report re-  
12 leased in 1998 by the Education Subcommittee on  
13 Oversight and Investigations states that require-  
14 ments by the Department of Education result in  
15 more than \$48,600,000 hours of paperwork per  
16 year; and

17 “(5) paperwork distracts from the mission of  
18 schools, encumbers teachers, and administrators  
19 with nonacademic responsibilities, and competes with  
20 teaching and classroom activities which promote  
21 learning and achievement.

22 “(b) SENSE OF CONGRESS.—It is the sense of Con-  
23 gress that Federal and State educational agencies should  
24 reduce the paperwork requirements placed on schools,  
25 teachers, principles, and other administrators.

1 **“SEC. 8602. PROHIBITION ON MANDATORY NATIONAL CER-**  
2 **TIFICATION OF TEACHERS AND PARA-**  
3 **PROFESSIONALS.**

4 “(a) PROHIBITION ON MANDATORY TESTING OR  
5 CERTIFICATION.—Notwithstanding any other provision of  
6 law, the Secretary is prohibited from using Federal funds  
7 to plan, develop, implement, or administer any mandatory  
8 national teacher or paraprofessional test or certification.

9 “(b) PROHIBITION ON WITHHOLDING FUNDS.—The  
10 Secretary is prohibited from withholding funds from any  
11 State or local educational agency if such State or local  
12 educational agency fails to adopt a specific method of  
13 teacher or paraprofessional certification.

14 **“SEC. 8603. PROHIBITION ON FEDERALLY SPONSORED**  
15 **TESTING.**

16 “Notwithstanding any other provision of Federal law,  
17 no funds provided under this Act to the Secretary or to  
18 the recipient of any award may be used to develop, pilot  
19 test, field test, implement, administer, or distribute any  
20 federally sponsored national test in reading, mathematics,  
21 or any other subject, unless specifically and explicitly au-  
22 thorized by law.

23 **“SEC. 8604. SENSE OF CONGRESS REGARDING MEMORIALS.**

24 “It is the sense of Congress that—

25 “(1) the saying of a prayer, the reading of a  
26 scripture, or the performance of religious music, as



1 part of a memorial service that is held on the cam-  
2 pus of a public elementary or secondary school in  
3 order to honor the memory of any person slain on  
4 that campus is not objectionable under this Act; and

5 “(2) the design and construction of any memo-  
6 rial which includes religious symbols, motifs, or  
7 sayings that is placed on the campus of a public ele-  
8 mentary or secondary school in order to honor the  
9 memory of any person slain on that campus is not  
10 objectionable under this Act.

## 11 “PART G—EVALUATIONS

### 12 “SEC. 8651. EVALUATIONS.

13 “(a) RESERVATION OF FUNDS.—Except as provided  
14 in subsections (b) and (c), the Secretary may reserve not  
15 more than 0.5 percent of the amount appropriated to  
16 carry out each categorical program and demonstration  
17 project authorized under this Act—

18 “(1) to conduct—

19 “(A) comprehensive evaluations of the pro-  
20 gram or project; and

21 “(B) studies of the effectiveness of the pro-  
22 grams or project and its administrative impact  
23 on schools and local educational agencies;

24 “(2) to evaluate the aggregate short- and long-  
25 term effects and cost efficiencies across Federal pro-

1       grams assisted or authorized under this Act and re-  
2       lated Federal preschool, elementary and secondary  
3       programs under any other Federal law; and

4               “(3) to increase the usefulness of evaluations of  
5       grant recipients in order to ensure the continuous  
6       progress of the program or project by improving the  
7       quality, timeliness, efficiency, and utilization of in-  
8       formation relating to performance under the pro-  
9       gram or project.

10       “(b) TITLE I EXCLUDED.—The Secretary may not  
11       reserve under subsection (a) funds appropriated to carry  
12       out any program authorized under title I.

13       “(c) EVALUATION ACTIVITIES AUTHORIZED ELSE-  
14       WHERE.—

15               “(1) IN GENERAL.—If, under any other provi-  
16       sion of this Act (other than title I), funds are au-  
17       thorized to be reserved or used for evaluation activi-  
18       ties with respect to a program or project, the Sec-  
19       retary may not reserve additional funds under this  
20       section for the evaluation of such program or  
21       project.”.

22       **SEC. 802. COMPREHENSIVE REGIONAL ASSISTANCE CEN-**  
23               **TERS.**

24       (a) IN GENERAL.—Part A of title XIII (20 U.S.C.  
25       8621 et seq.)—

1           (1) is transferred to the end of title VIII, as  
2           amended by section 801; and

3           (2) is redesignated as part H.

4           (b) REDESIGNATION OF SECTIONS.—Sections 13101  
5 through 13105 are redesignated as sections 8701 through  
6 8705, respectively.

7           (c) CONFORMING AMENDMENTS.—

8           (1) REQUIREMENTS.—Section 8702 (as redesignig-  
9 nated by subsection (b)) is amended—

10                   (A) by striking “section 13101(a)” and in-  
11                   serting “section 8701(a)”; and

12                   (B) in paragraph (7), by striking “section  
13 13201” and inserting “section 8751”.

14           (2) MAINTENANCE OF SERVICE.—Section  
15 8703(b) (as redesignated by subsection (b)) is  
16 amended—

17                   (A) in paragraph (1), by striking “section  
18 13102” and inserting “section 8702”; and

19                   (B) in paragraph (2)—

20                           (i) by striking “section 13201” and  
21                           inserting “section 8751”; and

22                           (ii) by striking “section 13401” and  
23                           inserting “section 8851”.

