

Union Calendar No. 38

107TH CONGRESS
1ST SESSION

H. R. 1

[Report No. 107-63, Part I]

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

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

MAY 14, 2001

Additional sponsors: Ms. GRANGER, Mr. FRELINGHUYSEN, Mr. MICA, Mr. TIAHRT, Mr. BONILLA, Mr. TRAFICANT, Mr. BROWN of South Carolina, and Mrs. ROUKEMA

MAY 14, 2001

Reported with an amendment and referred to the Committee on the Judiciary for a period ending not later than May 15, 2001, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X

[Strike out all after the enacting clause and insert the part printed in italic]

MAY 15, 2001

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 22, 2001]

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. REFERENCES.**

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

1 **SEC. 3. TRANSITION.**

2 *Except as otherwise specifically provided in this Act,*
 3 *or any amendment made by this Act, any person or agency*
 4 *that was awarded a grant under the Elementary and Sec-*
 5 *ondary Education Act of 1965 (20 U.S.C. 6301 et seq.)*
 6 *prior to the date of the enactment of this Act shall continue*
 7 *to receive funds in accordance with the terms of such award,*
 8 *except that such funds may not be provided after the date*
 9 *that is one year after the effective date of this Act.*

10 **SEC. 4. TABLE OF CONTENTS.**

11 *The table of contents for this Act is as follows:*

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

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

PART A—BASIC PROGRAM

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

PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

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

PART C—EDUCATION OF MIGRATORY CHILDREN

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

PART D—NEGLECTED OR DELINQUENT YOUTH

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

PART E—FEDERAL EVALUATIONS AND DEMONSTRATIONS

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

PART F—COMPREHENSIVE SCHOOL REFORM

- Sec. 161. School reform.*

PART G—RURAL EDUCATION FLEXIBILITY AND ASSISTANCE

- Sec. 171. Rural education.*

PART H—GENERAL PROVISIONS OF TITLE I

- Sec. 181. General provisions.*

TITLE II—PREPARING, TRAINING, AND RECRUITING QUALITY TEACHERS

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

*TITLE III—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN; INDIAN AND ALASKA NATIVE EDUCATION**PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN*

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

PART B—INDIAN AND ALASKA NATIVE EDUCATION

- Sec. 311. Elementary and Secondary Education Act of 1965.*
- Sec. 312. Alaska Native education.*
- Sec. 313. Amendments to the education amendments of 1978.*
- Sec. 314. Tribally Controlled Schools Act of 1988.*

*TITLE IV—PROMOTING INFORMED PARENTAL CHOICE AND
INNOVATIVE PROGRAMS*

PART A—INNOVATIVE PROGRAMS

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

PART B—PUBLIC CHARTER SCHOOLS

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

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

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

TITLE V—21ST CENTURY SCHOOLS

- Sec. 501. Safe schools.*

TITLE VI—IMPACT AID PROGRAM

- Sec. 601. Payments under section 8002 with respect to fiscal years in which insufficient funds are appropriated.*
Sec. 602. Calculation of payment under section 8003 for small local educational agencies.
Sec. 603. 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.
Sec. 806. Regional technical support and professional development.

TITLE IX—MISCELLANEOUS PROVISIONS

PART A—AMENDMENTS TO OTHER ACTS

SUBPART 1—NATIONAL EDUCATION STATISTICS ACT

- Sec. 901. Amendment to 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. 5. EFFECTIVE DATE.

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

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

8 **PART A—BASIC PROGRAM**

9 **SEC. 101. DISADVANTAGED CHILDREN MEET HIGH ACADEMIC STANDARDS.**

10 *Section 1001 is amended to read as follows:*

11 **“SEC. 1001. FINDINGS; STATEMENT OF PURPOSE; AND RECOGNITION OF NEED.**

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

13 *“(1) The Constitution of the United States reserves to the States and to the people the responsibility for the general supervision of public education in kindergarten through the twelfth grade.*

14 *“(2) States, local educational agencies and schools should be given maximum flexibility in exchange for greater academic accountability, and be*

1 *given greater freedom to build upon existing innova-*
2 *tive approaches for education reform.*

3 “(3) *The best education decisions are made by*
4 *those who know the students and who are responsible*
5 *for implementing the decisions.*

6 “(4) *Educators and parents should retain the*
7 *right and responsibility to educate their pupils and*
8 *children free of excessive regulation by the Federal*
9 *Government.*

10 “(5) *The Supreme Court has regarded the right*
11 *of parents to direct the upbringing of their children*
12 *as a fundamental right implicit in the concept of or-*
13 *dered liberty within the 14th Amendment to the Con-*
14 *stitution, as specified in Meyer v. Nebraska, 262 U.S.*
15 *390 (1923), and Pierce v. Society of Sisters, 268 U.S.*
16 *510 (1925).*

17 “(6) *Schools that enroll high concentrations of*
18 *children living in poverty face the greatest challenges,*
19 *but effective educational strategies based on scientif-*
20 *ically based research can succeed in educating chil-*
21 *dren to high academic standards.*

22 “(7) *High-poverty schools are much more likely*
23 *to be identified as failing to meet State academic*
24 *standards for satisfactory progress. As a result, these*
25 *schools are generally the most in need of additional*

1 *resources and technical assistance to build the capac-*
2 *ity of these schools to address the many needs of their*
3 *students.*

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

11 *“(9) Congress and the public would benefit from*
12 *additional data evaluating the efficacy of the Elemen-*
13 *tary and Secondary Education Act of 1965.*

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

21 *“(b) PURPOSE AND INTENT.—The purpose and intent*
22 *of this title are to ensure that all children have a fair and*
23 *equal opportunity to obtain a high-quality education.*

24 *“(c) RECOGNITION OF NEED.—The Congress recognizes*
25 *the following:*

1 “(1) Educational needs are particularly great for
2 low-achieving children in our Nation’s highest-poverty
3 schools, children with limited English proficiency,
4 children of migrant workers, children with disabili-
5 ties, Indian children, children who are neglected or
6 delinquent, and young children who are in need of
7 reading assistance and family literacy assistance.

8 “(2) Despite more than 3 decades of Federal as-
9 sistance, a sizable achievement gap remains between
10 minority and nonminority students, and between dis-
11 advantaged students and their more advantaged
12 peers.

13 “(3) Too many students attend local schools that
14 fail to provide them with a quality education, and
15 are given no alternatives to enable them to receive a
16 quality education.

17 “(4) States, local educational agencies, and
18 schools need to be held accountable for improving the
19 academic achievement of all students, and for identi-
20 fying and turning around low-performing schools.

21 “(5) States and local educational agencies need
22 to ensure that high quality academic assessments, ac-
23 countability systems, teacher preparation and train-
24 ing, curriculum, and instructional materials are
25 aligned with challenging State academic standards so

1 *that students, teachers, parents, and administrators*
 2 *can measure progress against common expectations*
 3 *for student academic achievement.*

4 “(6) *Federal education assistance is intended not*
 5 *only to increase pupil achievement overall, but also*
 6 *more specifically and importantly, to help ensure that*
 7 *all students, especially the disadvantaged, meet chal-*
 8 *lenging academic achievement standards. It can only*
 9 *be determined if schools, local educational agencies,*
 10 *and States are reaching this goal if student achieve-*
 11 *ment results are reported specifically by disadvan-*
 12 *taged and minority status.”.*

13 **SEC. 102. AUTHORIZATION OF APPROPRIATIONS.**

14 *Section 1002 is amended to read as follows:*

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

16 “(a) *LOCAL EDUCATIONAL AGENCY GRANTS.—For the*
 17 *purpose of carrying out part A, other than section 1120(e),*
 18 *there are authorized to be appropriated \$11,500,000,000 for*
 19 *fiscal year 2002, \$13,000,000,000 for fiscal year 2003,*
 20 *\$14,500,000,000 for fiscal year 2004, \$16,000,000,000 for*
 21 *fiscal year 2005, and \$17,200,000,000 for fiscal year 2006.*

22 “(b) *STUDENT READING SKILLS IMPROVEMENT*
 23 *GRANTS.—*

24 “(1) *READING FIRST.—For the purpose of car-*
 25 *rying out subpart 1 of part B, there are authorized*

1 to be appropriated \$900,000,000 for fiscal year 2002
2 and such sums as may be necessary for each of the
3 4 succeeding fiscal years.

4 “(2) *EARLY READING FIRST.*—For the purpose of
5 carrying out subpart 2 of part B, there are authorized
6 to be appropriated \$75,000,000 for fiscal year 2002
7 and such sums as may be necessary for each of the
8 4 succeeding fiscal years.

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

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

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

24 “(d) *PREVENTION AND INTERVENTION PROGRAMS FOR*
25 *YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK*

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

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

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

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

19 “(h) *FEDERAL ACTIVITIES.*—

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

1 “(B) *For the purpose of carrying out section*
2 *1502, there are authorized to be appropriated such*
3 *sums as may be necessary for fiscal year 2002 and*
4 *for each of the 4 succeeding fiscal years.*

5 “(2) *SECTION 1503.—For the purpose of carrying*
6 *out section 1503, there are authorized to be appro-*
7 *priated such sums as may be necessary for fiscal year*
8 *2002 and for each of the 4 succeeding fiscal years.*

9 “(i) *STATE ADMINISTRATION.—*

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

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

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

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

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

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

1 “(2) *REALLOCATIONS.*—*If a State does not apply*
2 *for funds under this subsection, the Secretary shall re-*
3 *allocate such funds to other States in the same pro-*
4 *portion funds are allocated under paragraph (1).*

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

18 “(4) *LOCAL EDUCATIONAL AGENCY GRANTS.*—*A*
19 *grant to a local educational agency under this sub-*
20 *section shall be—*

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

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

3 “(C) renewable for 2 additional 1-year peri-
4 ods if schools are making yearly progress con-
5 sistent with State and local educational agency
6 plans developed under section 1116.

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

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

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

1 *ly progress goals under State and local school im-*
 2 *provement, corrective action, and restructuring plans*
 3 *under section 1116.*

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

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

10 *Section 1003 is amended to read as follows:*

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

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

21 *“(b) USES.—Of the amount reserved under subsection*
 22 *(a) for any fiscal year, the State educational agency shall*
 23 *allocate at least 95 percent of that amount directly to local*
 24 *educational agencies for schools identified for school im-*
 25 *provement, corrective action, and restructuring under sec-*

1 *tion 1116(c) that have the greatest need for that assistance*
2 *in amounts sufficient to have a significant impact in im-*
3 *proving those schools.*

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

7 “(1) *have the lowest achieving schools;*

8 “(2) *demonstrate the greatest need for such*
9 *funds; and*

10 “(3) *demonstrate the strongest commitment to*
11 *ensuring that such funds are used to enable the lowest*
12 *achieving schools to meet the yearly progress goals*
13 *under section 1116(b)(3)(A)(v).*

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

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

24 “(2) *section 1126(c).*

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

7 **SEC. 104. BASIC PROGRAMS.**

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

10 **“PART A—IMPROVING BASIC PROGRAMS**
11 **OPERATED BY LOCAL EDUCATIONAL AGENCIES**

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

13 **“SEC. 1111. STATE PLANS.**

14 “(a) *PLANS REQUIRED.*—

15 “(1) *IN GENERAL.*—Any State desiring to receive
16 a grant under this part shall submit to the Secretary,
17 by March 1, 2002, a plan, developed in consultation
18 with local educational agencies, teachers, principals,
19 pupil services personnel, administrators (including
20 administrators of programs described in other parts
21 of this title), other staff, and parents, that satisfies the
22 requirements of this section and that is coordinated
23 with other programs under this Act, the Individuals
24 with Disabilities Education Act (20 U.S.C. 1400 et
25 seq.), the Carl D. Perkins Vocational and Technical

1 *Education Act of 1998 (20 U.S.C. 2301 et seq.), the*
2 *Head Start Act (42 U.S.C. 9831 et seq.), and the*
3 *McKinney-Vento Homeless Assistance Act (42 U.S.C.*
4 *11431 et seq.).*

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

8 “(b) *ACADEMIC STANDARDS, ACADEMIC ASSESS-*
9 *MENTS, AND ACCOUNTABILITY.—*

10 “(1) *CHALLENGING ACADEMIC STANDARDS.—*

11 “(A) *Each State plan shall demonstrate*
12 *that the State has adopted challenging academic*
13 *content standards and challenging student aca-*
14 *ademic achievement standards that will be used*
15 *by the State, its local educational agencies, and*
16 *its schools to carry out this part, except that a*
17 *State shall not be required to submit such stand-*
18 *ards to the Secretary.*

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

23 “(C) *The State shall have such academic*
24 *standards for all public elementary and sec-*
25 *ondary school children, including children served*

1 *under this part, in subjects determined by the*
2 *State, but including at least mathematics, read-*
3 *ing or language arts, and science (beginning in*
4 *the 2005–2006 school year), which shall include*
5 *the same knowledge, skills, and levels of achieve-*
6 *ment expected of all children.*

7 “(D) *Academic standards under this para-*
8 *graph shall include—*

9 “(i) *challenging academic content*
10 *standards in academic subjects that—*

11 “(I) *specify what children are ex-*
12 *pected to know and be able to do;*

13 “(II) *contain coherent and rig-*
14 *orous content; and*

15 “(III) *encourage the teaching of*
16 *advanced skills; and*

17 “(ii) *challenging student academic*
18 *achievement standards that—*

19 “(I) *are aligned with the State’s*
20 *academic content standards;*

21 “(II) *describe 2 levels of high per-*
22 *formance (proficient and advanced)*
23 *that determine how well children are*
24 *mastering the material in the State*
25 *academic content standards; and*

1 “(III) describe a third level of per-
2 formance (basic) to provide complete
3 information about the progress of the
4 lower performing children toward
5 achieving to the proficient and ad-
6 vanced levels of performance.

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

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

20 “(2) ACCOUNTABILITY.—

21 “(A) IN GENERAL.—Each State plan shall
22 demonstrate that the State has developed and is
23 implementing a statewide State accountability
24 system that has been or will be effective in ensur-
25 ing that all local educational agencies, public el-

1 *ementary schools, and public secondary schools*
2 *make adequate yearly progress as defined under*
3 *subparagraph (B). Each State accountability*
4 *system shall—*

5 *“(i) be based on the academic stand-*
6 *ards and academic assessments adopted*
7 *under paragraphs (1) and (4) and take into*
8 *account the performance of all public school*
9 *students;*

10 *“(ii) be the same as the accountability*
11 *system the State uses for all public schools*
12 *or all local educational agencies in the*
13 *State, except that public schools and local*
14 *educational agencies not participating*
15 *under this part are not subject to the re-*
16 *quirements of section 1116; and*

17 *“(iii) include rewards and sanctions*
18 *the State will use to hold local educational*
19 *agencies and public schools accountable for*
20 *student achievement and for ensuring that*
21 *they make adequate yearly progress in ac-*
22 *cordance with the State’s definition under*
23 *subparagraph (B).*

24 *“(B) ADEQUATE YEARLY PROGRESS.—Each*
25 *State plan shall demonstrate, based on academic*

1 *assessments described under paragraph (4), what*
2 *constitutes adequate yearly progress of the State,*
3 *and of public schools and local educational agen-*
4 *cies in the State, toward enabling all public*
5 *school students to meet the State’s student aca-*
6 *ademic achievement standards, while working to-*
7 *ward the goal of narrowing the achievement gaps*
8 *in the State, local educational agency, and*
9 *school.*

10 “(C) *DEFINITION.—‘Adequate yearly*
11 *progress’ shall be defined by the State in a man-*
12 *ner that—*

13 “(i) *applies the same high academic*
14 *standards of academic performance to all*
15 *public school students in the State;*

16 “(ii) *measures the progress of public*
17 *schools and local educational agencies based*
18 *primarily on the academic assessments de-*
19 *scribed in paragraph (4);*

20 “(iii) *measures the student dropout*
21 *rate, as defined for the Common Core of*
22 *Data maintained by the National Center for*
23 *Education Statistics established under sec-*
24 *tion 403 of the National Education Statis-*
25 *tics Act of 1994 (20 U.S.C. 9002);*

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

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

14 “(II) The achievement of—

15 “(aa) economically disadvan-
16 tagged students;

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

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

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

23 “(III) solely for the purpose of deter-
24 mining adequate yearly progress of the
25 State, the acquisition of English language

1 *proficiency by children with limited*
2 *English proficiency;*

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

17 “(vi) *includes a timeline that—*

18 “(I) *uses as a baseline year the*
19 *year following the date of enactment of*
20 *the No Child Left Behind Act of 2001;*

21 “(II) *establishes a target year by*
22 *which all members of each group of*
23 *students described in subclauses (I)*
24 *and (II) of clause (iii) shall meet or*
25 *exceed the State’s proficient level of*

1 *academic performance on the State*
2 *academic assessment used for the pur-*
3 *poses of this section and section 1116,*
4 *except that the target year shall not be*
5 *more than 12 years from the baseline*
6 *year; and*

7 *“(III) for each year until and in-*
8 *cluding the target year, establishes an-*
9 *annual goals for the academic perform-*
10 *ance of each group of students de-*
11 *scribed in subclauses (I) and (II) of*
12 *clause (iii) on the State academic as-*
13 *essment that—*

14 *“(aa) indicates a minimum*
15 *percentage of students who must*
16 *meet the proficient level on the*
17 *academic assessment, such that*
18 *the minimum percentage is the*
19 *same for each group of students*
20 *described in subclauses (I) and*
21 *(II) of clause (iii); or*

22 *“(bb) indicates an annual*
23 *minimum amount by which the*
24 *percentage of students who meet*
25 *the proficient level among each*

1 *group of students described in*
2 *subclauses (I) and (II) of clause*
3 *(iii) shall increase, such that the*
4 *minimum increase for each group*
5 *is equal to or greater than 100*
6 *percent minus the percentage of*
7 *the group meeting the proficient*
8 *level in the baseline year divided*
9 *by the number of years from the*
10 *baseline year to the target year es-*
11 *tablished under clause (I).*

12 *“(D) ANNUAL IMPROVEMENT FOR*
13 *SCHOOLS.—For a school to make adequate yearly*
14 *progress under subparagraph (A), not less than*
15 *95 percent of each group of students described in*
16 *subparagraph (C)(iii)(II) who are enrolled in the*
17 *school are required to take the academic assess-*
18 *ments, consistent with section 612(a)(17)(A) of*
19 *the Individuals with Disabilities Education Act*
20 *(20 U.S.C. 1412(a)(17)(A)) and paragraph*
21 *(4)(G)(ii), on which adequate yearly progress is*
22 *based.*

23 *“(E) PUBLIC NOTICE AND COMMENT.—Each*
24 *State shall ensure that in developing its plan, it*
25 *diligently seeks public comment from a range of*

1 *institutions and individuals in the State with*
2 *an interest in improved student achievement and*
3 *that the State makes and will continue to make*
4 *a substantial effort to ensure that information*
5 *under this part is widely known and understood*
6 *by the public, parents, teachers, and school ad-*
7 *ministrators throughout the State. Such efforts*
8 *shall include, at a minimum, publication of such*
9 *information and explanatory text, broadly to the*
10 *public through such means as the Internet, the*
11 *media, and public agencies.*

12 “(3) *STATE AUTHORITY.*—*If a State educational*
13 *agency provides evidence, which is satisfactory to the*
14 *Secretary, that neither the State educational agency*
15 *nor any other State government official, agency, or*
16 *entity has sufficient authority, under State law, to*
17 *adopt curriculum content and student academic*
18 *achievement standards, and academic assessments*
19 *aligned with such academic standards, which will be*
20 *applicable to all students enrolled in the State’s pub-*
21 *lic schools, then the State educational agency may*
22 *meet the requirements of this subsection by—*

23 “(A) *adopting academic standards and aca-*
24 *demically assessments that meet the requirements of*
25 *this subsection, on a statewide basis, limiting*

1 *their applicability to students served under this*
2 *part; or*

3 “(B) *adopting and implementing policies*
4 *that ensure that each local educational agency in*
5 *the State which receives grants under this part*
6 *will adopt curriculum content and student aca-*
7 *ademic achievement standards, and academic as-*
8 *sessments aligned with such standards, which*
9 *meet all of the criteria in this subsection and*
10 *any regulations regarding such standards and*
11 *assessments which the Secretary may publish,*
12 *and which are applicable to all students served*
13 *by each such local educational agency.*

14 “(4) *ACADEMIC ASSESSMENTS.—Each State*
15 *plan shall demonstrate that the State has imple-*
16 *mented a set of high-quality, yearly student academic*
17 *assessments that include, at a minimum, academic*
18 *assessments in mathematics, and reading or language*
19 *arts, that will be used as the primary means of deter-*
20 *mining the yearly performance of the State and of*
21 *each local educational agency and school in enabling*
22 *all children to meet the State’s challenging student*
23 *academic achievement standards. Such assessments*
24 *shall—*

1 “(A) be the same academic assessments used
2 to measure the performance of all children;

3 “(B) be aligned with the State’s challenging
4 content and student academic achievement
5 standards and provide coherent information
6 about student attainment of such standards;

7 “(C) be used for purposes for which such as-
8 sessments are valid and reliable, and be con-
9 sistent with relevant, recognized professional and
10 technical standards for such assessments;

11 “(D) for the purposes of this part, be scored
12 to ensure the performance of each student is eval-
13 uated solely against the State’s challenging aca-
14 demic content standards and not relative to the
15 score of other students;

16 “(E) except as otherwise provided for grades
17 3 through 8 under subparagraph (G), measure
18 the proficiency of students in, at a minimum,
19 mathematics and reading or language arts, and
20 be administered not less than once during—

21 “(i) grades 3 through 5;

22 “(ii) grades 6 through 9; and

23 “(iii) grades 10 through 12;

1 “(F) involve multiple up-to-date measures
2 of student achievement, including measures that
3 assess critical thinking skills and understanding;

4 “(G) beginning not later than school year
5 2004-2005, measure the performance of students
6 against the challenging State content and stu-
7 dent academic achievement standards in each of
8 grades 3 through 8 in, at a minimum, mathe-
9 matics, and reading or language arts, except that
10 the Secretary may provide the State 1 additional
11 year if the State demonstrates that exceptional
12 or uncontrollable circumstances, such as a nat-
13 ural disaster or a precipitous and unforeseen de-
14 cline in the financial resources of the State, pre-
15 vented full implementation of the academic as-
16 sessments by that deadline and that it will com-
17 plete implementation within the additional 1-
18 year period;

19 “(H) provide for—

20 “(i) the participation in such assess-
21 ments of all students;

22 “(ii) the reasonable adaptations and
23 accommodations for students with disabil-
24 ities defined under 602(3) of the Individuals
25 with Disabilities Education Act (20 U.S.C.

1 1401(3)) necessary to measure the achieve-
2 ment of such students relative to State con-
3 tent and State student academic achieve-
4 ment standards;

5 “(iii) the inclusion of limited English
6 proficient students who shall be assessed, to
7 the extent practicable, in the language and
8 form most likely to yield accurate and reli-
9 able information on what such students
10 know and can do in content areas;

11 “(iv) notwithstanding clause (iii), the
12 academic assessment (using tests written in
13 English) of reading or language arts of any
14 student who has attended school in the
15 United States (not including Puerto Rico)
16 for 3 or more consecutive school years, ex-
17 cept if the local educational agency deter-
18 mines, on a case-by-case individual basis,
19 that academic assessments in another lan-
20 guage and form would likely yield more ac-
21 curate and reliable information on what
22 such students know and can do, the local
23 educational agency may assess such stu-
24 dents in the appropriate language other
25 than English for 1 additional year;

1 “(I) include students who have attended
2 schools in a local educational agency for a full
3 academic year but have not attended a single
4 school for a full academic year, except that the
5 performance of students who have attended more
6 than 1 school in the local educational agency in
7 any academic year shall be used only in deter-
8 mining the progress of the local educational
9 agency;

10 “(J) produce individual student reports to
11 be provided to parents, which include academic
12 assessment scores, or other information on the at-
13 tainment of student academic achievement
14 standards; and

15 “(K) enable results to be disaggregated with-
16 in each State, local educational agency, and
17 school by gender, by each major racial and eth-
18 nic group, by English proficiency status, by mi-
19 grant status, by students with disabilities as
20 compared to nondisabled students, and by eco-
21 nomically disadvantaged students as compared
22 to students who are not economically disadvan-
23 taged.

24 “(5) SPECIAL RULE.—Academic assessment
25 measures in addition to those in paragraph (4) that

1 *do not meet the requirements of such paragraph may*
2 *be included as additional measures, but may not be*
3 *used in lieu of the academic assessments required in*
4 *paragraph (4). Results on any additional measures*
5 *under this paragraph shall not change which schools*
6 *or local educational agencies would otherwise be sub-*
7 *ject to improvement or corrective action under section*
8 *1116 if the additional measures were not included.*

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

22 “(7) *ACADEMIC ASSESSMENTS OF ENGLISH LAN-*
23 *GUAGE PROFICIENCY.—Each State plan shall dem-*
24 *onstrate that local educational agencies in the State*
25 *will, beginning no later than school year 2002–2003,*

1 *annually assess the English proficiency of all students*
2 *with limited English proficiency in their schools.*

3 “(8) *REQUIREMENT.*—*Each State plan shall de-*
4 *scribe—*

5 “(A) *how the State educational agency will*
6 *assist each local educational agency and school*
7 *affected by the State plan to develop the capacity*
8 *to comply with each of the requirements of sec-*
9 *tions 1112(c)(1)(D), 1114(c), and 1115(c) that is*
10 *applicable to such agency or school;*

11 “(B) *how the State educational agency will*
12 *assist each local educational agency and school*
13 *affected by the State plan to provide additional*
14 *educational assistance to individual students as-*
15 *essed as needing help to achieve the State’s chal-*
16 *lenging academic standards.*

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

22 “(9) *USE OF ACADEMIC ASSESSMENT RESULTS*
23 *TO IMPROVE STUDENT ACHIEVEMENT.*—*Each State*
24 *plan shall describe how the State will ensure that the*

1 *results of the State assessments described in para-*
2 *graph (4)—*

3 “(A) *will be provided promptly, but not*
4 *later than the end of the school year (consistent*
5 *with 1116, to local educational agencies, schools,*
6 *and teachers in a manner that is clear and easy*
7 *to understand; and*

8 “(B) *be used by those local educational*
9 *agencies, schools, and teachers to improve the*
10 *educational achievement of individual students.*

11 “(10) *TECHNICAL ASSISTANCE ON ACADEMIC AS-*
12 *SESSMENT REQUIREMENTS.—The Secretary shall pro-*
13 *vide technical assistance to interested States regard-*
14 *ing how to meet the requirements of paragraph (4).*

15 “(c) *OTHER PROVISIONS TO SUPPORT TEACHING AND*
16 *LEARNING.—Each State plan shall contain assurances*
17 *that—*

18 “(1) *the State shall produce, beginning with the*
19 *2003–2004 school year, the annual State report cards*
20 *described in subsection (h)(1);*

21 “(2) *the State will participate, beginning in*
22 *school year 2002–2003, in annual academic assess-*
23 *ments of 4th and 8th grade reading and mathematics*
24 *under—*

1 “(A) *the State National Assessment of Edu-*
2 *cational Progress carried out under section*
3 *411(b)(2) of the National Education Statistics*
4 *Act of 1994 (20 U.S.C. 9010(b)(2)); or*

5 “(B) *another academic assessment selected*
6 *by the State which meets the criteria of section*
7 *7101(b)(1)(B)(ii) of this Act;*

8 “(3) *the State educational agency shall work*
9 *with other agencies, including educational service*
10 *agencies or other local consortia, and institutions to*
11 *provide technical assistance to local educational agen-*
12 *cies and schools to carry out the State educational*
13 *agency’s responsibilities under this part, including*
14 *technical assistance in providing professional develop-*
15 *ment under section 1119A and technical assistance*
16 *under section 1117; and*

17 “(4)(A) *where educational service agencies exist,*
18 *the State educational agency shall consider providing*
19 *professional development and technical assistance*
20 *through such agencies; and*

21 “(B) *where educational service agencies do not*
22 *exist, the State educational agency shall consider pro-*
23 *viding professional development and technical assist-*
24 *ance through other cooperative agreements such as*
25 *through a consortium of local educational agencies;*

1 “(5) the State educational agency shall notify
2 local educational agencies and the public of the con-
3 tent and student academic achievement standards and
4 academic assessments developed under this section,
5 and of the authority to operate schoolwide programs,
6 and will fulfill the State educational agency’s respon-
7 sibilities regarding local educational agency improve-
8 ment and school improvement under section 1116, in-
9 cluding such corrective actions as are necessary;

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

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

19 “(8) the State educational agency will encourage
20 schools to consolidate funds from other Federal, State,
21 and local sources for schoolwide reform in schoolwide
22 programs under section 1114;

23 “(9) the State educational agency shall modify
24 or eliminate State fiscal and accounting barriers so
25 that schools can easily consolidate funds from other

1 *Federal, State, and local sources for schoolwide pro-*
2 *grams under section 1114;*

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

7 *“(11) the State educational agency shall inform*
8 *local educational agencies of the local educational*
9 *agency’s authority to transfer funds under title VII,*
10 *to obtain waivers under title VIII and, if the State*
11 *is an Ed-Flex Partnership State, to obtain waivers*
12 *under the Education Flexibility Partnership Act of*
13 *1999 (20 U.S.C. 5891a et seq.); and*

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

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

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

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

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

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

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

14 “(B) providing technical assistance in order
15 to assist the State to meet the requirements
16 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 academic content standards or
24 to use specific academic assessment instruments or
25 items.

1 “(e) *DURATION OF THE PLAN.*—

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

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

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

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

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

19 “(f) *LIMITATION ON CONDITIONS.*—*Officers and em-*
20 *ployees of the Federal Government are prohibited from*
21 *mandating, directing, or controlling a State, local edu-*
22 *cational agency, or school’s specific instructional content or*
23 *student academic achievement standards and academic as-*
24 *sessments, curriculum, or program of instruction, as a con-*
25 *dition of eligibility to receive funds under this part.*

1 “(g) *PENALTIES.*—

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

4 “(A) *IN GENERAL.*—*If a State fails to meet*
5 *the deadlines established by the Improving Amer-*
6 *ica’s Schools Act of 1994 (or under any waiver*
7 *granted by the Secretary or under any compli-*
8 *ance agreement with the Secretary) for dem-*
9 *onstrating that it has in place challenging aca-*
10 *ademic content standards and student achieve-*
11 *ment standards, and a system for measuring and*
12 *monitoring adequate yearly progress, the Sec-*
13 *retary shall withhold 25 percent of the funds that*
14 *would otherwise be available for State adminis-*
15 *tration and activities in each year until the Sec-*
16 *retary determines that the State meets those re-*
17 *quirements;*

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 until the*
3 *Secretary determines that the State has fulfilled those*
4 *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 pre-*
10 *pare and disseminate an annual State report*
11 *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 make*
23 *the information broadly available through public*
24 *means, such as posting on the Internet, distribu-*

1 *tion to the media, and distribution through pub-*
2 *lic agencies.*

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

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

19 “(ii) *the percentage of students not*
20 *tested (disaggregated by the same categories*
21 *and subject to the same exception described*
22 *in clause (i));*

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

1 “(iv) the percentage of students who
2 take and complete advanced placement
3 courses as compared to the population of the
4 students eligible to take such courses, and
5 the rate of passing of advanced placement
6 tests;

7 “(v) the professional qualifications of
8 teachers in the aggregate, including the per-
9 centage of teachers teaching with emergency
10 or provisional qualifications, and the per-
11 centage of class sections not taught by fully
12 qualified teachers; and

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

20 “(2) CONTENT OF LOCAL EDUCATIONAL AGENCY
21 REPORT CARDS.—

22 “(A) MINIMUM REQUIREMENTS.—The State
23 shall ensure that each local educational agency
24 collects appropriate data and includes in its an-

1 *nual report for each of its schools, at a min-*
2 *imum—*

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

6 *“(ii)(I) in the case of a local edu-*
7 *cational agency—*

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

13 *“(bb) information that shows how*
14 *students in its schools perform on the*
15 *statewide academic assessment com-*
16 *pared to students in the State as a*
17 *whole; and*

18 *“(II) in the case of a school—*

19 *“(aa) whether it has been identi-*
20 *fied for school improvement; and*

21 *“(bb) information that shows how*
22 *its students performed on the statewide*
23 *academic assessment compared to stu-*
24 *dents in the local educational agency*
25 *and the State as a whole.*

1 “(B) *OTHER INFORMATION.*—*A local edu-*
2 *cational agency may include in its annual re-*
3 *ports any other appropriate information whether*
4 *or not such information is included in the an-*
5 *annual State report.*

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

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

1 “(4) ANNUAL STATE REPORT TO THE SEC-
2 RETARY.—Each State receiving assistance under this
3 Act shall report annually to the Secretary, and make
4 widely available within the State—

5 “(A) beginning with school year 2001–2002,
6 information on the State’s progress in developing
7 and implementing the academic assessment sys-
8 tem described in subsection (b)(4);

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

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

19 “(D) in any year before the State begins to
20 provide the information described in subpara-
21 graph (B), information on the results of student
22 academic assessments (including disaggregated
23 results) required under this section.

24 “(5) PARENTS RIGHT-TO-KNOW.—

1 “(A) *QUALIFICATIONS.*—*At the beginning of*
2 *each school year, a local educational agency that*
3 *receives funds under this part shall notify the*
4 *parents of each student attending any school re-*
5 *ceiving funds under this part that they may re-*
6 *quest, and shall provide the parents upon request*
7 *(and in a timely manner), information regard-*
8 *ing the professional qualifications of the stu-*
9 *dent’s classroom teachers, including, at a min-*
10 *imum, the following:*

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

15 “(ii) *Whether the teacher is teaching*
16 *under emergency or other provisional status*
17 *through which State qualification or licens-*
18 *ing criteria have been waived.*

19 “(iii) *The baccalaureate degree major*
20 *of the teacher and any other graduate cer-*
21 *tification or degree held by the teacher, and*
22 *the field of discipline of the certification or*
23 *degree.*

1 “(iv) Whether the child is provided
2 services by paraprofessionals and if so, their
3 qualifications.

4 “(B) *ADDITIONAL INFORMATION.*—In addi-
5 tion to the information which parents may re-
6 quest under subparagraph (A), a school which
7 receives funds under this part shall provide to
8 each individual parent—

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

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

19 “(C) *FORMAT.*—The notice and information
20 provided to parents under this paragraph shall
21 be in an understandable and uniform format
22 and, to the extent practicable, provided in a lan-
23 guage that the parents can understand.

24 “(6) *PLAN CONTENT.*—A State shall include in
25 its plan under subsection (b) an assurance that it has

1 *in effect a policy that meets the requirements of this*
2 *section.*

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

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

7 “(a) *PLANS REQUIRED.*—

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

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

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

1 “(1) a description of additional high-quality stu-
2 dent academic assessments, if any, other than the aca-
3 demic assessments described in the State plan under
4 section 1111, that the local educational agency and
5 schools served under this part will use to—

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

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

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

22 “(2) at the local educational agency’s discretion,
23 a description of any other indicators that will be used
24 in addition to the academic assessments described in
25 paragraph (1) for the uses described in such para-

1 *graph, except that results on any discretionary indi-*
2 *cators shall not change which schools would otherwise*
3 *be subject to improvement of corrective action under*
4 *section 1118 if the additional measures are not in-*
5 *cluded;*

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

10 *“(4) a description of the strategy the local edu-*
11 *cational agency will use to provide professional devel-*
12 *opment for teachers, and, if appropriate, pupil serv-*
13 *ices personnel, administrators, parents and other*
14 *staff, including local educational agency level staff in*
15 *accordance with section 1119A;*

16 *“(5) a description of how the local educational*
17 *agency will coordinate and integrate services provided*
18 *under this part with other educational services at the*
19 *local educational agency or individual school level,*
20 *such as—*

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

1 “(B) services for children with limited
2 English proficiency or with disabilities, migra-
3 tory children served under part C, neglected or
4 delinquent youth, Indian children served under
5 part B of title III, homeless children, and immi-
6 grant children in order to increase program ef-
7 fectiveness, eliminate duplication, and reduce
8 fragmentation of the instructional program;

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

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

20 “(8) a description of how teachers, in consulta-
21 tion with parents, administrators, and pupil services
22 personnel, in targeted assistance schools under section
23 1115, will identify the eligible children most in need
24 of services under this part;

1 “(9) a general description of the nature of the
2 programs to be conducted by such agency’s schools
3 under sections 1114 and 1115 and, where appro-
4 priate, educational services outside such schools for
5 children living in local institutions for neglected or
6 delinquent children, for neglected and delinquent chil-
7 dren in community day school programs, and for
8 homeless children;

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

15 “(11) if appropriate, a description of how the
16 local educational agency will use funds under this
17 part to support preschool programs for children, par-
18 ticularly children participating in *Early Reading*
19 *First*, or in a *Head Start* or *Even Start* program,
20 which services may be provided directly by the local
21 educational agency or through a subcontract with the
22 local *Head Start* agency designated by the Secretary
23 of Health and Human Services under section 641 of
24 the *Head Start Act* (42 U.S.C. 9836), agencies oper-
25 ating *Even Start* programs, *Early Reading First*, or

1 *another comparable public early childhood develop-*
2 *ment program;*

3 *“(12) a description of the actions the local edu-*
4 *cational agency will take to assist its low-performing*
5 *schools, including schools identified under section*
6 *1116 as in need of improvement;*

7 *“(13) a description of the actions the local edu-*
8 *cational agency will take to implement public school*
9 *choice, consistent with the requirements of section*
10 *1116;*

11 *“(14) a description how the local educational*
12 *agency will meet the requirements of section*
13 *1119(b)(1); and*

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

18 *“(c) ASSURANCES.—*

19 *“(1) IN GENERAL.—Each local educational agen-*
20 *cy plan shall provide assurances that the local edu-*
21 *cational agency will—*

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

1 “(B) provide technical assistance and sup-
2 port to schoolwide programs;

3 “(C) work in consultation with schools as
4 the schools develop the schools’ plans pursuant to
5 section 1114 and assist schools as the schools im-
6 plement such plans or undertake activities pur-
7 suant to section 1115 so that each school can
8 make adequate yearly progress toward meeting
9 the State student academic achievement stand-
10 ards;

11 “(D) fulfill such agency’s school improve-
12 ment responsibilities under section 1116, includ-
13 ing taking corrective actions under paragraphs
14 (6) and (7) of section 1116(b);

15 “(E) provide services to eligible children at-
16 tending private elementary and secondary
17 schools in accordance with section 1120, and
18 timely and meaningful consultation with private
19 school officials regarding such services;

20 “(F) take into account the experience of
21 model programs for the educationally disadvan-
22 taged, and the findings of relevant scientifically
23 based research indicating that services may be
24 most effective if focused on students in the ear-

1 *liest grades at schools that receive funds under*
2 *this part;*

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

11 “(H) *comply with the requirements of sec-*
12 *tion 1119 regarding the qualifications of teachers*
13 *and paraprofessionals;*

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

20 “(J) *coordinate and collaborate, to the ex-*
21 *tent feasible and necessary as determined by the*
22 *local educational agency, with other agencies*
23 *providing services to children, youth, and fami-*
24 *lies.*

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

3 “(A) *shall consult with the Secretary of*
4 *Health and Human Services on the implementa-*
5 *tion of such subparagraph and shall establish*
6 *procedures (taking into consideration existing*
7 *State and local laws, and local teacher contracts)*
8 *to assist local educational agencies to comply*
9 *with such subparagraph; and*

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

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

1 “(d) *PLAN DEVELOPMENT AND DURATION.*—

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

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

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

18 “(e) *STATE APPROVAL.*—

19 “(1) *IN GENERAL.*—*Each local educational agen-*
20 *cy plan shall be filed according to a schedule estab-*
21 *lished by the State educational agency.*

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

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

5 “(B) meets the requirements of this section.

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

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

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

20 “(A) the reasons for the identification of the
21 child as being in need of English language in-
22 struction;

23 “(B) the child’s level of English proficiency,
24 how such level was assessed, and the status of the
25 child’s academic achievement;

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

5 “(D) *what the specific exit requirements are*
6 *for the program;*

7 “(E) *the expected rate of transition from the*
8 *program into a classroom that is not tailored for*
9 *limited English proficient children; and*

10 “(F) *the expected rate of graduation from*
11 *high school for students in the program if funds*
12 *under this part are used for children in sec-*
13 *ondary schools.*

14 “(2) *CONSENT.—*

15 “(A) *AGENCY REQUIREMENTS.—*

16 “(i) *INFORMED CONSENT.—For a child*
17 *who has been identified as limited English*
18 *proficient prior to the beginning of a school*
19 *year, each local educational agency that re-*
20 *ceives funds under this part shall make a*
21 *reasonable and substantial effort to obtain*
22 *informed parental consent prior to the*
23 *placement of a child in an English lan-*
24 *guage instruction program for limited*
25 *English proficient children funded under*

1 *this part if the program does not include*
2 *classes which exclusively or almost exclu-*
3 *sively use the English language in instruc-*
4 *tion.*

5 *“(ii) WRITTEN CONSENT NOT OB-*
6 *TAINED.—If written consent is not obtained,*
7 *the local educational agency shall maintain*
8 *a written record that includes the date and*
9 *the manner in which such informed consent*
10 *was sought, including the specific efforts*
11 *made to obtain such consent.*

12 *“(iii) PROOF OF EFFORT.—Notice, in*
13 *an understandable form, of specific efforts*
14 *made to obtain written consent and a copy*
15 *of the written record required in clause (ii)*
16 *shall be mailed or delivered in writing to a*
17 *parent, parents, or guardian of a child*
18 *prior to placing the child in a program de-*
19 *scribed in clause (i) and shall include a*
20 *final request for parental consent for such*
21 *services. After such notice has been mailed*
22 *or delivered in writing, the local edu-*
23 *cational agency shall provide appropriate*
24 *educational services.*

1 “(iv) *SPECIAL RULE APPLICABLE DUR-*
2 *ING SCHOOL YEAR.—For those children who*
3 *have not been identified as limited English*
4 *proficient prior to the beginning of the*
5 *school year, the local educational agency*
6 *shall make a reasonable and substantial ef-*
7 *fort to obtain parental consent under this*
8 *clause. For such children, the agency shall*
9 *document, in writing, its specific efforts*
10 *made to obtain such consent prior to plac-*
11 *ing the child in a program described in*
12 *clause (i). After such documentation has*
13 *been made, the local educational agency*
14 *shall provide appropriate educational serv-*
15 *ices to such child. The proof of documenta-*
16 *tion shall be mailed or delivered in writing*
17 *to a parent or parents of the child in a*
18 *timely manner and shall include informa-*
19 *tion on how to have their child immediately*
20 *removed from the program upon their re-*
21 *quest. Nothing in this clause shall be con-*
22 *strued as exempting a local educational*
23 *agency from complying with the notifica-*
24 *tion requirements of subsection (g)(1) and*
25 *the consent requirements of this paragraph.*

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

5 “(A) select among methods of instruction, if
6 more than one method is offered in the program;
7 and

8 “(B) have the right to have their child im-
9 mediately removed from the program upon their
10 request.