1           (3) TRANSITION.—Section 8704(b)(1) (as re-  
2           designated by subsection (b)) is amended by striking  
3           “section 13105” and inserting “section 8705”.

4 **SEC. 803. NATIONAL DIFFUSION NETWORK.**

5           (a) IN GENERAL.—Part B of title XIII (20 U.S.C.  
6 8651 et seq.)—

7           (1) is transferred to the end of title VIII, as  
8           amended by section 802; and

9           (2) is redesignated as part I.

10          (b) REDESIGNATION OF SECTIONS.—Sections 13201  
11 and 13202 are redesignated as sections 8751 and 8752,  
12 respectively.

13          (c) CONFORMING AMENDMENT.—Section 8751(f)(4)  
14 (as redesignated by subsection (b)) is amended by striking  
15 “section 13401” and inserting “section 8851”.

16 **SEC. 804. EISENHOWER REGIONAL MATHEMATICS AND**  
17 **SCIENCE EDUCATION CONSORTIA.**

18          (a) IN GENERAL.—Part C of title XIII (20 U.S.C.  
19 8671 et seq.)—

20          (1) is transferred to the end of title VIII, as  
21          amended by section 803; and

22          (2) is redesignated as part J.

23          (b) REDESIGNATION OF SECTIONS.—Sections 13301  
24 through 13308 are redesignated as sections 8801 through  
25 8808, respectively.

1 (c) CONFORMING AMENDMENTS.—

2 (1) GRANT AUTHORIZATION.—Section  
3 8801(a)(3) (as redesignated by subsection (b)) is  
4 amended by striking “section 13308” and inserting  
5 “section 8808”.

6 (2) USE OF FUNDS.—Section 8802 (as redesign-  
7 nated by subsection (b)) is amended—

8 (A) by striking “section 13304” and in-  
9 serting “section 8804”;

10 (B) in paragraph (2), by striking  
11 “13301(a)(1)” and inserting “8801(a)(1)”; and

12 (C) in paragraph (3), by striking  
13 “13301(a)(1)” and inserting “8801(a)(1)”.

14 (3) PAYMENTS.—Section 8805 (as redesignated  
15 by subsection (b)) is amended in each of subsections  
16 (a) and (b) by striking “section 13303” and insert-  
17 ing “section 8803”.

18 (4) EVALUATION.—Section 8806(a) (as redesign-  
19 nated by subsection (b)) is amended by striking  
20 “section 14701” and inserting “section 8651”.

21 (5) DEFINITIONS.—Section 8807(4) (as redesi-  
22 gnated by subsection (b)) is amended by striking  
23 “section 13301” and inserting “section 8801”.

1 **SEC. 805. TECHNOLOGY-BASED TECHNICAL ASSISTANCE.**

2 (a) IN GENERAL.—Part D of title XIII (20 U.S.C.  
3 8701)—

4 (1) is transferred to the end of title VIII, as  
5 amended by section 804; and

6 (2) is redesignated as part K.

7 (b) REDESIGNATION OF SECTION.—Sections 13401  
8 is redesignated as section 8851.

9 **TITLE IX—MISCELLANEOUS**  
10 **PROVISIONS**

11 **PART A—AMENDMENTS TO OTHER ACTS**

12 **Subpart 1—National Education Statistics Act**

13 **SEC. 901. AMENDMENT TO NESA.**

14 Section 411 of the National Education Statistics Act  
15 of 1994 (20 U.S.C. 9010) is amended—

16 (1) by amending subsection (b)(2) to read as  
17 follows:

18 “(2) STATE ASSESSMENTS.—(A) The Commis-  
19 sioner, in carrying out the National Assessment—

20 “(i) may conduct State assessments of stu-  
21 dent achievement in grades 4, 8, and 12; and

22 “(ii) shall conduct annual State assess-  
23 ments of student achievement in reading and  
24 mathematics in grades 4 and 8 in order for  
25 States to carry out section 1111(c)(2) of the

1           Elementary and Secondary Education Act of  
2           1965.

3           “(B)(i) Except as provided in clause (ii), a par-  
4           ticipating State shall review and give permission for  
5           the release of results from any test of its students  
6           administered as a part of a State assessment prior  
7           to the release of the data. Refusal by a State to re-  
8           lease its data shall not restrict the release of data  
9           from other States that have approved the release of  
10          that data.

11          “(ii) A State participating in the annual State  
12          assessments of its students in reading and mathe-  
13          matics in grades 4 and 8 shall be deemed to have  
14          given its permission to release its data if it has an  
15          approved plan under section 1111 of the Elementary  
16          and Secondary Education Act of 1965.”; and

17          (2) by amending subsection (d) to read as fol-  
18          lows:

19          “(d) PARTICIPATION.—

20                 “(1) NATIONAL AND REGIONAL PARTICIPA-  
21                 TION.—Participation in the national and regional as-  
22                 sessments by State and local educational agencies  
23                 shall be voluntary.

1           “(2) STATE PARTICIPATION.—Participation in  
2           assessments made on a State basis shall be vol-  
3           untary.”.

4                           **Subpart 2—Homeless Education**

5   **SEC. 911. SHORT TITLE.**

6           This subpart may be cited as the “McKinney-Vento  
7   Homeless Education Assistance Improvements Act of  
8   2001”.