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

19 “(A) timely information about English lan-
20 guage instruction programs for limited English
21 proficient children assisted under this part;

22 “(B) if a parent or parents of a partici-
23 pating child so desires, notice of opportunities
24 for regular meetings for the purpose of formu-

1 *lating and responding to recommendations from*
 2 *the parent or parents; and*

3 “(C) *procedural information for removing a*
 4 *child from a program for limited English pro-*
 5 *ficient children.*

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

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

11 “(a) *DETERMINATION.—*

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

15 “(2) *ELIGIBLE SCHOOL ATTENDANCE AREAS.—*
 16 *For the purposes of this part—*

17 “(A) *the term ‘school attendance area’*
 18 *means, in relation to a particular school, the*
 19 *geographical area in which the children who are*
 20 *normally served by that school reside; and*

21 “(B) *the term ‘eligible school attendance*
 22 *area’ means a school attendance area in which*
 23 *the percentage of children from low-income fami-*
 24 *lies is at least as high as the percentage of chil-*

1 *dren from low-income families in the local edu-*
2 *cational agency as a whole.*

3 “(3) *LOCAL EDUCATIONAL AGENCY DISCRE-*
4 *TION.—*

5 “(A) *IN GENERAL.—Notwithstanding para-*
6 *graph (2), a local educational agency may—*

7 “(i) *designate as eligible any school at-*
8 *tendance area or school in which at least 35*
9 *percent of the children are from low-income*
10 *families;*

11 “(ii) *use funds received under this part*
12 *in a school that is not in an eligible school*
13 *attendance area, if the percentage of chil-*
14 *dren from low-income families enrolled in*
15 *the school is equal to or greater than the*
16 *percentage of such children in a partici-*
17 *pating school attendance area of such agen-*
18 *cy;*

19 “(iii) *designate and serve a school at-*
20 *tendance area or school that is not eligible*
21 *under subsection (b), but that was eligible*
22 *and that was served in the preceding fiscal*
23 *year, but only for 1 additional fiscal year;*
24 *and*

1 “(iv) *elect not to serve an eligible*
2 *school attendance area or eligible school that*
3 *has a higher percentage of children from*
4 *low-income families if—*

5 “(I) *the school meets the com-*
6 *parability requirements of section*
7 *1120A(c);*

8 “(II) *the school is receiving sup-*
9 *plemental funds from other State or*
10 *local sources that are spent according*
11 *to the requirements of section 1114 or*
12 *1115; and*

13 “(III) *the funds expended from*
14 *such other sources equal or exceed the*
15 *amount that would be provided under*
16 *this part.*

17 “(B) *SPECIAL RULE.—Notwithstanding sub-*
18 *paragraph (A)(iv), the number of children at-*
19 *tending private elementary and secondary*
20 *schools who are to receive services, and the assist-*
21 *ance such children are to receive under this part,*
22 *shall be determined without regard to whether*
23 *the public school attendance area in which such*
24 *children reside is assisted under subparagraph*
25 *(A).*

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

4 “(1) *shall annually rank from highest to lowest*
5 *according to the percentage of children from low-in-*
6 *come families in each agency’s eligible school attend-*
7 *ance areas in the following order—*

8 “(A) *eligible school attendance areas in*
9 *which the concentration of children from low-in-*
10 *come families exceeds 75 percent; and*

11 “(B) *all remaining eligible school attend-*
12 *ance areas in which the concentration of children*
13 *from low-income families is 75 percent or lower*
14 *either by grade span or for the entire local edu-*
15 *cational agency;*

16 “(2) *shall, within each category listed in para-*
17 *graph (1), serve schools in rank order from highest to*
18 *lowest according to the ranking assigned under para-*
19 *graph (1);*

20 “(3) *notwithstanding paragraph (2), may give*
21 *priority, within each such category and in rank order*
22 *from highest to lowest subject to paragraph (4), to eli-*
23 *gible school attendance areas that serve children in el-*
24 *ementary schools; and*

1 “(4) not serve a school described in paragraph
2 (1)(B) before serving a school described in paragraph
3 (1)(A).

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

9 “(1) *ALLOCATION TO PUBLIC SCHOOL ATTEND-*
10 *ANCE AREAS.*—The local educational agency shall use
11 the same measure of poverty, which measure shall be
12 the number of children ages 5 through 17 in poverty
13 counted in the most recent census data approved by
14 the Secretary, the number of children eligible for free
15 and reduced priced lunches under the Richard B.
16 Russell National School Lunch Act (42 U.S.C. 1751
17 *et seq.*), the number of children in families receiving
18 assistance under the State program funded under
19 part A of title IV of the Social Security Act, or the
20 number of children eligible to receive medical assist-
21 ance under the Medicaid program, or a composite of
22 such indicators, with respect to all school attendance
23 areas in the local educational agency—

24 “(A) to identify eligible school attendance
25 areas;

1 “(B) to determine the ranking of each area;
2 and

3 “(C) to determine allocations under sub-
4 section (f).

5 “(2) ALLOCATION FOR EQUITABLE SERVICE TO
6 PRIVATE SCHOOL STUDENTS.—

7 “(A) CALCULATION.—A local educational
8 agency shall have the final authority, consistent
9 with section 1120 to calculate the number of pri-
10 vate school children, ages 5 through 17, who are
11 low-income by—

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

14 “(ii) using the results of a survey that,
15 to the extent possible, protects the identity
16 of families of private school students and al-
17 lowing such survey results to be extrapo-
18 lated if complete actual data are not avail-
19 able; or

20 “(iii) applying the low-income percent-
21 age of each participating public school at-
22 tendance area, determined pursuant to this
23 section, to the number of private school chil-
24 dren who reside in that attendance area.

1 “(B) *COMPLAINT PROCESS.*—Any dispute
2 regarding low-income data on private school stu-
3 dents shall be subject to the complaint process
4 authorized in section 8505.

5 “(d) *EXCEPTION.*—This section (other than subsections
6 (a)(3) and (f)) shall not apply to a local educational agency
7 with a total enrollment of less than 1,500 children.

8 “(e) *WAIVER FOR DESEGREGATION PLANS.*—The Sec-
9 retary may approve a local educational agency’s written
10 request for a waiver of the requirements of subsections (a)
11 and (f), and permit such agency to treat as eligible, and
12 serve, any school that children attend under a desegregation
13 plan ordered by a State or court or approved by the Sec-
14 retary, or such a plan that the agency continues to imple-
15 ment after it has expired, if—

16 “(1) the number of economically disadvantaged
17 children enrolled in the school is not less than 25 per-
18 cent of the school’s total enrollment; and

19 “(2) the Secretary determines on the basis of a
20 written request from such agency and in accordance
21 with such criteria as the Secretary establishes, that
22 approval of that request would further the purposes of
23 this part.

24 “(f) *ALLOCATIONS.*—

1 “(1) *IN GENERAL.*—A local educational agency
2 shall allocate funds received under this part to eligible
3 school attendance areas or eligible schools, identified
4 under subsection (b) in rank order on the basis of the
5 total number of children from low-income families in
6 each area or school.

7 “(2) *SPECIAL RULE.*—(A) Except as provided in
8 subparagraph (B), the per-pupil amount of funds al-
9 located to each school attendance area or school under
10 paragraph (1) shall be at least 125 percent of the per-
11 pupil amount of funds a local educational agency re-
12 ceived for that year under the poverty criteria de-
13 scribed by the local educational agency in the plan
14 submitted under section 1112, except that this para-
15 graph shall not apply to a local educational agency
16 that only serves schools in which the percentage of
17 such children is 35 percent or greater.

18 “(B) A local educational agency may reduce the
19 amount of funds allocated under subparagraph (A)
20 for a school attendance area or school by the amount
21 of any supplemental State and local funds expended
22 in that school attendance area or school for programs
23 that meet the requirements of section 1114 or 1115.

24 “(3) *RESERVATION.*—A local educational agency
25 shall reserve such funds as are necessary under this

1 *part to provide services comparable to those provided*
2 *to children in schools funded under this part to*
3 *serve—*

4 *“(A) homeless children who do not attend*
5 *participating schools, including providing educa-*
6 *tionally related support services to children in*
7 *shelters and other locations where children may*
8 *live;*

9 *“(B) children in local institutions for ne-*
10 *glected children; and*

11 *“(C) if appropriate, children in local insti-*
12 *tutions for delinquent children and neglected or*
13 *delinquent children in community day school*
14 *programs.*

15 *“(4) SCHOOL IMPROVEMENT RESERVATION.—In*
16 *addition to the funding a local educational agency re-*
17 *ceives under section 1003(b), a local educational agen-*
18 *cy may reserve such funds as are necessary under this*
19 *part to meet such agency’s school improvement re-*
20 *sponsibilities under section 1116, including taking*
21 *corrective actions under paragraphs (6) and (7) of*
22 *section 1116(b).*

23 *“(5) FINANCIAL INCENTIVES AND REWARDS RES-*
24 *ERVATION.—A local educational agency may reserve*
25 *such funds as are necessary under this part to provide*

1 *financial incentives and rewards to teachers who serve*
2 *in schools eligible under subsection (b)(1)(A) and*
3 *identified for improvement under section 1116(b)(1)*
4 *for the purpose of attracting and retaining qualified*
5 *and effective teachers.*

6 **“SEC. 1114. SCHOOLWIDE PROGRAMS.**

7 “(a) *PURPOSE.—The purpose of a schoolwide program*
8 *under this section is—*

9 “(1) *to enable a local educational agency to con-*
10 *solidate funds under this part with other Federal,*
11 *State, and local funds, to upgrade the entire edu-*
12 *cational program in a high poverty school; and*

13 “(2) *to help ensure that all children in such a*
14 *school meet challenging State academic standards for*
15 *student achievement, particularly those children who*
16 *are most at-risk of not meeting those standards.*

17 “(b) *USE OF FUNDS FOR SCHOOLWIDE PROGRAMS.—*

18 “(1) *IN GENERAL.—A local educational agency*
19 *may consolidate funds under this part, together with*
20 *other Federal, State, and local funds, in order to up-*
21 *grade the entire educational program of a school that*
22 *serves an eligible school attendance area in which not*
23 *less than 40 percent of the children are from low-in-*
24 *come families, or not less than 40 percent of the chil-*
25 *dren enrolled in the school are from such families.*

1 “(2) *IDENTIFICATION OF STUDENTS NOT RE-*
2 *QUIRED.*—

3 “(A) *IN GENERAL.*—*No school participating*
4 *in a schoolwide program shall be required to*
5 *identify particular children under this part as*
6 *eligible to participate in a schoolwide program*
7 *or to provide supplemental services to such chil-*
8 *dren.*

9 “(B) *SUPPLEMENT FUNDS.*—*A school par-*
10 *ticipating in a schoolwide program shall use*
11 *funds available to carry out this section only to*
12 *supplement the amount of funds that would, in*
13 *the absence of funds under this part, be made*
14 *available from non-Federal sources for the school,*
15 *including funds needed to provide services that*
16 *are required by law for children with disabilities*
17 *and children with limited English proficiency.*

18 “(3) *EXEMPTION FROM STATUTORY AND REGU-*
19 *LATORY REQUIREMENTS.*—

20 “(A) *EXEMPTION.*—*Except as provided in*
21 *subsection (c), the Secretary may, through publi-*
22 *cation of a notice in the Federal Register, exempt*
23 *schoolwide programs under this section from*
24 *statutory or regulatory provisions of any other*
25 *noncompetitive formula grant program adminis-*

1 *tered by the Secretary (other than formula or*
2 *discretionary grant programs under the Individ-*
3 *uals with Disabilities Education Act, except as*
4 *provided in section 613(a)(2)(D) of such Act), or*
5 *any discretionary grant program administered*
6 *by the Secretary, to support schoolwide programs*
7 *if the intent and purposes of such other pro-*
8 *grams are met.*

9 *“(B) REQUIREMENTS.—A school that choos-*
10 *es to use funds from such other programs shall*
11 *not be relieved of the requirements relating to*
12 *health, safety, civil rights, student and parental*
13 *participation and involvement, services to pri-*
14 *vate school children, maintenance of effort, uses*
15 *of Federal funds to supplement, not supplant*
16 *non-Federal funds, or the distribution of funds to*
17 *State or local educational agencies that apply to*
18 *the receipt of funds from such programs.*

19 *“(C) RECORDS.—A school that consolidates*
20 *funds from different Federal programs under this*
21 *section shall not be required to maintain sepa-*
22 *rate fiscal accounting records, by program, that*
23 *identify the specific activities supported by those*
24 *particular funds as long as it maintains records*
25 *that demonstrate that the schoolwide program,*

1 *considered as a whole addresses the intent and*
2 *purposes of each of the Federal programs that*
3 *were consolidated to support the schoolwide pro-*
4 *gram.*

5 “(4) *PROFESSIONAL DEVELOPMENT.—Each*
6 *school receiving funds under this part for any fiscal*
7 *year shall devote sufficient resources to effectively*
8 *carry out the activities described in subsection*
9 *(c)(1)(D) in accordance with section 1119A for such*
10 *fiscal year, except that a school may enter into a con-*
11 *sortium with another school to carry out such activi-*
12 *ties.*

13 “(c) *COMPONENTS OF A SCHOOLWIDE PROGRAM.—*

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

16 “(A) *A comprehensive needs assessment of*
17 *the entire school (including taking into account*
18 *the needs of migratory children as defined in sec-*
19 *tion 1309(2)) that is based on information which*
20 *includes the performance of children in relation*
21 *to the State academic content standards and the*
22 *State student academic achievement standards*
23 *described in section 1111(b)(1).*

24 “(B) *Schoolwide reform strategies that—*

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

5 “(ii) use effective methods and instruc-
6 tional strategies that are based upon sci-
7 entifically based research that—

8 “(I) strengthen the core academic
9 program in the school;

10 “(II) increase the amount and
11 quality of learning time, such as pro-
12 viding an extended school year and
13 before- and after-school and summer
14 programs and opportunities, and help
15 provide an enriched and accelerated
16 curriculum; and

17 “(III) include strategies for meet-
18 ing the educational needs of histori-
19 cally underserved populations;

20 “(iii)(I) address the needs of all chil-
21 dren in the school, but particularly the
22 needs of low-achieving children and those at
23 risk of not meeting the State student aca-
24 demic achievement standards who are mem-
25 bers of the target population of any pro-

1 *gram that is included in the schoolwide pro-*
2 *gram; and*

3 *“(II) address how the school will deter-*
4 *mine if such needs have been met; and*

5 *“(iv) are consistent with, and are de-*
6 *signed to implement, the State and local*
7 *improvement plans, if any.*

8 *“(C) Instruction by fully qualified (as de-*
9 *finied in section 8101) teachers.*

10 *“(D) In accordance with section 1119A and*
11 *subsection (b)(4), high quality and ongoing pro-*
12 *fessional development for teachers and para-*
13 *professionals, and, where appropriate, pupil*
14 *services personnel, parents, principals, and other*
15 *staff to enable all children in the school to meet*
16 *the State’s student academic achievement stand-*
17 *ards.*

18 *“(E) Strategies to attract high quality*
19 *teachers to high need schools, such as differential*
20 *pay systems or performance based pay.*

21 *“(F) Strategies to increase parental involve-*
22 *ment in accordance with section 1118, such as*
23 *family literary services.*

24 *“(G) Plans for assisting preschool children*
25 *in the transition from early childhood programs,*

1 *such as Head Start, Even Start, Early Reading*
2 *First, or a State-run preschool program, to local*
3 *elementary school programs.*

4 “(H) *Measures to include teachers in the de-*
5 *isions regarding the use of academic assessments*
6 *described in section 1111(b)(4) in order to pro-*
7 *vide information on, and to improve, the per-*
8 *formance of individual students and the overall*
9 *instructional program.*

10 “(I) *Activities to ensure that students who*
11 *experience difficulty mastering the proficient or*
12 *advanced levels of academic achievement stand-*
13 *ards required by section 1111(b) shall be pro-*
14 *vided with effective, timely additional assistance*
15 *which shall include measures to ensure that stu-*
16 *dents’ difficulties are identified on a timely basis*
17 *and to provide sufficient information on which*
18 *to base effective assistance.*

19 “(2) *PLAN.—Any eligible school that desires to*
20 *operate a schoolwide program shall first develop (or*
21 *amend a plan for such a program that was in exist-*
22 *ence on the day before the effective date of the No*
23 *Child Left Behind Act of 2001), a comprehensive plan*
24 *for reforming the total instructional program in the*
25 *school that—*

1 “(A) incorporates the components described
2 in paragraph (1);

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

6 “(C) includes a list of State and local edu-
7 cational agency programs and other Federal pro-
8 grams under subsection (b)(3) that will be con-
9 solidated in the schoolwide program.

10 “(3) *PLAN DEVELOPMENT.*—The comprehensive
11 plan shall be—

12 “(A) developed during a 1-year period, un-
13 less—

14 “(i) the local educational agency deter-
15 mines that less time is needed to develop
16 and implement the schoolwide program; or

17 “(ii) the school operated a schoolwide
18 program on the day preceding the effective
19 date of the No Child Left Behind Act of
20 2001, in which case such school may con-
21 tinue to operate such program, but shall de-
22 velop amendments to its existing plan dur-
23 ing the first year of assistance after that
24 date to reflect the provisions of this section;

1 “(B) developed with the involvement of par-
2 ents and other members of the community to be
3 served and individuals who will carry out such
4 plan, including teachers, principals, and admin-
5 istrators (including administrators of programs
6 described in other parts of this title), and, if ap-
7 propriate, pupil services personnel, technical as-
8 sistance providers, school staff, and, if the plan
9 relates to a secondary school, students from such
10 school;

11 “(C) in effect for the duration of the school’s
12 participation under this part and reviewed and
13 revised, as necessary, by the school;

14 “(D) available to the local educational
15 agency, parents, and the public, and the infor-
16 mation contained in such plan shall be provided
17 in a format, and to the extent practicable, in a
18 language that they can understand; and

19 “(E) if appropriate, developed in coordina-
20 tion with programs under Reading First, Early
21 Reading First, Even Start, Carl D. Perkins Vo-
22 cational and Technical Education Act of 1998,
23 and the Head Start Act.

1 “(d) *ACCOUNTABILITY.*—A schoolwide program under
 2 this section shall be subject to the school improvement provi-
 3 sions of section 1116.

4 “(e) *PREKINDERGARTEN PROGRAM.*—A school that is
 5 eligible for a schoolwide program under this section may
 6 use funds made available under this title to establish or en-
 7 hance prekindergarten programs for 3-, 4-, and 5-year-old
 8 children, such as *Even Start* programs or *Early Reading*
 9 *First* programs.

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

11 “(a) *IN GENERAL.*—In all schools selected to receive
 12 funds under section 1113(f) that are ineligible for a
 13 schoolwide program under section 1114, or that choose not
 14 to operate such a schoolwide program, a local educational
 15 agency may use funds received under this part only for pro-
 16 grams that provide services to eligible children under sub-
 17 section (b) identified as having the greatest need for special
 18 assistance.

19 “(b) *ELIGIBLE CHILDREN.*—

20 “(1) *ELIGIBLE POPULATION.*—(A) The eligible
 21 population for services under this section is—

22 “(i) children not older than age 21 who are
 23 entitled to a free public education through grade
 24 12; and

1 “(i) children who are not yet at a grade
2 level at which the local educational agency pro-
3 vides a free public education.

4 “(B) From the population described in subpara-
5 graph (A), eligible children are children identified by
6 the school as failing, or most at risk of failing, to
7 meet the State’s challenging student academic achieve-
8 ment standards on the basis of academic assessments
9 under this part, and, as appropriate, on the basis of
10 multiple, educationally related, objective criteria es-
11 tablished by the local educational agency and supple-
12 mented by the school, except that children from pre-
13 school through grade 2 may be selected solely on the
14 basis of such criteria as teacher judgment, interviews
15 with parents, and other appropriate measures.

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

20 “(ii) Funds received under this part may not be
21 used to provide services that are otherwise required by
22 law to be made available to such children but may be
23 used to coordinate or supplement such services.

24 “(B) A child who, at any time in the 2 years
25 preceding the year for which the determination is

1 *made, participated in a Head Start, Even Start, or*
2 *Early Reading First program, or in preschool services*
3 *under this title, is eligible for services under this part.*

4 “(C)(i) *A child who, at any time in the 2 years*
5 *preceding the year for which the determination is*
6 *made, received services under part C is eligible for*
7 *services under this part.*

8 “(ii) *A child in a local institution for neglected*
9 *or delinquent children or attending a community day*
10 *program for such children is eligible for services*
11 *under this part.*

12 “(D) *A child who is homeless and attending any*
13 *school in the local educational agency is eligible for*
14 *services under this part.*

15 “(c) *COMPONENTS OF A TARGETED ASSISTANCE*
16 *SCHOOL PROGRAM.—*

17 “(1) *IN GENERAL.—To assist targeted assistance*
18 *schools and local educational agencies to meet their*
19 *responsibility to provide for all their students served*
20 *under this title the opportunity to meet the State’s*
21 *challenging student academic achievement standards*
22 *in subjects as determined by the State, each targeted*
23 *assistance program under this section shall—*

24 “(A) *use such program’s resources under*
25 *this part to help participating children meet*

1 *such State’s challenging student academic*
2 *achievement standards expected for all children;*

3 “(B) *ensure that planning for students*
4 *served under this part is incorporated into exist-*
5 *ing school planning;*

6 “(C) *use effective methods and instructional*
7 *strategies that are based upon scientifically*
8 *based research that strengthens the core academic*
9 *program of the school and that—*

10 “(i) *give primary consideration to pro-*
11 *viding extended learning time such as an*
12 *extended school year, before- and after-*
13 *school, and summer programs and opportu-*
14 *nities;*

15 “(ii) *help provide an accelerated, high-*
16 *quality curriculum, including applied*
17 *learning; and*

18 “(iii) *minimize removing children*
19 *from the regular classroom during regular*
20 *school hours for instruction provided under*
21 *this part;*

22 “(D) *coordinate with and support the reg-*
23 *ular education program, which may include*
24 *services to assist preschool children in the transi-*
25 *tion from early childhood programs such as*

1 *Head Start, Even Start, Early Reading First or*
2 *State-run preschool programs to elementary*
3 *school programs;*

4 *“(E) provide instruction by fully qualified*
5 *teachers as defined in section 8101;*

6 *“(F) in accordance with subsection (e)(3)*
7 *and section 1119A, provide opportunities for*
8 *professional development with resources provided*
9 *under this part, and, to the extent practicable,*
10 *from other sources, for teachers, principals, and*
11 *administrators and other school staff, including,*
12 *if appropriate, pupil services personnel, who*
13 *work with participating children in programs*
14 *under this section or in the regular education*
15 *program; and*

16 *“(G) provide strategies to increase parental*
17 *involvement in accordance with section 1118,*
18 *such as family literacy services.*

19 *“(2) REQUIREMENTS.—Each school conducting a*
20 *program under this section shall assist participating*
21 *children selected in accordance with subsection (b) to*
22 *meet the State’s proficient and advanced levels of*
23 *achievement by—*

24 *“(A) the coordination of resources provided*
25 *under this part with other resources; and*

1 “(B) reviewing, on an ongoing basis, the
2 progress of participating children and revising
3 the targeted assistance program, if necessary, to
4 provide additional assistance to enable such chil-
5 dren to meet the State’s challenging student aca-
6 demic achievement standards, such as an ex-
7 tended school year, before- and after-school, and
8 summer programs and opportunities, training
9 for teachers regarding how to identify students
10 that require additional assistance, and training
11 for teachers regarding how to implement student
12 academic achievement standards in the class-
13 room.

14 “(d) *INTEGRATION OF PROFESSIONAL DEVELOP-*
15 *MENT.—To promote the integration of staff supported with*
16 *funds under this part, public school personnel who are paid*
17 *with funds received under this part may participate in gen-*
18 *eral professional development and school planning activi-*
19 *ties.*

20 “(e) *SPECIAL RULES.—*

21 “(1) *SIMULTANEOUS SERVICE.—Nothing in this*
22 *section shall be construed to prohibit a school from*
23 *servicing students served under this section simulta-*
24 *neously with students with similar educational needs,*
25 *in the same educational settings where appropriate.*

1 “(2) *COMPREHENSIVE SERVICES.*—*If medical,*
2 *nutrition, and other social services are not otherwise*
3 *available to eligible children in a targeted assistance*
4 *school and such school, if appropriate, has engaged in*
5 *a comprehensive needs assessment and established a*
6 *collaborative partnership with local service providers,*
7 *and if funds are not reasonably available from other*
8 *public or private sources to provide such services, then*
9 *a portion of the funds provided under this part may*
10 *be used as a last resort to provide such services, in-*
11 *cluding—*

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

14 “(B) *professional development necessary to*
15 *assist teachers, pupil services personnel, other*
16 *staff, and parents in identifying and meeting the*
17 *comprehensive needs of eligible children.*

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

1 **SEC. 105. SCHOOL CHOICE.**

2 *Section 1115A is amended to read as follows:*

3 **“SEC. 1115A. SCHOOL CHOICE.**

4 *“(a) CHOICE PROGRAMS.—A local educational agency*
5 *may use funds under this part, in combination with State,*
6 *local, and private funds, to develop and implement public*
7 *school choice programs, for children eligible for assistance*
8 *under this part, which permit parents to select the public*
9 *school that their child will attend.*

10 *“(b) CHOICE PLAN.—A local educational agency that*
11 *chooses to implement a public school choice program shall*
12 *first develop a plan that includes a description of how the*
13 *local educational agency will use resources under this part*
14 *and from other resources to implement the plan, and assur-*
15 *ances that—*

16 *“(1) all eligible students across grade levels*
17 *served under this part will have equal access to the*
18 *program;*

19 *“(2) the plan will be developed with the involve-*
20 *ment of parents and others in the community to be*
21 *served and individuals who will carry out the plan,*
22 *including administrators, teachers, principals, and*
23 *other staff;*

24 *“(3) parents of eligible students in the local edu-*
25 *cational agency will be given prompt notice of the ex-*
26 *istence of the public school choice program and its*

1 *availability to them, and a clear explanation of how*
 2 *the program will operate;*

3 “(4) *the program will include charter schools*
 4 *and any other public school and shall not include a*
 5 *school that is or has been identified as a school in*
 6 *school improvement or is or has been in corrective ac-*
 7 *tion for the past 2 consecutive years; and*

8 “(5) *such local educational agency will comply*
 9 *with the other requirements of this part.*

10 “(c) *TRANSPORTATION.—Transportation services or*
 11 *the costs of transportation may be provided by the local edu-*
 12 *cational agency, except that such agency may not use more*
 13 *than a total of 15 percent of its allocation under this part*
 14 *for such purposes.”.*

15 **SEC. 106. ACADEMIC ASSESSMENT AND LOCAL EDU-**
 16 **CATIONAL AGENCY AND SCHOOL IMPROVE-**
 17 **MENT.**

18 *The section heading and subsections (a) through (d)*
 19 *of section 1116 are amended to read as follows:*

20 **“SEC. 1116. ACADEMIC ASSESSMENT AND LOCAL EDU-**
 21 **CATIONAL AGENCY AND SCHOOL IMPROVE-**
 22 **MENT.**

23 “(a) *LOCAL REVIEW.—Each local educational agency*
 24 *receiving funds under this part shall—*

1 “(1) use the State academic assessments de-
2 scribed in the State plan to review annually the
3 progress of each school served under this part to deter-
4 mine whether the school is making adequate yearly
5 progress as defined in section 1111(b)(2)(B);

6 “(2) publicize and disseminate to teachers and
7 other staff, parents, students, and the community, the
8 results of the annual review under paragraph (2);

9 “(3) review the effectiveness of the actions and
10 activities the schools are carrying out under this part
11 with respect to parental involvement assisted under
12 this Act.

13 “(b) SCHOOL IMPROVEMENT.—

14 “(1) IN GENERAL.—

15 “(A) IDENTIFICATION.—A local educational
16 agency shall identify for school improvement any
17 elementary or secondary school served under this
18 part that—

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

22 “(ii) was in school improvement status
23 under this section immediately before the ef-
24 fective date of the No Child Left Behind Act
25 of 2001.

1 “(B) *DEADLINE.*—*The identification de-*
2 *scribed in subparagraph (A) shall take place not*
3 *later than the first day of the school year fol-*
4 *lowing such failure to make adequate yearly*
5 *progress.*

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

10 “(D) *REVIEW.*—*To determine if an elemen-*
11 *tary school or a secondary school that is con-*
12 *ducting a targeted assistance program under sec-*
13 *tion 1115 should be identified for school im-*
14 *provement under this subsection, a local edu-*
15 *cational agency may choose to review the*
16 *progress of only the students in the school who*
17 *are served, or are eligible for services, under this*
18 *part.*

19 “(E) *PUBLIC SCHOOL CHOICE.*—*In the case*
20 *of a school identified for school improvement*
21 *under subparagraph (A), the local educational*
22 *agency shall, not later than the first day of the*
23 *school year following identification, provide all*
24 *students enrolled in the school with the option to*
25 *transfer to another public school within the local*

1 *educational agency, including a public charter*
2 *school, that has not been identified for school im-*
3 *provement under subparagraph (A), unless such*
4 *an option is prohibited by State law.*

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

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

12 “(A) *Before identifying an elementary*
13 *school or a secondary school for school improve-*
14 *ment under paragraph (1), for corrective action*
15 *under paragraph (6), or for restructuring under*
16 *paragraph (7), the local educational agency shall*
17 *provide the school with an opportunity to review*
18 *the school-level data, including academic assess-*
19 *ment data, on which the proposed identification*
20 *is based.*

21 “(B) *EVIDENCE.—If the principal of a*
22 *school proposed for identification under para-*
23 *graph (1), (6), or (7) believes, or a majority of*
24 *the parents of the students enrolled in such school*
25 *believe, that the proposed identification is in*

1 *error for statistical or other substantive reasons,*
2 *the principal may provide supporting evidence*
3 *to the local educational agency, which shall con-*
4 *sider that evidence before making a final deter-*
5 *mination.*

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

12 “(3) *SCHOOL PLAN.*—

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

24 “(i) *incorporate scientifically based re-*
25 *search strategies that strengthen the core*

1 *academic subjects in the school and address*
2 *the specific academic issues that caused the*
3 *school to be identified for school improve-*
4 *ment;*

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

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

24 “(I) *directly addresses the aca-*
25 *ademic performance problem that*

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

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

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

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

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

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

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

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

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

15 *“(B) CONDITIONAL APPROVAL.—The local*
16 *educational agency may condition approval of a*
17 *school plan on—*

18 *“(i) inclusion of 1 or more of the cor-*
19 *rective actions specified in paragraph*
20 *(6)(D)(ii); or*

21 *“(ii) feedback on the school improve-*
22 *ment plan from parents and community*
23 *leaders.*

24 *“(C) PLAN IMPLEMENTATION.—Except as*
25 *provided in subparagraph (D), a school shall im-*

1 *plement the school plan (including a revised*
2 *plan) expeditiously, but not later than the begin-*
3 *ning of the school year following the school year*
4 *in which the failure to make adequate yearly*
5 *progress took place.*

6 *“(D) Notwithstanding subparagraph (C), in*
7 *a case in which a plan is not approved prior to*
8 *the beginning of a school year, such plan shall*
9 *be implemented immediately upon approval.*

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

12 *“(i) establish a peer-review process to*
13 *assist with review of a school plan prepared*
14 *by a school served by the local educational*
15 *agency; and*

16 *“(ii) promptly review the school plan,*
17 *work with the school as necessary, and ap-*
18 *prove the school plan if it meets the require-*
19 *ments of this paragraph.*

20 *“(4) TECHNICAL ASSISTANCE.—*

21 *“(A) IN GENERAL.—For each school identi-*
22 *fied for school improvement under paragraph*
23 *(1), the local educational agency serving the*
24 *school shall provide technical assistance as the*

1 *school develops and implements the school plan*
2 *throughout the duration of such plan.*

3 “(B) *SPECIFIC ASSISTANCE.*—*Such tech-*
4 *nical assistance—*

5 “(i) *shall include assistance in ana-*
6 *lyzing data from the academic assessments*
7 *required under section 1111(b)(4), and other*
8 *samples of student work, to identify and ad-*
9 *dress instructional problems and solutions;*

10 “(ii) *shall include assistance in identi-*
11 *fying and implementing professional devel-*
12 *opment, instructional strategies, and meth-*
13 *ods of instruction that are based upon sci-*
14 *entifically based research and that have*
15 *proven effective in addressing the specific*
16 *instructional issues that caused the school to*
17 *be identified for school improvement;*

18 “(iii) *shall include assistance in ana-*
19 *lyzing and revising the school’s budget so*
20 *that the school resources are more effectively*
21 *allocated for the activities most likely to in-*
22 *crease student achievement and to remove*
23 *the school from school improvement status;*
24 *and*

25 “(iv) *may be provided—*

1 “(I) by the local educational agen-
2 cy, through mechanisms authorized
3 under section 1117; or

4 “(II) by the State educational
5 agency, an institution of higher edu-
6 cation (in full compliance with all the
7 reporting provisions of title II of the
8 Higher Education Act of 1965), a pri-
9 vate not-for-profit organization or for-
10 profit organization, an educational
11 service agency, or another entity with
12 experience in helping schools improve
13 performance.

14 “(C) *SCIENTIFICALLY BASED RESEARCH.*—
15 *Technical assistance provided under this section*
16 *by a local educational agency or an entity ap-*
17 *proved by that agency shall be based on scientif-*
18 *ically based research.*

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

1 “(A) an explanation of what the school im-
2 provement identification means, and how the
3 school identified for school improvement com-
4 pares in terms of academic achievement to other
5 elementary schools or secondary schools served by
6 the local educational agency and the State edu-
7 cational agency involved;

8 “(B) the reasons for the identification;

9 “(C) an explanation of what the school
10 identified for school improvement is doing to ad-
11 dress the problem of low achievement;

12 “(D) an explanation of what the local edu-
13 cational agency or State educational agency is
14 doing to help the school address the achievement
15 problem;

16 “(E) an explanation of how parents de-
17 scribed in this paragraph can become involved in
18 addressing the academic issues that caused the
19 school to be identified for school improvement;
20 and

21 “(F) an explanation regarding the option of
22 their child to transfer to another public school,
23 including a public charter school.

24 “(6) CORRECTIVE ACTION.—

1 “(A) *IN GENERAL.*—*In this subsection, the*
2 *term ‘corrective action’ means action, consistent*
3 *with State law, that—*

4 “(i) *substantially and directly re-*
5 *sponds to—*

6 “(I) *the consistent academic fail-*
7 *ure of a school that caused the local*
8 *educational agency to take such action;*
9 *and*

10 “(II) *any underlying staffing,*
11 *curriculum, or other problems in the*
12 *school; and*

13 “(ii) *is designed to increase substan-*
14 *tially the likelihood that students enrolled*
15 *in the school identified for corrective action*
16 *will perform at the State’s proficient and*
17 *advanced levels of achievement on the State*
18 *academic assessment described in section*
19 *1111(b)(4).*

20 “(B) *SYSTEM.*—*In order to help students*
21 *served under this part meet challenging State*
22 *academic standards, each local educational agen-*
23 *cy shall implement a system of corrective action*
24 *in accordance with subparagraphs (C) through*
25 *(F) and paragraphs (7) through (9).*

1 “(C) *ROLE OF LOCAL EDUCATIONAL AGEN-*
2 *CY.—The local educational agency—*

3 “(i) *after providing public school*
4 *choice under paragraph (1)(E) and tech-*
5 *nical assistance under paragraph (4), shall*
6 *identify for corrective action and take cor-*
7 *rective action with respect to any school*
8 *served by the local educational agency*
9 *under this part that—*

10 “(I) *fails to make adequate yearly*
11 *progress, as defined by the State under*
12 *section 1111(b)(2), at the end of the*
13 *first full school year following identi-*
14 *fication under paragraph (1); or*

15 “(II) *was in school-improvement*
16 *status for 2 years or in corrective-ac-*
17 *tion status under this subsection imme-*
18 *diately before the effective date of the*
19 *No Child Left Behind Act of 2001; and*

20 “(ii) *shall continue to provide tech-*
21 *nical assistance consistent with paragraph*
22 *(4) while instituting any corrective action*
23 *under clause (i); and*

1 “(D) *REQUIREMENTS.*—*In the case of a*
2 *school described in subparagraph (C)(i), the local*
3 *educational agency shall both—*

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

12 “(ii) *take at least 1 of the following*
13 *corrective actions:*

14 “(I) *Replace the school staff which*
15 *are relevant to the failure to make ade-*
16 *quate yearly progress.*

17 “(II) *Institute and fully imple-*
18 *ment a new curriculum, including pro-*
19 *viding appropriate professional devel-*
20 *opment for all relevant staff, that is*
21 *based on scientifically based research*
22 *and offers substantial promise of im-*
23 *proving educational performance for*
24 *low-performing students and the school*
25 *meeting adequate yearly progress.*

1 “(III) *Significantly decrease man-*
2 *agement authority at the school level.*

3 “(IV) *Appoint an outside expert*
4 *to advise the school on its progress to-*
5 *ward meeting adequate yearly*
6 *progress, based on its school plan*
7 *under this subsection.*

8 “(V) *Extend the school year or*
9 *school day.*

10 “(VI) *Restructure the internal or-*
11 *ganizational structure of the school.*

12 “(E) *DELAY.—A local educational agency*
13 *may delay, for a period not to exceed 1 year, im-*
14 *plementation of corrective action only if the*
15 *school’s failure to make adequate yearly progress*
16 *was justified due to exceptional or uncontrollable*
17 *circumstances, such as a natural disaster or a*
18 *precipitous and unforeseen decline in the finan-*
19 *cial resources of the local educational agency or*
20 *school.*

21 “(F) *PUBLICATION AND DISSEMINATION.—*
22 *The local educational agency shall publish and*
23 *disseminate information regarding any correc-*
24 *tive action the local educational agency takes*
25 *under this paragraph at a school—*

1 “(i) to the public and to the parents of
2 each student enrolled in the school subject to
3 corrective action;

4 “(ii) in a format and, to the extent
5 practicable, in a language that the parents
6 can understand; and

7 “(iii) through such means as the Inter-
8 net, the media, and public agencies.

9 “(7) *RESTRUCTURING.*—

10 “(A) *FAILURE TO MAKE ADEQUATE YEARLY*
11 *PROGRESS.*—*If—*

12 “(i) a school is subject to corrective ac-
13 tion under paragraph (6) for one full school
14 year, and at the end of such year continues
15 to fail to make adequate yearly progress
16 and students in the school who are from eco-
17 nomically disadvantaged families are not
18 making statistically significant progress in
19 the subjects included in the State’s defini-
20 tion of adequate yearly progress; or

21 “(ii) for 2 additional years a school
22 subject to corrective action under paragraph
23 (6) fails to make adequate yearly progress,
24 the local educational agency shall—

1 “(I) provide all students enrolled
2 in the school with the option to trans-
3 fer to another public school within the
4 local educational agency, including a
5 public charter school, that has not been
6 identified for school improvement
7 under paragraph (1), unless prohibited
8 by State law;

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

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

15 “(B) ALTERNATIVE GOVERNANCE.—Not
16 later than the beginning of the school year fol-
17 lowing the year in which the local educational
18 agency implements subparagraph (A), the local
19 educational agency shall implement 1 of the fol-
20 lowing alternative governance arrangements for
21 the school consistent with State law:

22 “(i) Reopening the school as a public
23 charter school.

24 “(ii) Replacing the principal and all
25 or most of the school staff that are relevant

1 to the failure to make adequate yearly
2 progress.

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

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

9 “(C) *AVAILABLE RESULTS.—The State edu-*
10 *cational agency shall ensure that, for any school*
11 *year in which a school is subject to school im-*
12 *provement under this subsection, the results of*
13 *State academic assessments for that school are*
14 *available to the local educational agency by the*
15 *end of the school year in which the academic as-*
16 *sessments are administered.*

17 “(D) *PROMPT NOTICE.—The local edu-*
18 *cational agency shall provide prompt notice to*
19 *teachers and parents whenever subparagraph (A)*
20 *or (B) applies, shall provide them adequate op-*
21 *portunity to comment before taking any action*
22 *under those subparagraphs and to participate in*
23 *developing any plan under subparagraph*
24 *(A)(iii), and shall provide parents an expla-*

1 *nation of the options under subparagraph (A)(i)*
2 *and (ii).*

3 “(8) *TRANSPORTATION.*—*In any case described*
4 *in paragraph (6)(D)(i) and (7)(A)(ii)(I) the local*
5 *educational agency—*

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

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

12 “(9) *COOPERATIVE AGREEMENT.*—*In any case*
13 *described in paragraph (6)(D)(i) or (7)(A)(ii)(I), if*
14 *all public schools in the local educational agency to*
15 *which a child may transfer to, are identified for*
16 *school improvement, the agency shall, to the extent*
17 *practicable, establish a cooperative agreement with*
18 *other local educational agencies in the area for a*
19 *transfer.*

20 “(10) *DURATION.*—*If any school identified for*
21 *corrective action or restructuring—*

22 “(A) *makes adequate yearly progress for 2*
23 *consecutive years, the local educational agency*
24 *need no longer subject it to corrective action or*

1 *restructuring nor identify it as in need of im-*
2 *provement; or*

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

9 *“(11) STATE RESPONSIBILITIES.—The State*
10 *shall—*

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

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

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

24 *“(c) STATE REVIEW AND LOCAL EDUCATIONAL AGEN-*
25 *CY IMPROVEMENT.—*

1 “(1) *IN GENERAL.*—A State shall—

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

9 “(B) *publicize and disseminate to local edu-*
10 *cational agencies, teachers and other staff, par-*
11 *ents, students, and the community the results of*
12 *the State review consistent with section 1111, in-*
13 *cluding statistically sound disaggregated results,*
14 *as required by section 1111(b)(2).*

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

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

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

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

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

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

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

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

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

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

19 “(7) *LOCAL EDUCATIONAL AGENCY REVISIONS.*—

20 “(A) *PLAN.*—*Each local educational agency*
21 *identified under paragraph (2) shall, not later*
22 *than 3 months after being so identified, develop*
23 *or revise a local educational agency plan, in con-*
24 *sultation with parents, school staff, and others.*
25 *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 of
10 improving the performance of partici-
11 pating children in meeting the State’s
12 student academic 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 each
18 of the groups of students identified in
19 the disaggregated data pursuant to sec-
20 tion 1111(b)(2)(C)(iii)(I) and (II);

21 “(iii) incorporate, as appropriate, ex-
22 tended learning time for students such as
23 before school, after school, during the sum-
24 mer, and extension of the school year.

1 “(iv) identify how the local educational
2 agency will provide written notification to
3 parents in a format, and to the extent prac-
4 ticable in a language, that they can under-
5 stand, pursuant to paragraph (6); and

6 “(v) specify the responsibilities of the
7 State educational agency and the local edu-
8 cational agency under the plan.

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

14 “(8) STATE RESPONSIBILITY.—

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

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

1 “(i) to work with schools needing im-
2 provement.

3 “(B) *TECHNICAL ASSISTANCE.*—*Technical*
4 *assistance provided under this section by the*
5 *State educational agency or an entity authorized*
6 *by such agency shall be based upon scientifically*
7 *based research.*

8 “(9) *CORRECTIVE ACTION.*—*In order to help stu-*
9 *dents served under this part meet challenging State*
10 *academic standards, each State shall implement a*
11 *system of corrective action in accordance with the fol-*
12 *lowing:*

13 “(A) *IN GENERAL.*—*After providing tech-*
14 *nical assistance under paragraph (8) and subject*
15 *to subparagraph (D), the State—*

16 “(i) *may take corrective action at any*
17 *time with respect to a local educational*
18 *agency that has been identified under para-*
19 *graph (2);*

20 “(ii) *shall take corrective action with*
21 *respect to any local educational agency that*
22 *fails to make adequate yearly progress, as*
23 *defined by the State, after the end of the sec-*
24 *ond year following its identification under*
25 *paragraph (2); and*

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

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

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

12 “(ii) is designed to meet the goal of
13 having all students served under this part
14 perform at the proficient and advanced per-
15 formance levels.

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

21 “(i) Withhold funds from the local edu-
22 cational agency.

23 “(ii) Replace the school district per-
24 sonnel who are relevant to the failure to
25 make adequate year progress.

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

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

11 “(v) Abolish or restructure the local
12 educational agency.

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

23 “(D) HEARING.—Prior to implementing
24 any corrective action, the State educational
25 agency shall provide due process and a hearing

1 to the affected local educational agency, if State
2 law provides for such process and hearing.

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

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

16 “(10) SPECIAL RULE.—A local educational agen-
17 cy, that, for at least 2 of the 3 years following identi-
18 fication under paragraph (2), makes adequate yearly
19 progress shall no longer be identified for improve-
20 ment.

21 “(d) PARENTAL OPTIONS.—

22 “(1) In any case described in subsection
23 (b)(7)(A)(ii)(II), the local educational agency shall
24 permit the parents of each eligible child to obtain
25 supplemental educational services for such child from

1 *a provider, as approved by the State educational*
2 *agency in accordance with reasonable criteria that it*
3 *shall adopt. Such criteria shall require a provider to*
4 *demonstrate a record of effectiveness, or the potential*
5 *of effectiveness, in providing supplemental instruc-*
6 *tional services to children, consistent with the instruc-*
7 *tional program of the local educational agency and*
8 *the academic standards described under section 1111.*

9 *“(2) SELECTION.—In obtaining services under*
10 *this paragraph, a parent shall select a provider that*
11 *meets the criteria described under paragraph (1). The*
12 *local educational agency shall provide assistance,*
13 *upon request, to parents in the selection of a provider*
14 *to provide supplemental instructional services.*

15 *“(3) CONTRACT.—In the case of the selection of*
16 *a provider under paragraph (2) by a parent, the local*
17 *educational agency shall enter into a contract with*
18 *such provider. Such contract shall—*

19 *“(A) require the local educational agency to*
20 *develop, with parents (and the provider they*
21 *have chosen), a statement of specific performance*
22 *goals for the student, how the student’s progress*
23 *will be measured, and a timetable for improving*
24 *achievement;*

1 “(B) provide for the termination of such
2 contract with a provider that is unable to meet
3 such goals and timetables; and

4 “(C) contain provisions with respect to the
5 making of payments to the provider by the local
6 educational agency.

7 “(4) *ADDITIONAL LOCAL EDUCATIONAL AGENCY*
8 *RESPONSIBILITIES.*—Each local educational agency
9 subject to this paragraph shall provide annual notice
10 to parents (if feasible, in the parents’ language) of the
11 availability of services under this paragraph and the
12 eligible providers of those services.