9   **SEC. 912. FINDINGS.**

10          Congress makes the following findings:

11               (1) An estimated 1,000,000 children in the  
12          United States will experience homelessness in 2001.

13               (2) Homelessness has a devastating impact on  
14          the educational opportunities of children and youth.  
15          Homeless children go hungry at more than twice the  
16          rate of other children, have four times the rate of  
17          delayed development, and are twice as likely to re-  
18          peat a grade.

19               (3) Despite steady progress in school enroll-  
20          ment and attendance resulting from the passage in  
21          1987 of the Stewart B. McKinney Homeless Assist-  
22          ance Act, homeless students still face numerous bar-  
23          riers to education, including residency, guardianship  
24          and registration requirements, delays in the transfer



1 of school records, and inadequate transportation  
2 service.

3 (4) School is one of the few secure factors in  
4 the lives of homeless children and youth, providing  
5 stability, structure, and accomplishment during a  
6 time of great upheaval.

7 (5) Homeless children and youth require edu-  
8 cational stability and the opportunity to maintain  
9 regular and consistent attendance in school, so that  
10 they acquire the skills necessary to escape poverty  
11 and lead productive, healthy lives as adults.

12 (6) In the 14 years since the passage of the  
13 McKinney Act, educators and service providers have  
14 learned much about policies and practices which help  
15 remove the barriers described.

16 **SEC. 913. PURPOSE.**

17 The purpose of this subpart is to strengthen subtitle  
18 B of title VII of Public Law 100–77 (42 U.S.C. 11431  
19 et seq.) by amending it—

20 (1) to include innovative practices, proven to be  
21 effective in helping homeless children and youth en-  
22 roll, attend, and succeed in school; and

23 (2) to help ensure that all children and youth  
24 impacted by the loss of fixed, regular, and adequate

1 housing receive a quality education and secure their  
2 chance for a brighter future.

3 **SEC. 914. EDUCATION FOR HOMELESS CHILDREN AND**  
4 **YOUTH.**

5 Subtitle B of title VII of Public Law 100–77 (42  
6 U.S.C. 11431 et seq.) is amended to read as follows:

7 **“Subtitle B—Education for**  
8 **Homeless Children and Youth**

9 **“SEC. 721. STATEMENT OF POLICY.**

10 “It is the policy of the Congress that—

11 “(1) each State educational agency ensure that  
12 each child of a homeless individual and each home-  
13 less youth has equal access to the same free, public  
14 education, including a public preschool education, as  
15 provided to other children and youth;

16 “(2) in any State that has a compulsory resi-  
17 dency requirement as a component of the State’s  
18 compulsory school attendance laws or other laws,  
19 regulations, practices, or policies that may act as a  
20 barrier to the enrollment, attendance, or success in  
21 school of homeless children and youth, the State re-  
22 view and undertake steps to revise such laws, regula-  
23 tions, practices, or policies to ensure that homeless  
24 children and youth are afforded the same free, pub-

1       lic education as provided to other children and  
2       youth;

3               “(3) homelessness alone is not sufficient reason  
4       to separate students from the mainstream school en-  
5       vironment; and

6               “(4) homeless children and youth must have ac-  
7       cess to the education and other services that such  
8       children and youth need to ensure that such children  
9       and youth have an opportunity to meet the same  
10      challenging State student performance standards to  
11      which all students are held.

12   **“SEC. 722. GRANTS FOR STATE AND LOCAL ACTIVITIES FOR**  
13                   **THE EDUCATION OF HOMELESS CHILDREN**  
14                   **AND YOUTH.**

15       “(a) GENERAL AUTHORITY.—The Secretary is au-  
16      thorized to make grants to States in accordance with the  
17      provisions of this section to enable such States to carry  
18      out the activities described in subsections (d), (e), (f), and  
19      (g).

20       “(b) APPLICATION.—No State may receive a grant  
21      under this section unless the State educational agency  
22      submits an application to the Secretary at such time, in  
23      such manner, and containing or accompanied by such in-  
24      formation as the Secretary may reasonably require.

25       “(c) ALLOCATION AND RESERVATIONS.—

1           “(1) IN GENERAL.—Subject to paragraph (2)  
2           and section 724(d), from the amounts appropriated  
3           for each fiscal year under section 726, the Secretary  
4           is authorized to allot to each State an amount that  
5           bears the same ratio to the amount appropriated for  
6           such year under section 726 as the amount allocated  
7           under section 1122 of the Elementary and Sec-  
8           ondary Education Act of 1965 to the State for that  
9           year bears to the total amount allocated under sec-  
10          tion 1122 to all States for that year, except that no  
11          State shall receive less than \$125,000 or  $\frac{1}{2}$  of 1  
12          percent of the amount appropriated under section  
13          726, whichever is greater.

14           “(2) RESERVATION.—(A) The Secretary is au-  
15          thorized to reserve 0.1 percent of the amount appro-  
16          priated for each fiscal year under section 726 to be  
17          allocated by the Secretary among the United States  
18          Virgin Islands, Guam, American Samoa, and the  
19          Commonwealth of the Northern Mariana Islands, ac-  
20          cording to their respective need for assistance under  
21          this subtitle, as determined by the Secretary.