13 “(5) *STATE EDUCATIONAL AGENCY RESPONSIBIL-*
14 *ITIES.*—Each State educational agency shall—

15 “(A) consult with local educational agencies
16 and promote maximum participation by pro-
17 viders to ensure, to the extent practicable, that
18 parents have as many choices of those providers
19 as possible;

20 “(B) develop criteria consistent with para-
21 graph (6) and apply such criteria to potential
22 providers to determine which, based on the qual-
23 ity and effectiveness of their services, are eligible
24 to participate;

1 “(C) maintain an updated list of approved
2 providers across the State, from which parents
3 may select;

4 “(D) develop and implement standards and
5 techniques for monitoring the quality and effec-
6 tiveness of the services offered by providers, and
7 withdraw approval from those that fail to meet
8 those standards for two consecutive years;

9 “(E) provide annual notice to potential
10 providers of supplemental services of the oppor-
11 tunity to provide services under this paragraph
12 and of the applicable procedures for obtaining
13 approval from the State educational agency to be
14 a provider of those services.

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

18 “(A) Provide parents of children receiving
19 supplemental instructional services under this
20 paragraph and the appropriate local educational
21 agency with information on the progress of their
22 children in increasing achievement, in a format
23 and, to the extent practicable, a language such
24 parents can understand.

1 “(B) *Ensure that instruction and content*
2 *used by the provider is consistent with the in-*
3 *struction and content used by the local edu-*
4 *cational agency and State.*

5 “(C) *Require a provider to meet all appli-*
6 *cable Federal, State, and local health, safety and*
7 *civil rights laws.*

8 “(D) *Ensure that all instruction and con-*
9 *tent under this paragraph shall be secular, neu-*
10 *tral, and nonideological.*

11 “(7) *COSTS.—*

12 “(A) *The costs of administration of this*
13 *paragraph and the costs of providing such sup-*
14 *plemental instructional services shall be limited*
15 *to the total of 40 percent of the per child alloca-*
16 *tion under subpart 2 of each school identified*
17 *under subsection (b)(7)(A)(i)(II);*

18 “(B) *ADDITIONAL FUNDS.—If the allocation*
19 *under subparagraph (A) is insufficient to pro-*
20 *vide services for all eligible students that have se-*
21 *lected a provider, a local educational agency*
22 *may use funds under subpart 1 of part A of title*
23 *IV to pay for additional costs;*

24 “(C) *TRANSPORTATION COSTS.—A local*
25 *educational agency may use up to 15 percent of*

1 *its allocation under subpart 2 for transportation*
2 *costs.*

3 “(8) *FUNDS PROVIDED BY STATE EDUCATIONAL*
4 *AGENCY.—Each State educational agency may use*
5 *funds that it reserves under this part, and subpart 1*
6 *of part A of title IV to provide local educational agen-*
7 *cies that do not have sufficient funds to provide serv-*
8 *ices under this paragraph for all eligible students re-*
9 *questing such services.*

10 “(9) *DURATION.—The local educational agency*
11 *shall continue to provide supplemental instructional*
12 *services to enrolled children receiving such services*
13 *under this paragraph until the child completes the*
14 *grade corresponding to the highest grade offered at the*
15 *public school which was identified for restructuring*
16 *under subsection (b)(7), or until such school, so long*
17 *as the child attends such school, is not identified*
18 *under subsection (b)(1), (b)(6), or (b)(7), whichever*
19 *comes earlier.*

20 “(10) *DEFINITIONS.—As used in this subsection,*
21 *the term—*

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

1 “(B) ‘supplemental instructional services’
2 *means tutoring and other supplemental academic*
3 *enrichment services that are in addition to in-*
4 *struction provided during the school day and are*
5 *specifically designed to increase the academic*
6 *achievement of eligible children on the academic*
7 *assessments required under section 1111; and*

8 “(C) ‘provider’ means a non-profit or a for-
9 profit entity which has a demonstrated record of
10 effectiveness or the potential of effectiveness—

11 “(i) in providing supplemental in-
12 structional services that are consistent with
13 the instructional program of the local edu-
14 cational agency and the academic standards
15 described under section 1111; and

16 “(ii) in sound fiscal management;

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

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

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

23 “(11) PROHIBITION.—Nothing contained in this
24 paragraph shall permit the making of any payment

1 “(3) third, provide support and assistance to
2 other local educational agencies and schools partici-
3 pating under this part that need that support and as-
4 sistance in order to achieve the purpose of this part.

5 “(c) *APPROACHES*.—In order to achieve the purpose
6 described in subsection (a), each such system shall provide
7 technical assistance and support through such approaches
8 as—

9 “(1) school support teams, composed of individ-
10 uals who are knowledgeable about scientifically based
11 research and practice on teaching and learning, par-
12 ticularly about strategies for improving educational
13 results for low-achieving children; and

14 “(2) the designation and use of “Distinguished
15 Educators”, chosen from schools served under this
16 part that have been especially successful in improving
17 academic achievement.

18 “(d) *FUNDS*.—Each State—

19 “(1) shall use funds reserved under section
20 1003(a); and

21 “(2) may use State administrative funds author-
22 ized under section 1002(i) for such purpose to estab-
23 lish a Statewide system of support.

24 “(e) *ALTERNATIVES*.—The State may devise addi-
25 tional approaches to providing the assistance described in

1 paragraphs (1) and (2) of subsection (c), such as providing
2 assistance through institutions of higher education and edu-
3 cational service agencies or other local consortia, and pri-
4 vate providers of scientifically based technical assistance
5 and the State may seek approval from the Secretary to use
6 funds made available under section 1002(j) for such ap-
7 proaches as part of the State plan.”.

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

9 Sections 1118 through 1127 are amended to read as
10 follows:

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

12 **“(a) ESTABLISHMENT OF ACADEMIC ACHIEVEMENT**
13 **AWARDS PROGRAM.—**

14 **“(1) IN GENERAL.—**Each State receiving a grant
15 under this part may establish a program for making
16 academic achievement awards to recognize and finan-
17 cially reward schools served under this part that
18 have—

19 **“(A) significantly closed the achievement**
20 **gap between the groups of students defined in**
21 **section 1111(b)(2); or**

22 **“(B) exceeded their adequate yearly progress**
23 **goals, consistent with section 1111(b)(2), for 2 or**
24 **more consecutive years.**

1 “(2) *AWARDS TO TEACHERS.*—A State program
2 under paragraph (1) may also recognize and provide
3 financial awards to teachers teaching in a school de-
4 scribed in such paragraph whose students consistently
5 make significant gains in academic achievement in
6 the areas in which the teacher provides instruction.

7 “(b) *FUNDING.*—

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

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

21 “(3) *SPECIAL ALLOCATION RULE FOR SCHOOLS*
22 *IN HIGH-POVERTY AREAS.*—

23 “(A) *IN GENERAL.*—Each State receiving a
24 grant under this part shall distribute at least 75
25 percent of the amount reserved under paragraph

1 (1) *for each fiscal year to schools described in*
2 *subparagraph (B), or to teachers teaching in*
3 *such schools.*

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

9 **“SEC. 1118. PARENTAL INVOLVEMENT.**

10 “(a) *LOCAL EDUCATIONAL AGENCY POLICY.*—

11 “(1) *IN GENERAL.*—*A local educational agency*
12 *may receive funds under this part only if such agency*
13 *implements programs, activities, and procedures for*
14 *the involvement of parents in programs assisted under*
15 *this part consistent with the provisions of this section.*
16 *Such activities shall be planned and implemented*
17 *with meaningful consultation with parents of partici-*
18 *pating children.*

19 “(2) *WRITTEN POLICY.*—*Each local educational*
20 *agency that receives funds under this part shall de-*
21 *velop jointly with, agree upon with, and distribute to,*
22 *parents of participating children a written parent in-*
23 *volvement policy that is incorporated into the local*
24 *educational agency’s plan developed under section*
25 *1112, establishes the expectations for parent involve-*

1 *ment, and describes how the local educational agency*
2 *will—*

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

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

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

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

22 *“(E) conduct, with the involvement of par-*
23 *ents, an annual evaluation of the content and ef-*
24 *fectiveness of the parental involvement policy in*

1 *improving the academic quality of the schools*
2 *served under this part; and*

3 “(F) *involve parents in the activities of the*
4 *schools served under this part.*

5 “(3) *RESERVATION.—*

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

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

21 “(C) *DISTRIBUTION OF FUNDS.—Not less*
22 *than 95 percent of the funds reserved under sub-*
23 *paragraph (A) shall be distributed to schools*
24 *served under this part.*

25 “(b) *SCHOOL PARENTAL INVOLVEMENT POLICY.—*

1 “(1) *IN GENERAL.*—Each school served under
2 this part shall jointly develop with, and distribute to,
3 parents of participating children a written parental
4 involvement policy, agreed upon by such parents, that
5 shall describe the means for carrying out the require-
6 ments of subsections (c) through (f). Parents shall be
7 notified of the policy in a format, and to the extent
8 practicable in a language they can understand. Such
9 policy shall be updated periodically to meet the
10 changing needs of parents and the school.

11 “(2) *SPECIAL RULE.*—If the school has a paren-
12 tal involvement policy that applies to all parents,
13 such school may amend that policy, if necessary, to
14 meet the requirements of this subsection.

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

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

1 “(c) *POLICY INVOLVEMENT.*—*Each school served under*
2 *this part shall—*

3 “(1) *convene an annual meeting, at a convenient*
4 *time, to which all parents of participating children*
5 *shall be invited and encouraged to attend, to inform*
6 *parents of their school’s participation under this part*
7 *and to explain this part, its requirements, and their*
8 *right to be involved;*

9 “(2) *offer a flexible number of meetings, such as*
10 *meetings in the morning or evening, and may pro-*
11 *vide, with funds provided under this part, transpor-*
12 *tation, child care, or home visits, as such services re-*
13 *late to parental involvement;*

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

24 “(4) *provide parents of participating children—*

1 “(A) *timely information about programs*
2 *under this part;*

3 “(B) *a description and explanation of the*
4 *curriculum in use at the school, the forms of aca-*
5 *ademic assessment used to measure student*
6 *progress, and the proficiency levels students are*
7 *expected to meet; and*

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

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

23 “(e) *BUILDING CAPACITY FOR INVOLVEMENT.—To en-*
24 *sure effective involvement of parents and to support a part-*
25 *nership among the school, parents, and the community to*

1 *improve student achievement, each school and local edu-*
2 *cational agency—*

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

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

13 “(3) *shall educate teachers, pupil services per-*
14 *sonnel, principals and other staff, with the assistance*
15 *of parents, in the value and utility of contributions*
16 *of parents, and in how to reach out to, communicate*
17 *with, and work with parents as equal partners, im-*
18 *plement and coordinate parent programs, and build*
19 *ties between parents and the school;*

20 “(4) *shall coordinate and integrate parent in-*
21 *volvement programs and activities with Head Start,*
22 *Reading First, Early Reading First, Even Start, the*
23 *Home Instruction Programs for Preschool Youngsters,*
24 *the Parents as Teachers Program, and public pre-*

1 *school programs and other programs, to the extent*
2 *feasible and appropriate;*

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

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

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

18 “(8) may pay reasonable and necessary expenses
19 *associated with local parental involvement activities,*
20 *including transportation and child care costs, to en-*
21 *able parents to participate in school-related meetings*
22 *and training sessions;*

23 “(9) may train parents to enhance the involve-
24 *ment of other parents;*

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

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

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

11 “(13) may develop appropriate roles for commu-
12 nity-based organizations and businesses in parent in-
13 volvement activities; and

14 “(14) may arrange for teachers or other edu-
15 cators, who work directly with participating children,
16 to conduct in-home conferences with parents who are
17 unable to attend such conferences at school.

18 “(f) ACCESSIBILITY.—In carrying out the parental in-
19 volvement requirements of this part, local educational agen-
20 cies and schools, to the extent practicable, shall provide full
21 opportunities for the participation of parents with limited
22 English proficiency or with disabilities and parents of mi-
23 gratory children, including providing information and
24 school reports required under section 1111 in a format, and

1 *to the extent practicable, in a language such parents under-*
2 *stand.*

3 **“SEC. 1119. QUALIFICATIONS FOR TEACHERS AND PARA-**
4 **PROFESSIONALS.**

5 “(a) *TEACHERS.—*

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

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

23 “(b) *NEW PARAPROFESSIONALS.—*

24 “(1) *IN GENERAL.—Each local educational agen-*
25 *cy receiving assistance under this part shall ensure*

1 *that all paraprofessionals hired 1 year or more after*
2 *the effective date of the No Child Left Behind Act of*
3 *2001 and working in a program supported with*
4 *funds under this part shall—*

5 *“(A) have completed at least 2 years of*
6 *study at an institution of higher education;*

7 *“(B) have obtained an associate’s (or high-*
8 *er) degree; or*

9 *“(C) have met a rigorous standard of qual-*
10 *ity that demonstrates, through a formal aca-*
11 *demic assessment—*

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

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

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

24 *“(c) EXISTING PARAPROFESSIONALS.—Each local edu-*
25 *cational agency receiving assistance under this part shall*

1 *ensure that all paraprofessionals hired before the date that*
2 *is 1 year after the effective date of the No Child Left Behind*
3 *Act of 2001 and working in a program supported with*
4 *funds under this part shall, not later than 3 years after*
5 *such effective date, satisfy the requirements of subsection*
6 *(b).*

7 “(d) *EXCEPTIONS FOR TRANSLATION AND PARENTAL*
8 *INVOLVEMENT ACTIVITIES.—Subsections (b) and (c) shall*
9 *not apply to a paraprofessional—*

10 “(1) *who is proficient in English and a language*
11 *other than English and who provides services pri-*
12 *marily to enhance the participation of children in*
13 *programs under this part by acting as a translator;*
14 *or*

15 “(2) *whose duties consist solely of conducting pa-*
16 *rental involvement activities consistent with section*
17 *1118.*

18 “(e) *GENERAL REQUIREMENT FOR ALL PARAPROFES-*
19 *SIONALS.—Each local educational agency receiving assist-*
20 *ance under this part shall ensure that all paraprofessionals*
21 *working in a program supported with funds under this*
22 *part, regardless of the paraprofessional’s hiring date, pos-*
23 *sess a high school diploma or its recognized equivalent.*

24 “(f) *DUTIES OF PARAPROFESSIONALS.—*

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

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

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

13 “(B) *to assist with classroom management,*
14 *such as organizing instructional and other mate-*
15 *rials;*

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

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

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

22 “(F) *to act as a translator; or*

23 “(G) *to provide instructional services to stu-*
24 *dents.*

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 is*
5 *working under the direct supervision of a fully*
6 *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 academic as-*
11 *essment, the ability to effectively carry out read-*
12 *ing, writing, 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 para-*
18 *professionals in satisfying the requirements of this*
19 *section.*

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

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

1 professional hired after such date unless the hir-
2 ing is to fill a vacancy created by the departure
3 of another paraprofessional funded under this
4 part and such new paraprofessional satisfies the
5 requirements of subsection (b), except as provided
6 in subsection (d).

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

12 “(h) VERIFICATION OF COMPLIANCE.—

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

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

21 “(A) shall be maintained at each school op-
22 erating a program under section 1114 or 1115
23 and at the main office of the local educational
24 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 assist
5 each local educational agency receiving assistance under
6 this part in increasing the academic achievement of chil-
7 dren served under this part through improved teacher qual-
8 ity.

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

12 “(1) give teachers, principals, and administra-
13 tors the knowledge and skills to provide students with
14 the opportunity to meet challenging State or local
15 academic content standards and student academic
16 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 activi-
4 ties that instruct in methods of improving student be-
5 havior;

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

10 “(6) be tied to scientifically based research dem-
11 onstrating the effectiveness of such professional devel-
12 opment activities or programs in increasing student
13 achievement or substantially increasing the knowledge
14 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 the
18 teacher’s performance in the classroom;

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

22 “(9) be designed to give teachers of limited
23 English proficient children, other teachers, and in-
24 structional staff the knowledge and skills to provide
25 instruction and appropriate language and academic

1 *support services to such children, including the ap-*
2 *propriate use of curriculum and academic assess-*
3 *ments;*

4 *“(10) to the extent appropriate, provide training*
5 *for teachers in the use of technology so that technology*
6 *and its applications are effectively used in the class-*
7 *room to improve teaching and learning in the cur-*
8 *riculum and academic content areas in which the*
9 *teachers provide instruction; and*

10 *“(11) as a whole, be regularly evaluated for their*
11 *impact on increased teacher effectiveness and im-*
12 *proved student achievement, with the findings of such*
13 *evaluations used to improve the quality of profes-*
14 *sional development.*

15 *“(c) ADDITIONAL PROFESSIONAL DEVELOPMENT AC-*
16 *TIVITIES.—Such professional development activities may*
17 *include—*

18 *“(1) instruction in the use of data and academic*
19 *assessments to inform and instruct classroom prac-*
20 *tice;*

21 *“(2) instruction in ways that teachers, prin-*
22 *cipals, pupil services personnel, and school adminis-*
23 *trators may work more effectively with parents;*

24 *“(3) the forming of partnerships with institu-*
25 *tions of higher education to establish school-based*

1 *teacher training programs that provide prospective*
2 *teachers and novice teachers with an opportunity to*
3 *work under the guidance of experienced teachers and*
4 *college faculty;*

5 *“(4) the creation of career ladder programs for*
6 *paraprofessionals (assisting teachers under this part)*
7 *to obtain the education necessary for such paraprofes-*
8 *sionals to become licensed and certified teachers; and*

9 *“(5) instruction in ways to teach special needs*
10 *children.*

11 *“(d) PROGRAM PARTICIPATION.—Each local edu-*
12 *cational agency receiving assistance under this part may*
13 *design professional development programs so that—*

14 *“(1) all school staff in schools participating in*
15 *a schoolwide program under section 1114 can partici-*
16 *pate in professional development activities; and*

17 *“(2) all school staff in targeted assistance schools*
18 *may participate in professional development activi-*
19 *ties if such participation will result in better address-*
20 *ing the needs of students served under this part.*

21 *“(e) PARENTAL PARTICIPATION.—Parents may par-*
22 *ticipate in professional development activities under this*
23 *part if the school determines that parental participation is*
24 *appropriate.*

1 *school officials, provide such children, on an equitable*
2 *basis, special educational services or other benefits*
3 *under this part (such as dual enrollment, educational*
4 *radio and television, computer equipment and mate-*
5 *rials, other technology, and mobile educational serv-*
6 *ices and equipment) that address their needs, and*
7 *shall ensure that teachers and families of these stu-*
8 *dents participate, on an equitable basis, in services*
9 *and activities developed pursuant to sections 1118*
10 *and 1119A.*

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

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

20 “(4) *EXPENDITURES.—Expenditures for edu-*
21 *cational services and other benefits to eligible private*
22 *school children shall be equal to the proportion of*
23 *funds allocated to participating school attendance*
24 *areas based on the number of children from low-in-*
25 *come families who attend private schools, which the*

1 *local educational agency may determine each year or*
2 *every 2 years.*

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

7 “(b) *CONSULTATION.*—

8 “(1) *IN GENERAL.*—*To ensure timely and mean-*
9 *ingful consultation, a local educational agency shall*
10 *consult with appropriate private school officials dur-*
11 *ing the design and development of such agency’s pro-*
12 *grams under this part, on issues such as—*

13 “(A) *how the children’s needs will be identi-*
14 *fied;*

15 “(B) *what services will be offered;*

16 “(C) *how, where, and by whom the services*
17 *will be provided;*

18 “(D) *how the services will be academically*
19 *assessed and how the results of that assessment*
20 *will be used to improve those services;*

21 “(E) *the size and scope of the equitable serv-*
22 *ices to be provided to the eligible private school*
23 *children, and the amount of funds generated by*
24 *low-income private school children in each par-*
25 *ticipating attendance area;*

1 “(F) the method or sources of data that are
2 used under subsection (a)(4) and section
3 1113(c)(2) to determine the number of children
4 from low-income families in participating school
5 attendance areas who attend private schools; and

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

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

18 “(2) TIMING.—Such consultation shall include
19 meetings of agency and private school officials and
20 shall occur before the local educational agency makes
21 any decision that affects the opportunities of eligible
22 private school children to participate in programs
23 under this part. Such meetings shall continue
24 throughout implementation and assessment of services
25 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 school*
9 *that the consultation required by this section has oc-*
10 *curred.*

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

21 “(c) *PUBLIC CONTROL OF FUNDS.*—

22 “(1) *IN GENERAL.*—*The control of funds pro-*
23 *vided under this part, and title to materials, equip-*
24 *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 provided—*

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

6 “(ii) *through contract by such public agency*
7 *with an individual, association, agency, or orga-*
8 *nization.*

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

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

22 “(1) *wave the requirements of this section for*
23 *such local educational agency;*

24 “(2) *arrange for the provision of services to such*
25 *children through arrangements that shall be subject to*

1 *the requirements of this section and sections 8505 and*
2 *8506; and*

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

7 *“(e) CAPITAL EXPENSES.—*

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

17 *“(B) The Secretary shall reallocate any amounts*
18 *allocated under subparagraph (A) that are not used*
19 *by a State for the purpose of this subsection to other*
20 *States on the basis of their respective needs, as deter-*
21 *mined by the Secretary.*

22 *“(2) CAPITAL EXPENSES.—(A) A local edu-*
23 *cational agency may apply to the State educational*
24 *agency for payments for capital expenses consistent*
25 *with this subsection.*

1 “(B) *State educational agencies shall distribute*
2 *such funds under this subsection to local educational*
3 *agencies based on the degree of need set forth in their*
4 *respective applications for assistance under this sub-*
5 *section.*

6 “(3) *USES OF FUNDS.—Any funds appropriated*
7 *to carry out this subsection shall be used only for cap-*
8 *ital expenses incurred to provide equitable services for*
9 *private school children under this section.*

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

11 “(a) *MAINTENANCE OF EFFORT.—A local educational*
12 *agency may receive funds under this part for any fiscal*
13 *year only if the State educational agency finds that the*
14 *local educational agency has maintained its fiscal effort in*
15 *accordance with section 8501 of this Act.*

16 “(b) *FEDERAL FUNDS TO SUPPLEMENT, NOT SUP-*
17 *PLANT, NON-FEDERAL FUNDS.—*

18 “(1) *IN GENERAL.—A State or local educational*
19 *agency shall use funds received under this part only*
20 *to supplement the amount of funds that would, in the*
21 *absence of such Federal funds, be made available from*
22 *non-Federal sources for the education of pupils par-*
23 *ticipating in programs assisted under this part, and*
24 *not to supplant such funds.*

1 “(2) *SPECIAL RULE.*—No local educational agen-
2 cy shall be required to provide services under this
3 part through a particular instructional method or in
4 a particular instructional setting in order to dem-
5 onstrate such agency’s compliance with paragraph
6 (1).