22           “(B)(i) The Secretary shall transfer one percent  
23          of the amount appropriated for each fiscal year  
24          under section 726 to the Department of the Interior  
25          for programs for Indian students served by schools

1 funded by the Secretary of the Interior, as deter-  
2 mined under the Indian Self-Determination and  
3 Education Assistance Act (25 U.S.C. 450 et seq.),  
4 that are consistent with the purposes of this Act.

5 “(ii) The Secretary and the Secretary of the In-  
6 terior shall enter into an agreement, consistent with  
7 the requirements of this part, for the distribution  
8 and use of the funds described in clause (i) under  
9 terms that the Secretary determines best meet the  
10 purposes of the programs described in such clause.  
11 Such agreement shall set forth the plans of the Sec-  
12 retary of the Interior for the use of the amounts  
13 transferred, including appropriate goals, objectives,  
14 and milestones.

15 “(3) DEFINITION.—As used in this subsection,  
16 the term “State” shall not include the United States  
17 Virgin Islands, Guam, American Samoa, and the  
18 Commonwealth of the Northern Mariana Islands.

19 “(d) ACTIVITIES.—Grants under this section shall be  
20 used—

21 “(1) to carry out the policies set forth in sec-  
22 tion 721 in the State;

23 “(2) to provide activities for, and services to,  
24 homeless children, including preschool-aged homeless  
25 children, and youth that enable such children and

1 youth to enroll in, attend, and succeed in school, or,  
2 if appropriate, in preschool programs;

3 “(3) to establish or designate an Office of Coor-  
4 dinator of Education of Homeless Children and  
5 Youth in the State educational agency in accordance  
6 with subsection (f);

7 “(4) to prepare and carry out the State plan  
8 described in subsection (g); and

9 “(5) to develop and implement professional de-  
10 velopment programs for school personnel to heighten  
11 their awareness of, and capacity to respond to, spe-  
12 cific problems in the education of homeless children  
13 and youth.

14 “(e) STATE AND LOCAL GRANTS.—

15 “(1) MINIMUM DISBURSEMENTS BY STATES.—  
16 From the sums made available each year to carry  
17 out this title, the State education agency shall dis-  
18 tribute not less than 75 percent in grants to local  
19 educational agencies for the purposes of carrying out  
20 section 723, except that States funded at the min-  
21 imum level set forth in section 722(c)(1) shall dis-  
22 tribute not less than 50 percent in grants to local  
23 educational agencies for the purposes of carrying out  
24 section 723.

1           “(2) USE BY STATE EDUCATIONAL AGENCY.—

2           A State educational agency may use funds made  
3           available for State use under this title to conduct ac-  
4           tivities under subsection (f) directly or through  
5           grants.

6           “(3) PROHIBITION ON SEGREGATING HOMELESS  
7           STUDENTS.—

8           “(A) IN GENERAL.—Except as provided in  
9           subparagraph (B) and section 723(a)(2)(B)(ii),  
10          in providing a free, public education to a home-  
11          less child or youth, no State receiving funds  
12          under this subtitle shall segregate such child or  
13          youth, either in a separate school, or in a sepa-  
14          rate program within a school, based solely on  
15          such child’s or youth’s status as homeless.

16          “(B) EXCEPTION.—A State that has es-  
17          tablished a separate school for homeless chil-  
18          dren in the fiscal year preceding the date of en-  
19          actment of the McKinney-Vento Homeless Edu-  
20          cation Assistance Improvements Act of 2001  
21          shall remain eligible to receive funds under this  
22          subtitle for such program.

23          “(f) FUNCTIONS OF THE OFFICE OF COORDI-  
24          NATOR.—The Coordinator of Education of Homeless Chil-  
25          dren and Youth established in each State shall—

1           “(1) gather, to the extent possible, reliable,  
2           valid, and comprehensive information on the nature  
3           and extent of the problems homeless children and  
4           youth have in gaining access to public preschool pro-  
5           grams and to public elementary and secondary  
6           schools, the difficulties in identifying the special  
7           needs of such children and youth, any progress made  
8           by the State educational agency and local edu-  
9           cational agencies in the State in addressing such  
10          problems and difficulties, and the success of the pro-  
11          gram under this subtitle in assisting homeless chil-  
12          dren and youth to enroll in, attend, and succeed in,  
13          school;

14           “(2) develop and carry out the State plan de-  
15          scribed in subsection (g);

16           “(3) collect and transmit to the Secretary infor-  
17          mation gathered pursuant to paragraphs (1) and (2)  
18          at such time and in such manner as the Secretary  
19          may require;

20           “(4) facilitate coordination between the State  
21          educational agency, the State social services agency,  
22          and other agencies providing services to homeless  
23          children and youth, including homeless children, in-  
24          cluding preschool-aged homeless children, and youth,  
25          and families of such children and youth; and



1           “(5) in order to improve the provision of com-  
2           prehensive education and related services to home-  
3           less children and youth and their families, coordinate  
4           and collaborate with—

5                   “(A) educators, including child develop-  
6                   ment and preschool program personnel;

7                   “(B) State and local providers of services  
8                   to homeless and runaway children and youth  
9                   and homeless families (including domestic vio-  
10                  lence agencies, shelter operators, transitional  
11                  housing facilities, runaway and homeless youth  
12                  centers, and transitional living programs for  
13                  homeless youth);

14                  “(C) local educational agency liaisons for  
15                  homeless children and youth; and

16                  “(D) State and local community organiza-  
17                  tions and groups representing homeless children  
18                  and youth and their families.