7 “(c) *COMPARABILITY OF SERVICES.*—

8 “(1) *IN GENERAL.*—(A) Except as provided in
9 paragraphs (4) and (5), a local educational agency
10 may receive funds under this part only if State and
11 local funds will be used in schools served under this
12 part to provide services that, taken as a whole, are at
13 least comparable to services in schools that are not re-
14 ceiving funds under this part.

15 “(B) If the local educational agency is serving
16 all of such agency’s schools under this part, such
17 agency may receive funds under this part only if such
18 agency will use State and local funds to provide serv-
19 ices that, taken as a whole, are substantially com-
20 parable in each school.

21 “(C) A local educational agency may meet the
22 requirements of subparagraphs (A) and (B) on a
23 grade-span by grade-span basis or a school-by-school
24 basis.

1 “(2) *WRITTEN ASSURANCE.—(A) A local edu-*
2 *cational agency shall be considered to have met the re-*
3 *quirements of paragraph (1) if such agency has filed*
4 *with the State educational agency a written assur-*
5 *ance that such agency has established and imple-*
6 *mented—*

7 “(i) *a local educational agency-wide salary*
8 *schedule;*

9 “(ii) *a policy to ensure equivalence among*
10 *schools in teachers, administrators, and other*
11 *staff; and*

12 “(iii) *a policy to ensure equivalence among*
13 *schools in the provision of curriculum materials*
14 *and instructional supplies.*

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

21 “(C) *A local educational agency need not include*
22 *unpredictable changes in student enrollment or per-*
23 *sonnel assignments that occur after the beginning of*
24 *a school year in determining comparability of services*
25 *under this subsection.*

1 “(3) *PROCEDURES AND RECORDS.*—*Each local*
2 *educational agency assisted under this part shall—*

3 “(A) *develop procedures for compliance with*
4 *this subsection; and*

5 “(B) *maintain records that are updated bi-*
6 *ennially documenting such agency’s compliance*
7 *with this subsection.*

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

11 “(5) *COMPLIANCE.*—*For the purpose of deter-*
12 *mining compliance with paragraph (1), a local edu-*
13 *cational agency may exclude State and local funds*
14 *expended for—*

15 “(A) *English language instruction for chil-*
16 *dren of limited English proficiency; and*

17 “(B) *excess costs of providing services to*
18 *children with disabilities as determined by the*
19 *local educational agency.*

20 “(d) *EXCLUSION OF FUNDS.*—*For the purpose of*
21 *complying with subsections (b) and (c), a State or local*
22 *educational agency may exclude supplemental State or*
23 *local funds expended in any school attendance area or*
24 *school for programs that meet the intent and purposes of*
25 *this part.*

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

2 “(a) *IN GENERAL.*—Each local educational agency re-
3 ceiving assistance under this part shall carry out the activi-
4 ties described in subsection (b) with Head Start Agencies,
5 and if feasible, other early childhood development programs
6 such as *Early Reading First*.

7 “(b) *ACTIVITIES.*—The activities referred to in sub-
8 section (a) are activities that increase coordination between
9 the local educational agency and a Head Start agency, and,
10 if feasible, other early childhood development programs,
11 such as *Early Reading First* serving children who will at-
12 tend the schools of such agency, including—

13 “(1) *developing and implementing a systematic*
14 *procedure for receiving records regarding such chil-*
15 *dren transferred with parental consent from a Head*
16 *Start program or, where applicable, other early child-*
17 *hood development programs such as Early Reading*
18 *First;*

19 “(2) *establishing channels of communication be-*
20 *tween school staff and their counterparts in such*
21 *Head Start agencies (including teachers, social work-*
22 *ers, and health staff) or other early childhood develop-*
23 *ment programs such as Early Reading First, as ap-*
24 *propriate, to facilitate coordination of programs;*

25 “(3) *conducting meetings involving parents, kin-*
26 *dergarten or elementary school teachers, and Head*

1 *Start teachers or, if appropriate, teachers from other*
 2 *early childhood development programs such as Early*
 3 *Reading First, to discuss the developmental and other*
 4 *needs of individual children;*

5 “(4) *organizing and participating in joint tran-*
 6 *sition related training of school staff, Head Start*
 7 *staff, Early Reading First staff and, where appro-*
 8 *priate, other early childhood staff; and*

9 “(5) *linking the educational services provided in*
 10 *such local educational agency with the services pro-*
 11 *vided in local Head Start agencies and Early Read-*
 12 *ing First programs.*

13 “(c) *COORDINATION OF REGULATIONS.—The Secretary*
 14 *shall work with the Secretary of Health and Human Serv-*
 15 *ices to coordinate regulations promulgated under this part*
 16 *with regulations promulgated under the Head Start Act.*

17 **“Subpart 2—Allocations**

18 **“SEC. 1121. GRANTS FOR THE OUTLYING AREAS AND THE**
 19 **SECRETARY OF THE INTERIOR.**

20 “(a) *RESERVATION OF FUNDS.—From the amount ap-*
 21 *propriated for payments to States for any fiscal year under*
 22 *section 1002(a), the Secretary shall reserve a total of 1 per-*
 23 *cent to provide assistance to—*

24 “(1) *the outlying areas in the amount deter-*
 25 *mined in accordance with subsection (b); and*

1 “(2) *the Secretary of the Interior in the amount*
2 *necessary to make payments pursuant to subsection*
3 *(d).*

4 “(b) *ASSISTANCE TO OUTLYING AREAS.—*

5 “(1) *FUNDS RESERVED.—From the amount*
6 *made available for any fiscal year under subsection*
7 *(a), the Secretary shall award grants to the outlying*
8 *areas.*

9 “(2) *COMPETITIVE GRANTS.—For each of fiscal*
10 *years 2002 and 2003, the Secretary shall carry out*
11 *the competition described in paragraph (3), except*
12 *that the amount reserved to carry out such competi-*
13 *tion shall not exceed the amount reserved under this*
14 *section for the freely associated states for fiscal year*
15 *1999.*

16 “(3) *LIMITATION FOR COMPETITIVE GRANTS.—*

17 “(A) *COMPETITIVE GRANTS.—The Secretary*
18 *shall use funds described in paragraph (2) to*
19 *award grants, on a competitive basis, to the out-*
20 *lying areas and freely associated States to carry*
21 *out the purposes of this part.*

22 “(B) *AWARD BASIS.—The Secretary shall*
23 *award grants under subparagraph (A) on a com-*
24 *petitive basis, pursuant to the recommendations*

1 *of the Pacific Region Educational Laboratory in*
2 *Honolulu, Hawaii.*

3 “(C) *ADMINISTRATIVE COSTS.*—*The Sec-*
4 *retary may provide not more than 5 percent of*
5 *the amount reserved for grants under this para-*
6 *graph to pay the administrative costs of the Pa-*
7 *cific Region Educational Laboratory under sub-*
8 *paragraph (B).*

9 “(4) *SPECIAL RULE.*—*The provisions of Public*
10 *Law 95–134, permitting the consolidation of grants*
11 *by the outlying areas, shall not apply to funds pro-*
12 *vided to the freely associated States under this sec-*
13 *tion.*

14 “(c) *DEFINITIONS.*—*For the purposes of subsections*
15 *(a) and (b)—*

16 “(1) *the term ‘freely associated States’ means the*
17 *Republic of the Marshall Islands, the Federated States*
18 *of Micronesia, and the Republic of Palau; and*

19 “(2) *the term ‘outlying area’ means the United*
20 *States Virgin Islands, Guam, American Samoa, and*
21 *the Commonwealth of the Northern Mariana Islands.*

22 “(d) *ALLOTMENT TO THE SECRETARY OF THE INTE-*
23 *RIOR.*—

24 “(1) *IN GENERAL.*—*The amount allotted for pay-*
25 *ments to the Secretary of the Interior under sub-*

1 *section (a)(2) for any fiscal year shall be, as deter-*
2 *mined pursuant to criteria established by the Sec-*
3 *retary, the amount necessary to meet the special edu-*
4 *cational needs of—*

5 *“(A) Indian children on reservations served*
6 *by elementary and secondary schools for Indian*
7 *children operated or supported by the Depart-*
8 *ment of the Interior; and*

9 *“(B) out-of-State Indian children in ele-*
10 *mentary and secondary schools in local edu-*
11 *cational agencies under special contracts with*
12 *the Department of the Interior.*

13 *“(2) PAYMENTS.—From the amount allotted for*
14 *payments to the Secretary of the Interior under sub-*
15 *section (a)(2), the Secretary of the Interior shall make*
16 *payments to local educational agencies, upon such*
17 *terms as the Secretary determines will best carry out*
18 *the purposes of this part, with respect to out-of-State*
19 *Indian children described in paragraph (1). The*
20 *amount of such payment may not exceed, for each*
21 *such child, the greater of—*

22 *“(A) 40 percent of the average per-pupil ex-*
23 *penditure in the State in which the agency is lo-*
24 *cated; or*

1 “(B) 48 percent of such expenditure in the
2 United States.

3 **“SEC. 1122. AMOUNTS FOR BASIC GRANTS, CONCENTRA-**
4 **TION GRANTS, AND TARGETED GRANTS.**

5 “(a) *ALLOCATION FORMULA.*—Of the amount appro-
6 *propriated to carry out this part for each of fiscal years 2002*
7 *through 2006 (referred to in this subsection as the current*
8 *fiscal year)—*

9 “(1) *an amount equal to the amount appro-*
10 *propriated to carry out section 1124 for fiscal year 2001*
11 *shall be allocated in accordance with section 1124;*

12 “(2) *an amount equal to the amount appro-*
13 *propriated to carry out section 1124A for fiscal year*
14 *2001 shall be allocated in accordance with section*
15 *1124A; and*

16 “(3) *an amount equal to 100 percent of the*
17 *amount, if any, by which the amount appropriated*
18 *under section 1002(a) for the current fiscal year ex-*
19 *ceeds the amount appropriated under such section for*
20 *fiscal year 2001 shall be allocated in accordance with*
21 *section 1125.*

22 “(b) *ADJUSTMENTS WHERE NECESSITATED BY AP-*
23 *PROPRIATIONS.—*

24 “(1) *IN GENERAL.*—*If the sums available under*
25 *this part for any fiscal year are insufficient to pay*

1 *the full amounts that all local educational agencies in*
2 *States are eligible to receive under sections 1124,*
3 *1124A, and 1125 for such year, the Secretary shall*
4 *ratably reduce the allocations to such local edu-*
5 *cational agencies, subject to subsections (c) and (d) of*
6 *this section.*

7 “(2) *ADDITIONAL FUNDS.—If additional funds*
8 *become available for making payments under sections*
9 *1124, 1124A, and 1125 for such fiscal year, alloca-*
10 *tions that were reduced under paragraph (1) shall be*
11 *increased on the same basis as they were reduced.*

12 “(c) *HOLD-HARMLESS AMOUNTS.—*

13 “(1) *AMOUNTS FOR SECTIONS 1124 AND 1125.—*
14 *For each fiscal year, the amount made available to*
15 *each local educational agency under each of sections*
16 *1124 and 1125 shall be—*

17 “(A) *not less than 95 percent of the amount*
18 *made available in the preceding fiscal year if the*
19 *number of children counted for grants under sec-*
20 *tion 1124 is not less than 30 percent of the total*
21 *number of children aged 5 to 17 years, inclusive,*
22 *in the local educational agency;*

23 “(B) *not less than 90 percent of the amount*
24 *made available in the preceding fiscal year if the*

1 percentage described in subparagraph (A) is be-
2 tween 15 percent and 30 percent; and

3 “(C) not less than 85 percent of the amount
4 made available in the preceding fiscal year if the
5 percentage described in subparagraph (A) is
6 below 15 percent.

7 “(2) AMOUNT FOR SECTION 1124A.—The amount
8 made available to each local educational agency
9 under section 1124A shall be not less than 85 percent
10 of the amount made available in the preceding fiscal
11 year.

12 “(3) PAYMENTS.—If sufficient funds are appro-
13 priated, the amounts described in paragraph (2) shall
14 be paid to all local educational agencies that received
15 grants under section 1124A for the preceding fiscal
16 year, regardless of whether the local educational agen-
17 cy meets the minimum eligibility criteria for that fis-
18 cal year provided in section 1124A(a)(1)(A) except
19 that a local educational agency that does not meet
20 such minimum eligibility criteria for 4 consecutive
21 years shall no longer be eligible to receive a hold
22 harmless amount referred to in paragraph (2).

23 “(4) POPULATION DATA.—In any fiscal year for
24 which the Secretary calculates grants on the basis of
25 population data for counties, the Secretary shall

1 *apply the hold harmless percentages in paragraphs*
2 *(1) and (2) to counties, and if the Secretary’s alloca-*
3 *tion for a county is not sufficient to meet the hold-*
4 *harmless requirements of this subsection for every*
5 *local educational agency within that county, the State*
6 *educational agency shall reallocate funds proportion-*
7 *ately from all other local educational agencies in the*
8 *State that are receiving funds in excess of the hold*
9 *harmless amounts specified in this subsection.*

10 “(d) *RATABLE REDUCTIONS.*—

11 “(1) *IN GENERAL.*—*If the sums made available*
12 *under this part for any fiscal year are insufficient to*
13 *pay the full amounts that all States are eligible to re-*
14 *ceive under subsection (c) for such year, the Secretary*
15 *shall ratably reduce such amounts for such year.*

16 “(2) *ADDITIONAL FUNDS.*—*If additional funds*
17 *become available for making payments under sub-*
18 *section (c) for such fiscal year, amounts that were re-*
19 *duced under paragraph (1) shall be increased on the*
20 *same basis as such amounts were reduced.*

21 “(e) *DEFINITION.*—*For the purpose of this section and*
22 *sections 1124, 1124A, and 1125, the term ‘State’ means*
23 *each of the 50 States, the District of Columbia, and the*
24 *Commonwealth of Puerto Rico.*

1 **“SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGEN-**
2 **CIES.**

3 *“(a) AMOUNT OF GRANTS.—*

4 *“(1) GRANTS FOR LOCAL EDUCATIONAL AGEN-*
5 *CIES AND PUERTO RICO.—Except as provided in*
6 *paragraph (4) and in section 1126, the grant that a*
7 *local educational agency is eligible to receive under*
8 *this section for a fiscal year is the amount determined*
9 *by multiplying—*

10 *“(A) the number of children counted under*
11 *subsection (c); and*

12 *“(B) 40 percent of the average per-pupil ex-*
13 *penditure in the State, except that the amount*
14 *determined under this subparagraph shall not be*
15 *less than 32 percent or more than 48 percent, of*
16 *the average per-pupil expenditure in the United*
17 *States.*

18 *“(2) CALCULATION OF GRANTS.—*

19 *“(A) ALLOCATIONS TO LOCAL EDUCATIONAL*
20 *AGENCIES.—The Secretary shall calculate grants*
21 *under this section on the basis of the number of*
22 *children counted under subsection (c) for local*
23 *educational agencies, unless the Secretary and*
24 *the Secretary of Commerce determine that some*
25 *or all of those data are unreliable or that their*

1 *use would be otherwise inappropriate, in which*
2 *case—*

3 *“(i) the 2 Secretaries shall publicly*
4 *disclose the reasons for their determination*
5 *in detail; and*

6 *“(ii) paragraph (3) shall apply.*

7 *“(B) ALLOCATIONS TO LARGE AND SMALL*
8 *LOCAL EDUCATIONAL AGENCIES.—(i) For any*
9 *fiscal year in which this paragraph applies, the*
10 *Secretary shall calculate grants under this sec-*
11 *tion for each local educational agency.*

12 *“(ii) The amount of a grant under this sec-*
13 *tion for each large local educational agency shall*
14 *be the amount determined under clause (i).*

15 *“(iii) For small local educational agencies,*
16 *the State educational agency may either—*

17 *“(I) distribute grants under this sec-*
18 *tion in amounts determined by the Sec-*
19 *retary under clause (i); or*

20 *“(II) use an alternative method ap-*
21 *proved by the Secretary to distribute the*
22 *portion of the State’s total grants under this*
23 *section that is based on those small agen-*
24 *cies.*

1 “(iv) *An alternative method under clause*
2 *(iii)(II) shall be based on population data that*
3 *the State educational agency determines best re-*
4 *fect the current distribution of children in poor*
5 *families among the State’s small local edu-*
6 *cational agencies that meet the eligibility criteria*
7 *of subsection (b).*

8 “(v) *If a small local educational agency is*
9 *dissatisfied with the determination of its grant*
10 *by the State educational agency under clause*
11 *(iii)(II), it may appeal that determination to the*
12 *Secretary, who shall respond not later than 45*
13 *days after receipt of such appeal.*

14 “(vi) *As used in this subparagraph—*

15 “(I) *the term ‘large local educational*
16 *agency’ means a local educational agency*
17 *serving an area with a total population of*
18 *20,000 or more; and*

19 “(II) *the term ‘small local educational*
20 *agency’ means a local educational agency*
21 *serving an area with a total population of*
22 *less than 20,000.*

23 “(3) *ALLOCATIONS TO COUNTIES.—*

24 “(A) *CALCULATION.—For any fiscal year to*
25 *which this paragraph applies, the Secretary shall*

1 *calculate grants under this section on the basis*
2 *of the number of children counted under section*
3 *1124(c) for counties, and State educational agen-*
4 *cies shall suballocate county amounts to local*
5 *educational agencies, in accordance with regula-*
6 *tions issued by the Secretary.*

7 “(B) *DIRECT ALLOCATIONS.*—*In any State*
8 *in which a large number of local educational*
9 *agencies overlap county boundaries, or for which*
10 *the State believes it has data that would better*
11 *target funds than allocating them by county, the*
12 *State educational agency may apply to the Sec-*
13 *retary for authority to make the allocations*
14 *under this part for a particular fiscal year di-*
15 *rectly to local educational agencies without re-*
16 *gard to counties.*

17 “(C) *ASSURANCES.*—*If the Secretary ap-*
18 *proves the State educational agency’s application*
19 *under subparagraph (B), the State educational*
20 *agency shall provide the Secretary an assurance*
21 *that such allocations shall be made—*

22 “(i) *using precisely the same factors*
23 *for determining a grant as are used under*
24 *this part; or*

1 “(ii) using data that the State edu-
2 cational agency submits to the Secretary for
3 approval that more accurately target pov-
4 erty.

5 “(D) APPEAL.—The State educational agen-
6 cy shall provide the Secretary an assurance that
7 it shall establish a procedure through which a
8 local educational agency that is dissatisfied with
9 its determinations under subparagraph (B) may
10 appeal directly to the Secretary for a final deter-
11 mination.

12 “(4) PUERTO RICO.—

13 “(A) IN GENERAL.—For each fiscal year,
14 the grant which the Commonwealth of Puerto
15 Rico shall be eligible to receive under this section
16 shall be the amount determined by multiplying
17 the number of children counted under subsection
18 (c) for the Commonwealth of Puerto Rico by the
19 product of—

20 “(i) the percentage which the average
21 per-pupil expenditure in the Commonwealth
22 of Puerto Rico is of the lowest average per-
23 pupil expenditure of any of the 50 States;
24 and

1 “(ii) 32 percent of the average per-
2 pupil expenditure in the United States.

3 “(B) *MINIMUM PERCENTAGE.*—The percent-
4 age in subparagraph (A)(i) shall not be less
5 than—

6 “(i) for fiscal year 2002, 77.5 percent;

7 “(ii) for fiscal year 2003, 80.0 percent;

8 “(iii) for fiscal year 2004, 82.5 per-
9 cent; and

10 “(iv) for fiscal year 2005 and suc-
11 ceeding fiscal years, 85.0 percent.

12 “(C) *LIMITATION.*—If the application of
13 subparagraph (B) would result in any of the 50
14 States or the District of Columbia receiving less
15 under this part than it received under this part
16 for the preceding fiscal year, the percentage in
17 subparagraph (A) shall be the greater of the per-
18 centage in subparagraph (A)(i) or the percentage
19 used for the preceding fiscal year.

20 “(5) *DEFINITION.*—For purposes of this sub-
21 section, the term ‘State’ does not include Guam,
22 American Samoa, the Virgin Islands, and the North-
23 ern Mariana Islands.

24 “(b) *MINIMUM NUMBER OF CHILDREN TO QUALIFY.*—
25 A local educational agency is eligible for a basic grant

1 *under this section for any fiscal year only if the number*
2 *of children counted under subsection (c) for that agency is*
3 *both—*

4 “(1) 10 or more; and

5 “(2) more than 2 percent of the total school-age
6 *population in the agency’s jurisdiction.*

7 “(c) *CHILDREN TO BE COUNTED.—*

8 “(1) *CATEGORIES OF CHILDREN.—The number*
9 *of children to be counted for purposes of this section*
10 *is the aggregate of—*

11 “(A) *the number of children aged 5 to 17,*
12 *inclusive, in the school district of the local edu-*
13 *cational agency from families below the poverty*
14 *level as determined under paragraph (2);*

15 “(B) *the number of children (determined*
16 *under paragraph (4) for either the preceding*
17 *year as described in that paragraph, or for the*
18 *second preceding year, as the Secretary finds ap-*
19 *propriate) aged 5 to 17, inclusive, in the school*
20 *district of such agency in institutions for ne-*
21 *glected and delinquent children (other than such*
22 *institutions operated by the United States), but*
23 *not counted pursuant to subpart 1 of part D for*
24 *the purposes of a grant to a State agency, or*

1 *being supported in foster homes with public*
2 *funds; and*

3 “(C) *the number of children aged 5 to 17,*
4 *inclusive, in the school district of such agency*
5 *from families above the poverty level as deter-*
6 *mined under paragraph (4).*

7 “(2) *DETERMINATION OF NUMBER OF CHIL-*
8 *DREN.—For the purposes of this section, the Secretary*
9 *shall determine the number of children aged 5 to 17,*
10 *inclusive, from families below the poverty level on the*
11 *basis of the most recent satisfactory data, described in*
12 *paragraph (3), available from the Department of*
13 *Commerce. The District of Columbia and the Com-*
14 *monwealth of Puerto Rico shall be treated as indi-*
15 *vidual local educational agencies. If a local edu-*
16 *cational agency contains 2 or more counties in their*
17 *entirety, then each county will be treated as if such*
18 *county were a separate local educational agency for*
19 *purposes of calculating grants under this part. The*
20 *total of grants for such counties shall be allocated to*
21 *such a local educational agency, which local edu-*
22 *cational agency shall distribute to schools in each*
23 *county within such agency a share of the local edu-*
24 *cational agency’s total grant that is no less than the*

1 *county's share of the population counts used to cal-*
2 *culate the local educational agency's grant.*

3 *“(3) POPULATION UPDATES.—In fiscal year*
4 *2001 and every 2 years thereafter, the Secretary shall*
5 *use updated data on the number of children, aged 5*
6 *to 17, inclusive, from families below the poverty level*
7 *for local educational agencies or counties, published*
8 *by the Department of Commerce, unless the Secretary*
9 *and the Secretary of Commerce determine that use of*
10 *the updated population data would be inappropriate*
11 *or unreliable. If the Secretary and the Secretary of*
12 *Commerce determine that some or all of the data re-*
13 *ferred to in this paragraph are inappropriate or un-*
14 *reliable, they shall publicly disclose their reasons. In*
15 *determining the families which are below the poverty*
16 *level, the Secretary shall utilize the criteria of poverty*
17 *used by the Bureau of the Census in compiling the*
18 *most recent decennial census, in such form as those*
19 *criteria have been updated by increases in the Con-*
20 *sumer Price Index for all urban consumers, published*
21 *by the Bureau of Labor Statistics.*

22 *“(4) OTHER CHILDREN TO BE COUNTED.—For*
23 *the purposes of this section, the Secretary shall deter-*
24 *mine the number of children aged 5 to 17, inclusive,*
25 *from families above the poverty level on the basis of*

1 *the number of such children from families receiving*
2 *an annual income, in excess of the current criteria of*
3 *poverty, from payments under a State program fund-*
4 *ed under part A of title IV of the Social Security Act;*
5 *and in making such determinations the Secretary*
6 *shall utilize the criteria of poverty used by the Bu-*
7 *reau of the Census in compiling the most recent de-*
8 *cennial census for a family of 4 in such form as those*
9 *criteria have been updated by increases in the Con-*
10 *sumer Price Index for all urban consumers, published*
11 *by the Bureau of Labor Statistics. The Secretary shall*
12 *determine the number of such children and the num-*
13 *ber of children aged 5 through 17 living in institu-*
14 *tions for neglected or delinquent children, or being*
15 *supported in foster homes with public funds, on the*
16 *basis of the caseload data for the month of October of*
17 *the preceding fiscal year (using, in the case of chil-*
18 *dren described in the preceding sentence, the criteria*
19 *of poverty and the form of such criteria required by*
20 *such sentence which were determined for the calendar*
21 *year preceding such month of October) or, to the ex-*
22 *tent that such data are not available to the Secretary*
23 *before January of the calendar year in which the Sec-*
24 *retary's determination is made, then on the basis of*
25 *the most recent reliable data available to the Sec-*

1 *retary at the time of such determination. The Sec-*
2 *retary of Health and Human Services shall collect*
3 *and transmit the information required by this sub-*
4 *paragraph to the Secretary not later than January 1*
5 *of each year. For the purpose of this section, the Sec-*
6 *retary shall consider all children who are in correc-*
7 *tional institutions to be living in institutions for de-*
8 *linquent children.*

9 *“(5) ESTIMATE.—When requested by the Sec-*
10 *retary, the Secretary of Commerce shall make a spe-*
11 *cial updated estimate of the number of children of*
12 *such ages who are from families below the poverty*
13 *level (as determined under subparagraph (A) of this*
14 *paragraph) in each school district, and the Secretary*
15 *is authorized to pay (either in advance or by way of*
16 *reimbursement) the Secretary of Commerce the cost of*
17 *making this special estimate. The Secretary of Com-*
18 *merce shall give consideration to any request of the*
19 *chief executive of a State for the collection of addi-*
20 *tional census information.*

21 *“(d) STATE MINIMUM.—Notwithstanding section 1122,*
22 *the aggregate amount allotted for all local educational agen-*
23 *cies within a State may not be less than the lesser of—*

24 *“(1) 0.25 percent of total grants under this sec-*
25 *tion; or*

1 “(2) the average of—

2 “(A) one-quarter of 1 percent of the total
3 amount available for such fiscal year under this
4 section; and

5 “(B) the number of children in such State
6 counted under subsection (c) in the fiscal year
7 multiplied by 150 percent of the national aver-
8 age per-pupil payment made with funds avail-
9 able under this section for that year.

10 **“SEC. 1124A. CONCENTRATION GRANTS TO LOCAL EDU-**
11 **CATIONAL AGENCIES.**

12 “(a) *ELIGIBILITY FOR AND AMOUNT OF GRANTS.*—

13 “(1) *IN GENERAL.*—(A) *Except as otherwise pro-*
14 *vided in this paragraph, each local educational agen-*
15 *cy, in a State other than Guam, American Samoa,*
16 *the Virgin Islands, and the Commonwealth of the*
17 *Northern Mariana Islands, which is eligible for a*
18 *grant under section 1124 for any fiscal year is eligi-*
19 *ble for an additional grant under this section for that*
20 *fiscal year if the number of children counted under*
21 *section 1124(c) in the agency exceeds either—*

22 “(i) 6,500; or

23 “(ii) 15 percent of the total number of chil-
24 dren aged 5 through 17 in the agency.

1 “(B) Notwithstanding section 1122, no State de-
2 scribed in subparagraph (A) shall receive less than the
3 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 this
13 section in that fiscal year multiplied
14 by 150 percent of the national average
15 per-pupil payment made with funds
16 available under this section for that
17 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(c) for that fiscal year; and

24 “(B) the quotient resulting from the divi-
25 sion of the amount determined for those agencies

1 *under section 1124(a)(1) for the fiscal year for*
2 *which the determination is being made divided*
3 *by the total number of children counted under*
4 *section 1124(c) for that agency for that fiscal*
5 *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 for*
14 *all local educational agencies in the United States for*
15 *that fiscal year.*

16 “(4) *LOCAL ALLOCATIONS.*—(A) *Grant amounts*
17 *under this section shall be determined in accordance*
18 *with section 1124(a)(2) and (3).*

19 “(B) *For any fiscal year for which the Secretary*
20 *allocates funds under this section on the basis of coun-*
21 *ties, a State may reserve not more than 2 percent of*
22 *its allocation under this section to make grants to*
23 *local educational agencies that meet the criteria of*
24 *paragraph (1)(A)(i) or (ii) and are in ineligible*
25 *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 and*
9 *numbers of children counted under section 1124(c),*
10 *except that only those local educational agencies with*
11 *concentrations or numbers of children counted under*
12 *section 1124(c) that exceed the statewide average per-*
13 *centage of such children or the statewide average*
14 *number of such children shall receive any funds on*
15 *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 agen-
22 cy counted under subsection 1124(c), before application of
23 the weighting factor described in subsection (c), is at least
24 10, and if the number of children counted for grants under
25 section 1124 is at least 5 percent of the total population

1 *aged 5 to 17 years, inclusive, in the local educational agen-*
2 *cy. For each fiscal year for which the Secretary uses county*
3 *population data to calculate grants, funds made available*
4 *as a result of applying this subsection shall be reallocated*
5 *by the State educational agency to other eligible local edu-*
6 *cational agencies in the State in proportion to the distribu-*
7 *tion of other funds under this section.*

8 “(b) *GRANTS FOR LOCAL EDUCATIONAL AGENCIES,*
9 *THE DISTRICT OF COLUMBIA, AND PUERTO RICO.—*

10 “(1) *IN GENERAL.—The amount of the grant*
11 *that a local educational agency in a State or that the*
12 *District of Columbia is eligible to receive under this*
13 *section for any fiscal year shall be the product of—*

14 “(A) *the weighted child count determined*
15 *under subsection (c); and*

16 “(B) *the amount in paragraph*
17 *1124(a)(1)(B).*

18 “(2) *PUERTO RICO.—For each fiscal year, the*
19 *amount of the grant for which the Commonwealth of*
20 *Puerto Rico is eligible under this section shall be*
21 *equal to the number of children counted under sub-*
22 *section (c) for Puerto Rico, multiplied by the amount*
23 *determined in subparagraph 1124(a)(4).*

24 “(c) *WEIGHTED CHILD COUNT.—*

1 “(1) *WEIGHTS FOR ALLOCATIONS TO COUN-*
2 *TIES.—*

3 “(A) *IN GENERAL.—For each fiscal year for*
4 *which the Secretary uses county population data*
5 *to calculate grants, the weighted child count used*
6 *to determine a county’s allocation under this sec-*
7 *tion is the larger of the 2 amounts determined*
8 *under clause (i) or (ii), as follows:*

9 “(i) *BY PERCENTAGE OF CHILDREN.—*
10 *This amount is determined by adding—*

11 “(I) *the number of children deter-*
12 *mined under section 1124(c) for that*
13 *county constituting up to 15 percent,*
14 *inclusive, of the county’s total popu-*
15 *lation aged 5 to 17, inclusive, multi-*
16 *plied by 1.0;*

17 “(II) *the number of such children*
18 *constituting more than 15 percent, but*
19 *not more than 19 percent, of such popu-*
20 *lation, multiplied by 1.75;*

21 “(III) *the number of such children*
22 *constituting more than 19 percent, but*
23 *not more than 24.20 percent, of such*
24 *population, multiplied by 2.5;*

1 “(IV) the number of such children
2 constituting more than 24.20 percent,
3 but not more than 29.20 percent, of
4 such population, multiplied by 3.25;
5 and

6 “(V) the number of such children
7 constituting more than 29.20 percent of
8 such population, multiplied by 4.0.

9 “(ii) *BY NUMBER OF CHILDREN.*—This
10 amount is determined by adding—

11 “(I) the number of children deter-
12 mined under section 1124(c) consti-
13 tuting up to 2,311, inclusive, of the
14 county’s total population aged 5 to 17,
15 inclusive, multiplied by 1.0;

16 “(II) the number of such children
17 between 2,312 and 7,913, inclusive, in
18 such population, multiplied by 1.5;

19 “(III) the number of such children
20 between 7,914 and 23,917, inclusive, in
21 such population, multiplied by 2.0;

22 “(IV) the number of such children
23 between 23,918 and 93,810, inclusive,
24 in such population, multiplied by 2.5;
25 and

1 “(V) *the number of such children*
2 *in excess of 93,811 in such population,*
3 *multiplied by 3.0.*

4 “(B) *PUERTO RICO.—Notwithstanding sub-*
5 *paragraph (A), the weighted child count for*
6 *Puerto Rico under this paragraph shall not be*
7 *greater than the total number of children counted*
8 *under subsection 1124(c) multiplied by 1.72.*

9 “(2) *WEIGHTS FOR ALLOCATIONS TO LOCAL EDU-*
10 *CATIONAL AGENCIES.—*

11 “(A) *IN GENERAL.—For each fiscal year for*
12 *which the Secretary uses local educational agen-*
13 *cy data, the weighted child count used to deter-*
14 *mine a local educational agency’s grant under*
15 *this section is the larger of the 2 amounts deter-*
16 *mined under clauses (i) and (ii), as follows:*

17 “(i) *BY PERCENTAGE OF CHILDREN.—*

18 *This amount is determined by adding—*

19 “(I) *the number of children deter-*
20 *mined under section 1124(c) for that*
21 *local educational agency constituting*
22 *up to 15.233 percent, inclusive, of the*
23 *agency’s total population aged 5 to 17,*
24 *inclusive, multiplied by 1.0;*

1 “(II) the number of such children
2 constituting more than 15.233 percent,
3 but not more than 22.706 percent, of
4 such population, multiplied by 1.75;

5 “(III) the number of such children
6 constituting more than 22.706 percent,
7 but not more than 32.213 percent, of
8 such population, multiplied by 2.5;

9 “(IV) the number of such children
10 constituting more than 32.213 percent,
11 but not more than 41.452 percent, of
12 such population, multiplied by 3.25;
13 and

14 “(V) the number of such children
15 constituting more than 41.452 percent
16 of such population, multiplied by 4.0.

17 “(ii) *BY NUMBER OF CHILDREN.*—This
18 amount is determined by adding—

19 “(I) the number of children deter-
20 mined under section 1124(c) consti-
21 tuting up to 710, inclusive, of the
22 agency’s total population aged 5 to 17,
23 inclusive, multiplied by 1.0;

1 “(II) the number of such children
2 between 711 and 2,384, inclusive, in
3 such population, multiplied by 1.5;

4 “(III) the number of such children
5 between 2,385 and 9,645, inclusive, in
6 such population, multiplied by 2.0;

7 “(IV) the number of such children
8 between 9,646 and 54,600, inclusive, in
9 such population, multiplied by 2.5;
10 and

11 “(V) the number of such children
12 in excess of 54,601 in such population,
13 multiplied by 3.0.

14 “(B) PUERTO RICO.—Notwithstanding sub-
15 paragraph (A), the weighted child count for
16 Puerto Rico under this paragraph shall not be
17 greater than the total number of children counted
18 under section 1124(c) multiplied by 1.72.

19 “(d) CALCULATION OF GRANT AMOUNTS.—Grants
20 under this section shall be calculated in accordance with
21 section 1124(a)(2) and (3).

22 “(e) STATE MINIMUM.—Notwithstanding any other
23 provision of this section or section 1122, from the total
24 amount available for any fiscal year to carry out this sec-
25 tion, each State shall be allotted at least the lesser of—

1 “(1) 0.25 percent of total appropriations; or

2 “(2) the average of—

3 “(A) one-quarter of 1 percent of the total
4 amount available to carry out this section; and

5 “(B) 150 percent of the national average
6 grant under this section per child described in
7 section 1124(c), without application of a
8 weighting factor, multiplied by the State’s total
9 number of children described in section 1124(c),
10 without application of a weighting factor.

11 **“SEC. 1126. SPECIAL ALLOCATION PROCEDURES.**

12 “(a) *ALLOCATIONS FOR NEGLECTED CHILDREN.*—

13 “(1) *IN GENERAL.*—If a State educational agen-
14 cy determines that a local educational agency in the
15 State is unable or unwilling to provide for the special
16 educational needs of children who are living in insti-
17 tutions for neglected children as described in subpara-
18 graph (B) of section 1124(c)(1), the State educational
19 agency shall, if such agency assumes responsibility for
20 the special educational needs of such children, receive
21 the portion of such local educational agency’s alloca-
22 tion under sections 1124, 1124A, and 1125 that is at-
23 tributable to such children.

24 “(2) *SPECIAL RULE.*—If the State educational
25 agency does not assume such responsibility, any other

1 *State or local public agency that does assume such re-*
2 *ponsibility shall receive that portion of the local edu-*
3 *cational agency's allocation.*

4 *“(b) ALLOCATIONS AMONG LOCAL EDUCATIONAL*
5 *AGENCIES.—The State educational agency may allocate the*
6 *amounts of grants under sections 1124, 1124A, and 1125*
7 *among the affected local educational agencies—*

8 *“(1) if 2 or more local educational agencies*
9 *serve, in whole or in part, the same geographical*
10 *area;*

11 *“(2) if a local educational agency provides free*
12 *public education for children who reside in the school*
13 *district of another local educational agency; or*

14 *“(3) to reflect the merger, creation, or change of*
15 *boundaries of 1 or more local educational agencies.*

16 *“(c) REALLOCATION.—If a State educational agency*
17 *determines that the amount of a grant a local educational*
18 *agency would receive under sections 1124, 1124A, and 1125*
19 *is more than such local agency will use, the State edu-*
20 *cational agency shall make the excess amount available to*
21 *other local educational agencies in the State that need addi-*
22 *tional funds in accordance with criteria established by the*
23 *State educational agency.*

1 **“SEC. 1127. CARRYOVER AND WAIVER.**

2 “(a) *LIMITATION ON CARRYOVER.*—Notwithstanding
3 *section 421 of the General Education Provisions Act or any*
4 *other provision of law, not more than 15 percent of the*
5 *funds allocated to a local educational agency for any fiscal*
6 *year under this subpart (but not including funds received*
7 *through any reallocation under this subpart) may remain*
8 *available for obligation by such agency for 1 additional fis-*
9 *cal year.*

10 “(b) *WAIVER.*—A State educational agency may, once
11 *every 3 years, waive the percentage limitation in subsection*
12 *(a) if—*

13 “(1) *the agency determines that the request of a*
14 *local educational agency is reasonable and necessary;*
15 *or*

16 “(2) *supplemental appropriations for this sub-*
17 *part become available.*

18 “(c) *EXCLUSION.*—The percentage limitation under
19 *subsection (a) shall not apply to any local educational*
20 *agency that receives less than \$50,000 under this subpart*
21 *for any fiscal year.*

22 **“SEC. 1128. SECULAR, NEUTRAL, AND NONIDEOLOGICAL.**

23 “Any school that receives funds under this part shall
24 *ensure that educational services or other benefits provided*
25 *under this part, including materials and equipment, shall*
26 *be secular, neutral, and nonideological.”.*

1 **PART B—STUDENT READING SKILLS**
2 **IMPROVEMENT GRANTS**

3 **SEC. 111. READING FIRST; EARLY READING FIRST.**

4 *Part B of title I (20 U.S.C. 6361 et seq.) is amended—*

5 (1) *by striking the part heading and inserting*
6 *the following:*

7 **“PART B—STUDENT READING SKILLS**
8 **IMPROVEMENT GRANTS”;**

9 (2) *by redesignating sections 1201 through 1212*
10 *as sections 1231 through 1242, respectively; and*

11 (3) *by inserting after the part heading the fol-*
12 *lowing:*

13 **“Subpart 1—Reading First**

14 **“SEC. 1201. FINDINGS.**

15 *“The Congress finds as follows:*

16 (1) *The 2000 National Assessment of Edu-*
17 *catinal Progress found that 68 percent of fourth*
18 *grade students in the United States are reading below*
19 *the proficient level.*

20 (2) *According to the 2000 National Assessment*
21 *of Educational Progress report on reading, 63 percent*
22 *of African Americans, 58 percent of Hispanic Ameri-*
23 *cans, 60 percent of children living in poverty, and 47*
24 *percent of children in urban schools scored ‘below*
25 *basic’ in reading.*

1 “(3) More than 1/2 of the students placed in spe-
2 cial education classes are identified as learning dis-
3 abled and, for as many as 80 percent of the students
4 so identified, reading is the primary difficulty.

5 “(4) It is estimated that, at a minimum,
6 10,000,000 children have difficulty learning to read.
7 10 to 15 percent of those children eventually drop out
8 of high school, and only 2 percent complete a 4-year
9 program at an institution of higher education.

10 “(5) It is estimated that the number of children
11 who are typically identified as poor readers can be
12 significantly reduced through the implementation of
13 early identification and prevention programs that are
14 based on scientifically based reading research.

15 “(6) The report issued by the National Reading
16 Panel in 2000 found that the course of reading in-
17 struction that obtains maximum benefits for students
18 includes explicit and systematic instruction in pho-
19 nemic awareness, phonics, vocabulary development,
20 reading fluency, and reading comprehension strate-
21 gies.

22 **“SEC. 1202. PURPOSES.**

23 “The purposes of this subpart are as follows:

24 “(1) To provide assistance to States and local
25 educational agencies in establishing reading programs

1 *for students in grades kindergarten through 3 that are*
2 *based on scientifically based reading research, in*
3 *order to ensure that every student can read at grade*
4 *level or above not later than the end of the third*
5 *grade.*

6 *“(2) To provide assistance to States and local*
7 *educational agencies in preparing teachers, including*
8 *special education teachers, through professional devel-*
9 *opment and other support, so the teachers can iden-*
10 *tify specific reading barriers facing their students*
11 *and so the teachers have the tools to effectively help*
12 *their students learn to read.*

13 *“(3) To provide assistance to States and local*
14 *educational agencies in selecting and administering*
15 *rigorous diagnostic reading and screening assessment*
16 *tools that are valid and reliable, document the effec-*
17 *tiveness of this subpart in improving the reading*
18 *skills of students, and improve classroom instruction.*

19 *“(4) To provide assistance to States and local*
20 *educational agencies in selecting or developing effec-*
21 *tive classroom instructional materials, programs, and*
22 *strategies to implement scientific research-based meth-*
23 *ods that have been proven to prevent or remediate*
24 *reading failure.*

1 “(5) *To strengthen coordination among schools*
2 *and early literacy programs in order to improve*
3 *reading achievement for all children.*

4 **“SEC. 1203. FORMULA GRANTS TO STATES.**

5 “(a) *IN GENERAL.—*

6 “(1) *AUTHORIZATION TO MAKE GRANTS.—In the*
7 *case of each State that in accordance with section*
8 *1204 submits to the Secretary an application for a 5-*
9 *year period, the Secretary, subject to the application’s*
10 *approval, shall make a grant to the State for the uses*
11 *specified in subsections (c) and (d). For each fiscal*
12 *year, the funds provided under the grant shall equal*
13 *the allotment determined for the State under sub-*
14 *section (b).*

15 “(2) *DURATION OF GRANTS.—*

16 “(A) *IN GENERAL.—Subject to subpara-*
17 *graph (B), a grant under this section shall be*
18 *awarded for a period of not more than 5 years.*

19 “(B) *INTERIM REVIEW.—*

20 “(i) *PROGRESS REPORT.—*

21 “(I) *SUBMISSION.—Not later than*
22 *60 days after the termination of the*
23 *third year of the grant period, each*
24 *State receiving a grant under this sec-*

1 *tion shall submit a progress report to*
2 *the Secretary.*

3 *“(II) INFORMATION INCLUDED.—*

4 *The progress report shall include infor-*
5 *mation on the progress the State, and*
6 *local educational agencies within the*
7 *State, are making in reducing the*
8 *number of students served under this*
9 *subpart in the first and second grades*
10 *who are reading below grade level, as*
11 *demonstrated by such information as*
12 *teacher reports and school evaluations*
13 *of mastery of the essential components*
14 *of reading instruction. The report shall*
15 *also include evidence from the State*
16 *and its local educational agencies that*
17 *they have significantly increased the*
18 *number of students reading at grade*
19 *level or above, significantly increased*
20 *the percentages of students in ethnic,*
21 *racial, and low-income populations*
22 *who are reading at grade level or*
23 *above, and successfully implemented*
24 *this subpart.*

1 “(i) *PEER REVIEW.*—*The progress re-*
2 *port described in clause (i) shall be reviewed*
3 *by the peer review panel convened under*
4 *section 1204(c)(2).*

5 “(iii) *CONSEQUENCES OF INSUFFI-*
6 *CIENT PROGRESS.*—*After the submission of*
7 *the progress report described in clause (i), if*
8 *the Secretary determines that the State is*
9 *not making significant progress in meeting*
10 *the purposes of this subpart, the Secretary*
11 *may withhold from the State, in whole or in*
12 *part, further payments under this section in*
13 *accordance with section 455 of the General*
14 *Education Provisions Act (20 U.S.C.*
15 *1234d) or take such other action authorized*
16 *by law as the Secretary deems necessary,*
17 *including providing technical assistance*
18 *upon request of the State.*

19 “(b) *DETERMINATION OF AMOUNT OF ALLOTMENTS.*—

20 “(1) *RESERVATIONS FROM APPROPRIATIONS.*—
21 *From the total amount made available under section*
22 *1002(b)(1) to carry out this subpart for a fiscal year,*
23 *the Secretary—*

24 “(A) *shall reserve 1/2 of 1 percent for allot-*
25 *ments for the Virgin Islands, Guam, American*

1 *Samoa, and the Commonwealth of the Northern*
2 *Mariana Islands, to be distributed among these*
3 *outlying areas on the basis of their relative need,*
4 *as determined by the Secretary in accordance*
5 *with the purposes of this subpart;*

6 “(B) shall reserve $\frac{1}{2}$ of 1 percent for the
7 Secretary of the Interior for programs under this
8 subpart in schools operated or funded by the Bu-
9 reau of Indian Affairs;

10 “(C) shall reserve not more than 3 percent
11 or \$30,000,000, whichever is less, to carry out
12 section 1206;

13 “(D) may reserve not more than 1 percent
14 to carry out section 1207; and

15 “(E) shall reserve \$5,000,000 to carry out
16 section 1208.