19           “(6) provide technical assistance to local edu-  
20           cational agencies, in coordination with local liaisons  
21           designated under subsection (g)(1)(J)(ii), to ensure  
22           that local educational agencies comply with the re-  
23           quirements of paragraphs (3) through (7) of sub-  
24           section (g).

25           “(g) STATE PLAN.—

1           “(1) IN GENERAL.—Each State shall submit to  
2           the Secretary a plan to provide for the education of  
3           homeless children and youth within the State, which  
4           plan shall—

5                   “(A) describe how such children and youth  
6                   are or will be given the opportunity to meet the  
7                   same challenging State student performance  
8                   standards all students are expected to meet;

9                   “(B) describe the procedures the State  
10                  educational agency will use to identify such chil-  
11                  dren and youth in the State and to assess their  
12                  special needs;

13                  “(C) describe procedures for the prompt  
14                  resolution of disputes regarding the educational  
15                  placement of homeless children and youth;

16                  “(D) describe programs for school per-  
17                  sonnel (including principals, attendance officers,  
18                  teachers, enrollment personnel, and pupil serv-  
19                  ices personnel) to heighten the awareness of  
20                  such personnel of the specific needs of runaway  
21                  and homeless youth;

22                  “(E) describe procedures that ensure that  
23                  homeless children and youth who meet the rel-  
24                  evant eligibility criteria are able to participate  
25                  in Federal, State, or local food programs;

1           “(F) describe procedures that ensure  
2 that—

3           “(i) homeless children have equal ac-  
4 cess to the same public preschool pro-  
5 grams, administered by the State agency,  
6 as provided to other children;

7           “(ii) homeless youth and youth sepa-  
8 rated from the public schools are identified  
9 and accorded equal access to appropriate  
10 secondary education and support services;  
11 and

12           “(iii) homeless children and youth  
13 who meet the relevant eligibility criteria  
14 are able to participate in Federal, State, or  
15 local before- and after-school care pro-  
16 grams;

17           “(G) address problems set forth in the re-  
18 port provided to the Secretary under subsection  
19 (f)(3);

20           “(H) address other problems with respect  
21 to the education of homeless children and  
22 youth, including problems caused by—

23           “(i) transportation issues; and

24           “(ii) enrollment delays that are caused  
25 by—

1                   “(I) immunization and medical  
2 records requirements;

3                   “(II) residency requirements;

4                   “(III) lack of birth certificates,  
5 school records, or other documenta-  
6 tion;

7                   “(IV) guardianship issues; or

8                   “(V) uniform or dress code re-  
9 quirements;

10                  “(I) demonstrate that the State edu-  
11 cational agency and local educational agencies  
12 in the State have developed, and shall review  
13 and revise, policies to remove barriers to the en-  
14 rollment and retention of homeless children and  
15 youth in schools in the State; and

16                  “(J) contain assurances that—

17                   “(i) except as provided in subsection  
18 (e)(3)(B), State and local educational  
19 agencies will adopt policies and practices to  
20 ensure that homeless children and youth  
21 are not segregated solely on the basis of  
22 their status as homeless; and

23                   “(ii) local educational agencies des-  
24 ignate an appropriate staff person, who  
25 may also be a coordinator for other Fed-

1           eral programs, as a liaison for homeless  
2           children and youth to carry out the duties  
3           described in paragraph 6(A).

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 or youth’s parent or guard-  
25          ian if the local educational agency sends

1           such child or youth to a school other than  
2           the school of origin or a school requested  
3           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(2)  
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 family shelters and soup kitchens; and

24           “(vi) enrollment disputes are mediated  
25 in accordance with subsection (g)(3)(E).

1           “(B) NOTICE.—State coordinators whose  
2 duties are described under subsection (d) and  
3 local educational agencies shall inform school  
4 personnel, service providers, and advocates  
5 working with homeless families of the duties of  
6 the liaisons.

7           “(C) LOCAL AND STATE COORDINATION.—  
8 Local educational agency liaisons for homeless  
9 children and youth shall, as a part of their du-  
10 ties, coordinate and collaborate with State coor-  
11 dinators and community and school personnel  
12 responsible for the provision of education and  
13 related services to homeless children and youth.

14           “(7) REVIEW AND REVISIONS.—

15           “(A) IN GENERAL.—Each State edu-  
16 cational agency and local educational agency  
17 that receives assistance under this subtitle,  
18 shall review and revise any policies that may act  
19 as barriers to the enrollment of homeless chil-  
20 dren and youth in schools selected in accord-  
21 ance with paragraph (3).

22           “(B) CONSIDERATION.—In reviewing and  
23 revising such policies, consideration shall be  
24 given to issues concerning transportation, im-  
25 munization, residency, birth certificates, school

1 records and other documentation, and guard-  
2 ianship.

3 “(C) SPECIAL ATTENTION.—Special atten-  
4 tion shall be given to ensuring the enrollment  
5 and attendance of homeless children and youth  
6 who are not currently attending school.

7 **“SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE**  
8 **EDUCATION OF HOMELESS CHILDREN AND**  
9 **YOUTH.**

10 “(a) GENERAL AUTHORITY.—

11 “(1) IN GENERAL.—The State educational  
12 agency shall, in accordance with section 722(e) and  
13 from amounts made available to such agency under  
14 section 726, make grants to local educational agen-  
15 cies for the purpose of facilitating the enrollment,  
16 attendance, and success in school of homeless chil-  
17 dren and youth.

18 “(2) SERVICES.—

19 “(A) IN GENERAL.—Services under para-  
20 graph (1)—

21 “(i) may be provided through pro-  
22 grams on school grounds or at other facili-  
23 ties;

24 “(ii) shall, to the maximum extent  
25 practicable, be provided through existing

1 programs and mechanisms that integrate  
2 homeless children and youth with non-  
3 homeless children and youth; and

4 “(iii) shall be designed to expand or  
5 improve services provided as part of a  
6 school’s regular academic program, but not  
7 to replace such services provided under  
8 such program.

9 “(B) SERVICES ON SCHOOL GROUNDS.—If  
10 services under paragraph (1) are provided on  
11 school grounds, schools—

12 “(i) may use funds under this subtitle  
13 to provide the same services to other chil-  
14 dren and youth who are determined by the  
15 local educational agency to be at risk of  
16 failing in, or dropping out of, schools, sub-  
17 ject to the requirements of clause (ii);

18 “(ii) except as otherwise provided in  
19 section 722(e)(3)(B), shall not provide  
20 services in settings within a school that  
21 segregates homeless children and youth  
22 from other children and youth, except as is  
23 necessary for short periods of time—

24 “(I) for health and safety emer-  
25 gencies; or



1                   “(II) to provide temporary, spe-  
2                   cial, and supplementary services to  
3                   meet the unique needs of homeless  
4                   children and youth.

5                   “(3) REQUIREMENT.—Services provided under  
6                   this section shall not replace the regular academic  
7                   program and shall be designed to expand upon or  
8                   improve services provided as part of the school’s reg-  
9                   ular academic program.

10                  “(b) APPLICATION.—A local educational agency that  
11                  desires to receive a grant under this section shall submit  
12                  an application to the State educational agency at such  
13                  time, in such manner, and containing or accompanied by  
14                  such information as the State educational agency may rea-  
15                  sonably require. Each such application shall include—

16                  “(1) an assessment of the educational and re-  
17                  lated needs of homeless children and youth, as de-  
18                  fined in section 725(1) and (2), in the area served  
19                  by such agency (which may be undertaken as part  
20                  of needs assessments for other disadvantaged  
21                  groups);

22                  “(2) a description of the services and programs  
23                  for which assistance is sought to address the needs  
24                  identified in paragraph (1); and

1           “(3) an assurance that the local educational  
2           agency’s combined fiscal effort per student, or the  
3           aggregate expenditures of that agency and the State  
4           with respect to the provision of free public education  
5           by such agency for the fiscal year preceding the fis-  
6           cal year for which the determination is made, was  
7           not less than 90 percent of such combined fiscal ef-  
8           fort or aggregate expenditures for the second fiscal  
9           year preceding the fiscal year for which the deter-  
10          mination is made;

11          “(4) an assurance that the applicant complies  
12          with, or will use requested funds to comply with,  
13          paragraphs (3) through (7) of section 722(g); and

14          “(5) a description of policies and procedures,  
15          consistent with section 722(e)(3)(B), that the agency  
16          will implement to ensure that activities carried out  
17          by the agency will not isolate or stigmatize homeless  
18          children and youth.

19          “(c) AWARDS.—

20          “(1) IN GENERAL.—The State educational  
21          agency shall, in accordance with the requirements of  
22          this subtitle and from amounts made available to it  
23          under section 726, make competitive subgrants to  
24          local educational agencies that submit applications  
25          under subsection (b). Such subgrants shall be

1 awarded on the basis of the need of such agencies  
2 for assistance under this subtitle and the quality of  
3 the applications submitted.

4 “(2) NEED.—In determining need under para-  
5 graph (1), the State educational agency may con-  
6 sider the number of homeless children and youth en-  
7 rolled in preschool, elementary, and secondary  
8 schools within the area served by the agency, and  
9 shall consider the needs of such children and youth  
10 and the ability of the agency to meet such needs.

11 Such agency may also consider—

12 “(A) the extent to which the proposed use  
13 of funds would facilitate the enrollment, reten-  
14 tion, and educational success of homeless chil-  
15 dren and youth;

16 “(B) the extent to which the application—

17 “(i) reflects coordination with other  
18 local and State agencies that serve home-  
19 less children and youth; and

20 “(ii) meets the requirements of sec-  
21 tion 722(g)(3);

22 “(C) the extent to which the applicant ex-  
23 hibits in the application and in current practice  
24 a commitment to education for all homeless  
25 children and youth; and

1           “(D) such other criteria as the State agen-  
2           cy determines appropriate.

3           “(3) QUALITY.—In determining the quality of  
4           applications under paragraph (1), the State edu-  
5           cational agency shall consider—

6           “(A) the applicant’s needs assessment  
7           under subsection (b)(1) and the likelihood that  
8           the program presented in the application will  
9           meet such needs;

10          “(B) the types, intensity, and coordination  
11          of the services to be provided under the pro-  
12          gram;

13          “(C) the involvement of parents or guard-  
14          ians;

15          “(D) the extent to which homeless children  
16          and youth will be integrated within the regular  
17          education program;

18          “(E) the quality of the applicant’s evalua-  
19          tion plan for the program;

20          “(F) the extent to which services provided  
21          under this subtitle will be coordinated with  
22          other available services; and

23          “(G) such other measures as the State  
24          educational agency considers indicative of a  
25          high-quality program.

1           “(4) DURATION OF GRANTS.—Grants awarded  
2           under this section shall be for terms not to exceed  
3           3 years.

4           “(d) AUTHORIZED ACTIVITIES.—A local educational  
5           agency may use funds awarded under this section for ac-  
6           tivities to carry out the purpose of this subtitle,  
7           including—

8           “(1) the provision of tutoring, supplemental in-  
9           struction, and enriched educational services that are  
10          linked to the achievement of the same challenging  
11          State content standards and challenging State stu-  
12          dent performance standards the State establishes for  
13          other children and youth;

14          “(2) the provision of expedited evaluations of  
15          the strengths and needs of homeless children and  
16          youth, including needs and eligibility for programs  
17          and services (such as educational programs for gift-  
18          ed and talented students, children with disabilities,  
19          and students with limited-English proficiency, serv-  
20          ices provided under title I of the Elementary and  
21          Secondary Education Act of 1965 or similar State  
22          or local programs, programs in vocational and tech-  
23          nical education, and school nutrition programs);

24          “(3) professional development and other activi-  
25          ties for educators and pupil services personnel that

1 are designed to heighten the understanding and sen-  
2 sitivity of such personnel to the needs of homeless  
3 children and youth, the rights of such children and  
4 youth under this Act, and the specific educational  
5 needs of runaway and homeless youth;

6 “(4) the provision of referral services to home-  
7 less children and youth for medical, dental, mental,  
8 and other health services;

9 “(5) the provision of assistance to defray the  
10 excess cost of transportation for students pursuant  
11 to section 722(g)(4)(A), not otherwise provided  
12 through Federal, State, or local funding, where nec-  
13 essary to enable students to attend the school se-  
14 lected under section 722(g)(3);

15 “(6) the provision of developmentally appro-  
16 priate early childhood education programs, not oth-  
17 erwise provided through Federal, State, or local  
18 funding, for preschool-aged children;

19 “(7) the provision of services and assistance to  
20 attract, engage, and retain homeless youth (as de-  
21 scribed in paragraphs (1) and (2) of section 725) in  
22 public school programs and services provided to non-  
23 homeless youth;

24 “(8) the provision for homeless children and  
25 youth of before- and after-school, mentoring, and

1 summer programs in which a teacher or other quali-  
2 fied individual provides tutoring, homework assist-  
3 ance, and supervision of educational activities;

4 “(9) if necessary, the payment of fees and other  
5 costs associated with tracking, obtaining, and trans-  
6 ferring records necessary to enroll homeless children  
7 and youth in school, including birth certificates, im-  
8 munization or medical records, academic records,  
9 guardianship records, and evaluations for special  
10 programs or services;

11 “(10) the provision of education and training to  
12 the parents of homeless children and youth about  
13 the rights of, and resources available to, such chil-  
14 dren and youth;

15 “(11) the development of coordination between  
16 schools and agencies providing services to homeless  
17 children and youth, as described in section  
18 722(g)(5);

19 “(12) the provision of pupil services (including  
20 violence prevention counseling) and referrals for  
21 such services;

22 “(13) activities to address the particular needs  
23 of homeless children and youth that may arise from  
24 domestic violence;

1           “(14) the adaptation of space and purchase of  
2           supplies for nonschool facilities made available under  
3           subsection (a)(2) to provide services under this sub-  
4           section;

5           “(15) the provision of school supplies, including  
6           those supplies to be distributed at shelters or tem-  
7           porary housing facilities, or other appropriate loca-  
8           tions; and

9           “(16) the provision of other extraordinary or  
10          emergency assistance needed to enable homeless chil-  
11          dren and youth to attend school.

12       **“SEC. 724. SECRETARIAL RESPONSIBILITIES.**

13          “(a) REVIEW OF PLANS.—In reviewing the State  
14          plan submitted by a State educational agency under sec-  
15          tion 722(g), the Secretary shall use a peer review process  
16          and shall evaluate whether State laws, policies, and prac-  
17          tices described in such plans adequately address the prob-  
18          lems of homeless children and youth relating to access to  
19          education and placement as described in such plans.

20          “(b) TECHNICAL ASSISTANCE.—The Secretary shall  
21          provide support and technical assistance to the State edu-  
22          cational agencies to assist such agencies to carry out their  
23          responsibilities under this subtitle, if requested by the  
24          State educational agency.



1           “(c) NOTICE.—The Secretary shall, before the next  
2 school year that begins after the date of the enactment  
3 of the McKinney-Vento Homeless Education Assistance  
4 Improvements Act of 2001, create and disseminate nation-  
5 wide a public notice of the educational rights of homeless  
6 children and youth and disseminate such notice to other  
7 Federal agencies, programs, and grantees, including Head  
8 Start grantees, Health Care for the Homeless grantees,  
9 Emergency Food and Shelter grantees, and homeless as-  
10 sistance programs administered by the Department of  
11 Housing and Urban Development.

12           “(d) EVALUATION AND DISSEMINATION.—The Sec-  
13 retary shall conduct evaluation and dissemination activi-  
14 ties of programs designed to meet the educational needs  
15 of homeless elementary and secondary school students,  
16 and may use funds appropriated under section 726 to con-  
17 duct such activities.

18           “(e) SUBMISSION AND DISTRIBUTION.—The Sec-  
19 retary shall require applications for grants under this sub-  
20 title to be submitted to the Secretary not later than the  
21 expiration of the 60-day period beginning on the date that  
22 funds are available for purposes of making such grants  
23 and shall make such grants not later than the expiration  
24 of the 120-day period beginning on such date.

1       “(f) DETERMINATION BY SECRETARY.—The Sec-  
2 retary, based on the information received from the States  
3 and information gathered by the Secretary under sub-  
4 section (e), shall determine the extent to which State edu-  
5 cational agencies are ensuring that each homeless child  
6 and homeless youth has access to a free appropriate public  
7 education as described in section 721(1).

8       “(g) INFORMATION.—

9           “(1) IN GENERAL.—From funds appropriated  
10 under section 726, the Secretary shall, either di-  
11 rectly or through grants, contracts, or cooperative  
12 agreements, periodically collect and disseminate data  
13 and information regarding—

14           “(A) the number and location of homeless  
15 children and youth;

16           “(B) the education and related services  
17 such children and youth receive;

18           “(C) the extent to which such needs are  
19 being met; and

20           “(D) such other data and information as  
21 the Secretary deems necessary and relevant to  
22 carry out this subtitle.

23       “(2) COORDINATION.—The Secretary shall co-  
24 ordinate such collection and dissemination with

1 other agencies and entities that receive assistance  
2 and administer programs under this subtitle.

3 “(h) REPORT.—Not later than 4 years after the date  
4 of the enactment of the McKinney-Vento Homeless Edu-  
5 cation Assistance Improvements Act of 2001, the Sec-  
6 retary shall prepare and submit to the President and the  
7 Committee on Education and the Workforce of the House  
8 of Representatives and the Committee on Health, Edu-  
9 cation, Labor, and Pensions of the Senate a report on the  
10 status of education of homeless children and youth, which  
11 shall include information on—

12 “(1) the education of homeless children and  
13 youth; and

14 “(2) the actions of the Department and the ef-  
15 fectiveness of the programs supported under this  
16 subtitle.

17 **“SEC. 725. DEFINITIONS.**

18 “In this subtitle:

19 “(1) The term ‘homeless children and youth’—

20 “(A) means individuals who lack a fixed,  
21 regular, and adequate nighttime residence  
22 (within the meaning of section 103(a)(1));

23 “(B) includes—

24 “(i) children and youth who are living  
25 in doubled-up accommodations sharing the

1 housing of another due to loss of housing,  
2 economic hardship or a similar reason, are  
3 living in motels, hotels, trailer parks, or  
4 camping grounds due to the lack of alter-  
5 native adequate accommodations, are living  
6 in emergency or transitional shelters, are  
7 abandoned in hospitals, or are awaiting  
8 foster care placement;

9 “(ii) individuals who have a primary  
10 nighttime residence that is a public or pri-  
11 vate place not designed for or ordinarily  
12 used as a regular sleeping accommodation  
13 for human beings (within the meaning of  
14 section 103(a)(2)(C)); and

15 “(iii) children and youth who are liv-  
16 ing in cars, parks, public spaces, aban-  
17 doned buildings or substandard housing,  
18 bus or train stations, or similar settings;  
19 and

20 “(B) does not include migratory children  
21 (as such term is defined in section 1309(2) of  
22 the Elementary and Secondary Education Act  
23 of 1965, unless such children are staying in ac-  
24 commodated not fit for habitation.

1           “(2) The term ‘unaccompanied youth’ includes  
2 youth not in the physical custody of a parent or  
3 guardian.

4           “(3) The terms ‘enroll’ and ‘enrollment’ include  
5 within their meaning the right to attend classes and  
6 to participate fully in school activities.

7           “(4) The terms ‘local educational agency’ and  
8 ‘State educational agency’ have the meanings given  
9 such terms in section 8101 of the Elementary and  
10 Secondary Education Act of 1965.

11           “(5) The term ‘Secretary’ means the Secretary  
12 of Education.

13           “(6) The term ‘State’ means each of the 50  
14 States, the District of Columbia, and the Common-  
15 wealth of Puerto Rico.

16 **“SEC. 726. AUTHORIZATION OF APPROPRIATIONS.**

17           “For the purpose of carrying out this subtitle, there  
18 are authorized to be appropriated \$36,000,000 for fiscal  
19 year 2002 and such sums as may be necessary for each  
20 of the fiscal years 2003 through 2006.”.

21 **SEC. 915. TECHNICAL AMENDMENT.**

22           (a) IN GENERAL.—Section 1 of Public Law 106–400  
23 (42 U.S.C. 11301) is amended by striking “Section 1”  
24 and inserting “Section 101”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall be deemed to be effective on the date  
3 of enactment of Public Law 106–400.

#### 4 **PART B—REPEALS**

##### 5 **SEC. 921. REPEALS.**

6 The following provisions are repealed:

7 (1) GOALS.—Parts A and C of title II and title  
8 VI of Goals 2000: Educate America Act.

9 (2) TROOPS-TO-TEACHERS PROGRAM ACT OF  
10 1999.—The Troops-to-Teachers Program Act of  
11 1999 (title XVII of Public Law 106–65; 20 U.S.C.  
12 9301 et seq.).

13 (3) ESEA.—

14 (A) Part B of title IX, relating to Native  
15 Hawaiians.

16 (B) Title X, relating to programs of na-  
17 tional significance.

18 (C) Title XI, relating to coordinated serv-  
19 ices.

20 (D) Title XII, relating to education infra-  
21 structure.

22 (E) The title heading of title XIII and sec-  
23 tions 13001 and 13002.

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