17 “(2) *STATE ALLOTMENTS.*—From the total
18 amount made available under section 1002(b)(1) to
19 carry out this subpart for a fiscal year and not re-
20 served under paragraph (1), the Secretary shall allot
21 80 percent under this section among each of the 50
22 States, the District of Columbia, and the Common-
23 wealth of Puerto Rico.

24 “(3) *DETERMINATION OF STATE ALLOTMENT*
25 *AMOUNTS.*—

1 “(A) *IN GENERAL.*—Subject to subpara-
2 graph (B), the Secretary shall allot the amount
3 made available under paragraph (2) for a fiscal
4 year among the States described in such para-
5 graph in proportion to the number of children,
6 aged 5 to 17, who reside within the State from
7 families with incomes below the poverty line (as
8 defined by the Office of Management and Budget
9 and revised annually in accordance with section
10 673(2) of the Community Services Block Grant
11 Act (42 U.S.C. 9902(2)) applicable to a family
12 of the size involved for the most recent fiscal year
13 for which satisfactory data are available, com-
14 pared to the number of such individuals who re-
15 side in all such States for that fiscal year.

16 “(B) *EXCEPTIONS.*—

17 “(i) *IN GENERAL.*—Subject to clause
18 (ii), no State receiving an allotment under
19 subparagraph (A) may receive less than $\frac{1}{4}$
20 of 1 percent of the total amount allotted
21 under such subparagraph.

22 “(ii) *PUERTO RICO.*—The percentage of
23 the amount allotted under subparagraph
24 (A) that is allotted to the Commonwealth of
25 Puerto Rico for a fiscal year may not ex-

1 *ceed the percentage that was received by the*
2 *Commonwealth of Puerto Rico of the funds*
3 *allocated to all States under subpart 2 of*
4 *part A for the preceding fiscal year.*

5 *“(4) REALLOTMENT.—If a State described in*
6 *paragraph (2) does not apply for an allotment under*
7 *this section for any fiscal year, or if the State’s appli-*
8 *cation is not approved, the Secretary shall reallot*
9 *such amount to the remaining States in accordance*
10 *with paragraph (3).*

11 *“(c) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-*
12 *CIES.—*

13 *“(1) DISTRIBUTION OF SUBGRANTS.—The Sec-*
14 *retary may make a grant to a State under this sec-*
15 *tion only if the State agrees to expend at least 80 per-*
16 *cent of the amount of the funds provided under the*
17 *grant for the purpose of making, in accordance with*
18 *this subsection, competitive subgrants to local edu-*
19 *cational agencies.*

20 *“(2) NOTICE.—A State receiving a grant under*
21 *this section shall provide notice to all local edu-*
22 *cational agencies in the State of the availability of*
23 *competitive subgrants under this subsection and of the*
24 *requirements for applying for the subgrants.*

1 “(3) *LOCAL APPLICATIONS.*—*To be eligible to re-*
2 *ceive a subgrant under this subsection, a local edu-*
3 *cational agency shall submit an application to the*
4 *State at such time, in such manner, and containing*
5 *such information as the State may reasonably re-*
6 *quire.*

7 “(4) *LIMITATION TO CERTAIN LOCAL AGEN-*
8 *CIES.*—*A State receiving a grant under this section*
9 *may award subgrants under this subsection only to*
10 *local educational agencies—*

11 “(A) *that have the highest percentages of*
12 *students in grades kindergarten through 3 read-*
13 *ing below grade level; and*

14 “(B) *that—*

15 “(i) *have jurisdiction over—*

16 “(I) *a geographic area that in-*
17 *cludes an area designated as an em-*
18 *powerment zone, or an enterprise com-*
19 *munity, under part I of subchapter U*
20 *of chapter 1 of the Internal Revenue*
21 *Code of 1986; or*

22 “(II) *a significant number of*
23 *schools that are identified for school*
24 *improvement under section 1116(b); or*

1 “(ii) are located in areas having the
2 greatest numbers or percentages of children
3 aged 5 through 17 from low-income fami-
4 lies.

5 “(5) *STATE REQUIREMENT.*—In distributing
6 subgrant funds to local educational agencies under
7 this subsection, a State shall provide funds in suffi-
8 cient size and scope to enable local educational agen-
9 cies to improve reading instruction, as determined by
10 rigorous diagnostic reading and screening assessment
11 tools.

12 “(6) *LIMITATION TO CERTAIN SCHOOLS.*—In dis-
13 tributing subgrant funds under this subsection, a
14 local educational agency may provide funds only to
15 schools—

16 “(A) that have the highest percentages of
17 students in grades kindergarten through 3 read-
18 ing below grade level; and

19 “(B) that—

20 “(i) are identified for school improve-
21 ment under section 1116(b); or

22 “(ii) have the greatest numbers or per-
23 centages of children aged 5 through 17 from
24 low-income families.

25 “(7) *LOCAL USES OF FUNDS.*—

1 “(A) *REQUIRED USES.*—Subject to para-
2 graph (8), a local educational agency that re-
3 ceives a subgrant under this subsection shall use
4 the funds provided under the subgrant to carry
5 out the following activities:

6 “(i) *Selecting and administering rig-*
7 *orous diagnostic reading and screening as-*
8 *essment tools.*

9 “(ii) *Selecting and implementing a*
10 *program or programs of classroom reading*
11 *instruction based on scientifically based*
12 *reading research that—*

13 “(I) *includes the essential compo-*
14 *nents of reading instruction; and*

15 “(II) *provides such instruction to*
16 *all children, including children who—*

17 “(aa) *may have reading dif-*
18 *ficulties;*

19 “(bb) *are at risk of being re-*
20 *ferred to special education based*
21 *on these difficulties;*

22 “(cc) *have been evaluated*
23 *under section 614 of the Individ-*
24 *uals with Disabilities Education*
25 *Act but, in accordance with sec-*

1 *tion 614(b)(5) of such Act, have*
2 *not been identified as being a*
3 *child with a disability (as defined*
4 *in section 602 of such Act);*

5 *“(dd) are being served under*
6 *such Act primarily due to being*
7 *identified as being a child with a*
8 *specific learning disability (as de-*
9 *defined in section 602 of such Act)*
10 *related to reading;*

11 *“(ee) are deficient in their*
12 *phonemic awareness, phonics*
13 *skills, vocabulary development,*
14 *oral reading fluency, or com-*
15 *prehension strategies; or*

16 *“(ff) are identified as having*
17 *limited English proficiency.*

18 *“(iii) Procuring classroom instruc-*
19 *tional materials based on scientifically*
20 *based reading research.*

21 *“(iv) Providing professional develop-*
22 *ment for teachers of grades kindergarten*
23 *through 3, and special education teachers of*
24 *grades kindergarten through 12, that—*

1 “(I) will prepare these teachers in
2 all of the essential components of read-
3 ing instruction;

4 “(II) shall include—

5 “(aa) information, instruc-
6 tional materials, programs, strate-
7 gies, and approaches based on sci-
8 entificallly based reading research,
9 including early intervention and
10 classroom reading materials and
11 remedial programs and ap-
12 proaches; and

13 “(bb) instruction in the use
14 of rigorous diagnostic reading and
15 screening assessment tools and
16 other procedures that effectively
17 identify students who may be at
18 risk for reading failure or who are
19 having difficulty reading;

20 “(III) shall be provided by eligible
21 professional development providers;
22 and

23 “(IV) will assist teachers in be-
24 coming fully qualified in accordance
25 with the requirements of section 1119.

1 “(B) *OPTIONAL USES.*—Subject to para-
2 graph (8), a local educational agency that re-
3 ceives a subgrant under this subsection may use
4 the funds provided under the subgrant to carry
5 out the following activities:

6 “(i) *Providing training to parents and*
7 *other individuals who volunteer to be read-*
8 *ing tutors in the essential components of*
9 *reading instruction.*

10 “(ii) *Providing family literacy serv-*
11 *ices, especially to parents enrolled in par-*
12 *ticipating schools, through the use of library*
13 *materials and reading programs, strategies,*
14 *and approaches that are based on scientif-*
15 *ically based reading research, to encourage*
16 *reading and support their children’s read-*
17 *ing development.*

18 “(8) *LOCAL PLANNING AND ADMINISTRATION.*—A
19 local educational agency that receives a subgrant
20 under this subsection may use not more than 2 per-
21 cent of the funds provided under the subgrant for
22 planning and administration.

23 “(d) *OTHER STATE USES OF FUNDS.*—

24 “(1) *PROFESSIONAL DEVELOPMENT.*—

1 “(A) *IN GENERAL.*—A State that receives a
2 grant under this section may expend not more
3 than 15 percent of the amount of the funds pro-
4 vided under the grant—

5 “(i) to develop and implement a pro-
6 gram of in-service professional development
7 for teachers of kindergarten through third
8 grade, and special education teachers of
9 grades kindergarten through 12, that—

10 “(I) will prepare these teachers in
11 all of the essential components of read-
12 ing instruction;

13 “(II) shall include—

14 “(aa) information on inter-
15 ventions, instructional materials,
16 programs, and approaches based
17 on scientifically based reading re-
18 search, including early interven-
19 tion and reading remediation ma-
20 terials, programs, and approaches;
21 and

22 “(bb) instruction in the use
23 of rigorous diagnostic reading and
24 screening assessment tools and
25 other procedures to improve in-

1 *struction and effectively identify*
2 *students who may be at risk for*
3 *reading failure or who are having*
4 *difficulty reading; and*

5 *“(III) shall be provided by eligible*
6 *professional development providers;*

7 *“(ii) to strengthen and enhance profes-*
8 *sional development courses for students pre-*
9 *paring, at all public institutions of higher*
10 *education in the State, to teach kinder-*
11 *garten through third grades by—*

12 *“(I) reviewing such courses to de-*
13 *termine whether their content is con-*
14 *sistent with the findings of the most*
15 *current scientifically based reading re-*
16 *search, including findings on the essen-*
17 *tial components of reading instruction;*

18 *“(II) following up such reviews*
19 *with recommendations to ensure that*
20 *such institutions offer courses that*
21 *meet the highest standards; and*

22 *“(III) preparing a report on the*
23 *results of such reviews, submitting it to*
24 *the reading and literacy partnership*
25 *for the State established under section*

1 1204(d), and making it available for
2 public review via the Internet; and
3 “(iii) to make recommendations on
4 how the State’s licensure and certification
5 standards in the area of reading might be
6 improved.

7 “(B) FUNDS NOT USED FOR PROFESSIONAL
8 DEVELOPMENT.—Any portion of the funds de-
9 scribed in subparagraph (A) that a State does
10 not expend in accordance with such subpara-
11 graph shall be expended for the purpose of mak-
12 ing subgrants in accordance with subsection (c).

13 “(2) OTHER STATE-LEVEL ACTIVITIES.—A State
14 that receives a grant under this section may expend
15 not more than 3 percent of the amount of the funds
16 provided under the grant for one or more of the fol-
17 lowing authorized State activities:

18 “(A) Assisting local educational agencies in
19 accomplishing the tasks required to design and
20 implement a classroom reading program under
21 this subpart, including—

22 “(i) selecting and implementing a pro-
23 gram or programs of classroom reading in-
24 struction based on scientifically based read-
25 ing research;

1 “(ii) selecting rigorous diagnostic read-
2 ing and screening assessment tools; and

3 “(iii) identifying eligible professional
4 development providers to help prepare read-
5 ing teachers to teach students using the pro-
6 grams and assessments described in clauses
7 (i) and (ii);

8 “(B) Providing to students in kindergarten
9 through third grades, through appropriate pro-
10 viders, reading instruction that includes—

11 “(i) rigorous diagnostic reading and
12 screening assessment tools; and

13 “(ii) as need is indicated by such as-
14 sessments, instruction based on scientifically
15 based reading research that includes the es-
16 sential components of reading instruction.

17 “(3) *PLANNING, ADMINISTRATION, AND REPORT-*
18 *ING.—*

19 “(A) *IN GENERAL.—*A State that receives a
20 grant under this section shall expend not more
21 than 2 percent of the amount of the funds pro-
22 vided under the grant for the activities described
23 in this paragraph.

24 “(B) *PLANNING AND ADMINISTRATION.—*A
25 State that receives a grant under this section

1 *may expend funds described in subparagraph*
2 *(A) for—*

3 “(i) *planning and administration re-*
4 *lating to the State uses of funds authorized*
5 *under this subpart, including administering*
6 *the distribution of competitive subgrants to*
7 *local educational agencies under this section*
8 *and section 1205; and*

9 “(ii) *assessing and evaluating, on a*
10 *regular basis, local educational agency ac-*
11 *tivities assisted under this subpart, with re-*
12 *spect to whether they have been effective in*
13 *increasing the number of children in first*
14 *and second grades served under this subpart*
15 *who can read at or above grade level.*

16 “(C) *ANNUAL REPORTING.—*

17 “(i) *IN GENERAL.—A State that re-*
18 *ceives a grant under this section shall ex-*
19 *pend funds provided under the grant to pro-*
20 *vide the Secretary annually with a report*
21 *on the implementation of this subpart. The*
22 *report shall include evidence that the State*
23 *is fulfilling its obligations under this sub-*
24 *part. The report shall include a specific*
25 *identification of those schools and local edu-*

1 cational agencies that report the largest
2 gains in reading achievement.

3 “(ii) *PRIVACY PROTECTION.*—Data in
4 the report shall be set forth in a manner
5 that protects the privacy of individuals.

6 “(iii) *CONTRACT.*—To the extent prac-
7 ticable, a State shall enter into a contract
8 with an entity that conducts scientifically
9 based reading research, under which con-
10 tract the entity will produce the reports re-
11 quired to be submitted under this subpara-
12 graph.

13 **“SEC. 1204. STATE FORMULA GRANT APPLICATIONS.**

14 “(a) *IN GENERAL.*—A State that desires to receive a
15 grant under section 1203 shall submit an application to
16 the Secretary at such time and in such form as the Sec-
17 retary may require. The application shall contain the infor-
18 mation described in subsection (b).

19 “(b) *CONTENTS.*—An application under this section
20 shall contain the following:

21 “(1) An assurance that the Governor of the
22 State, in consultation with the State educational
23 agency, has established a reading and literacy part-
24 nership described in subsection (d), and a description
25 of how such partnership—

1 “(A) coordinated the development of the ap-
2 plication; and

3 “(B) will assist in the oversight and evalua-
4 tion of the State’s activities under this subpart.

5 “(2) An assurance that the State will submit to
6 the Secretary, at such time and in such manner as
7 the Secretary may reasonably require, a State plan
8 containing a description of a process—

9 “(A) to evaluate programs carried out by
10 local educational agencies under this subpart;

11 “(B) to assist local educational agencies in
12 identifying rigorous diagnostic reading and
13 screening assessment tools; and

14 “(C) to assist local educational agencies in
15 identifying interventions, and instructional ma-
16 terials, programs and approaches, based on sci-
17 entifically based reading research, including
18 early intervention and classroom reading mate-
19 rials and remedial programs and approaches.

20 “(3) An assurance that the State, and local edu-
21 cational agencies in the State, will participate in all
22 national evaluations under this subpart.

23 “(c) APPROVAL OF APPLICATIONS.—

24 “(1) IN GENERAL.—The Secretary, in consulta-
25 tion with the peer review panel convened under para-

1 *graph (2), shall approve an application of a State*
2 *under this section if such application meets the re-*
3 *quirements of this section.*

4 “(2) *PEER REVIEW.*—

5 “(A) *IN GENERAL.*—*The Secretary, in con-*
6 *sultation with the National Institute for Lit-*
7 *eracy, shall convene a panel to evaluate applica-*
8 *tions under this section. At a minimum, the*
9 *panel shall include—*

10 “(i) *3 individuals selected by the Sec-*
11 *retary;*

12 “(ii) *3 individuals selected by the Na-*
13 *tional Institute for Literacy;*

14 “(iii) *3 individuals selected by the Na-*
15 *tional Research Council of the National*
16 *Academy of Sciences; and*

17 “(iv) *3 individuals selected by the Na-*
18 *tional Institute of Child Health and*
19 *Human Development.*

20 “(B) *EXPERTS.*—*The panel shall include*
21 *experts who are competent, by virtue of their*
22 *training, expertise, or experience, to evaluate ap-*
23 *plications under this section, and experts who*
24 *provide professional development to teachers of*
25 *reading to children and adults, and experts who*

1 *provide professional development to other in-*
2 *structional staff, based on scientifically based*
3 *reading research.*

4 “(C) *RECOMMENDATIONS.*—*The panel shall*
5 *recommend grant applications from States under*
6 *this section to the Secretary for funding or for*
7 *disapproval.*

8 “(d) *READING AND LITERACY PARTNERSHIPS.*—

9 “(1) *IN GENERAL.*—*In order for a State to re-*
10 *ceive a grant under section 1203, the Governor of the*
11 *State, in consultation with the State educational*
12 *agency, shall establish a reading and literacy part-*
13 *nership.*

14 “(2) *REQUIRED PARTICIPANTS.*—*The reading*
15 *and literacy partnership shall include the following*
16 *participants:*

17 “(A) *The Governor of the State.*

18 “(B) *The chief State school officer.*

19 “(C) *The chairman and the ranking mem-*
20 *ber of each committee of the State legislature*
21 *that is responsible for education policy.*

22 “(D) *A representative, selected jointly by the*
23 *Governor and the chief State school officer, of at*
24 *least one local educational agency that is eligible*
25 *to receive a subgrant under section 1203.*

1 “(E) A representative, selected jointly by the
2 Governor and the chief State school officer, of a
3 community-based organization working with
4 children to improve their reading skills, particu-
5 larly a community-based organization using tu-
6 tors and scientifically based reading research.

7 “(F) State directors of appropriate Federal
8 or State programs with a strong reading compo-
9 nent.

10 “(G) A parent of a public or private school
11 student or a parent who educates their child or
12 children in their home, selected jointly by the
13 Governor and the chief State school officer.

14 “(H) A teacher, who may be a special edu-
15 cation teacher, who successfully teaches reading
16 and an instructional staff member, selected joint-
17 ly by the Governor and the chief State school of-
18 ficer.

19 “(I) A family literacy service provider se-
20 lected jointly by the Governor and the chief state
21 school officer.

22 “(3) OPTIONAL PARTICIPANTS.—The reading and
23 literacy partnership may include additional partici-
24 pants, who shall be selected jointly by the Governor

1 and the chief State school officer, and who may in-
2 clude a representative of—

3 “(A) an institution of higher education op-
4 erating a program of teacher preparation based
5 on scientifically based reading research in the
6 State;

7 “(B) a local educational agency;

8 “(C) a private nonprofit or for-profit eligi-
9 ble professional development provider providing
10 instruction based on scientifically based reading
11 research;

12 “(D) an adult education provider;

13 “(E) a volunteer organization that is in-
14 volved in reading programs; or

15 “(F) a school library or a public library
16 that offers reading or literacy programs for chil-
17 dren or families.

18 **“SEC. 1205. DISCRETIONARY GRANTS TO STATES.**

19 “(a) *IN GENERAL.*—In the case of a State that, in ac-
20 cordance with sections 1203 and 1204, has received ap-
21 proval of an application for a 5-year formula grant, the
22 Secretary may make additional 2-year discretionary grants
23 to the State for the use specified in (d). For each fiscal year,
24 the funds provided under the discretionary grant shall equal
25 the allotment determined for the State under subsection (b).

1 “(b) *DETERMINATION OF AMOUNT OF ALLOTMENTS.*—
2 *From the total amount made available under section*
3 *1002(b)(1) to carry out this subpart for a fiscal year and*
4 *not reserved under paragraph (1), the Secretary, upon the*
5 *recommendation of the peer review panel convened under*
6 *section 1204(c)(2), shall allot 20 percent under this section*
7 *among the States described in subsection (a)—*

8 “(1) *for fiscal years 2002 and 2003, based upon*
9 *a determination of such States’ relative likelihood of*
10 *effectively implementing a program under this sub-*
11 *part; and*

12 “(2) *for fiscal year 2004 and subsequent fiscal*
13 *years, based upon such States’ applications under*
14 *subsection (c).*

15 “(c) *STATE DISCRETIONARY GRANT APPLICATIONS.*—

16 “(1) *IN GENERAL.*—*A State that desires to re-*
17 *ceive a grant under this section for a grant period*
18 *that includes any fiscal year after fiscal year 2003*
19 *shall submit the information described in paragraph*
20 *(3) to the Secretary at such time and in such form*
21 *as the Secretary may require.*

22 “(2) *PEER REVIEW.*—*The peer review panel con-*
23 *vened under section 1204(c)(2) shall review the infor-*
24 *mation submitted under this subsection. The panel*

1 *shall recommend such applications to the Secretary*
2 *for funding or for disapproval.*

3 “(3) *INFORMATION.—The information described*
4 *in this paragraph is the following:*

5 “(A) *An assurance that the State will*
6 *award competitive subgrants to local educational*
7 *agencies consistent with subsection (d)(4).*

8 “(B) *An assurance that the State will en-*
9 *sure that local educational agencies that receive*
10 *a subgrant under subsection (d) use the funds*
11 *provided under the subgrant in accordance with*
12 *subsection (d)(5).*

13 “(C) *Evidence that the State has increased*
14 *significantly the percentage of students reading*
15 *at grade level or above.*

16 “(D) *Evidence that the State has been suc-*
17 *cessful in increasing the percentage of students*
18 *in ethnic, racial, and low-income populations*
19 *who are reading at grade level or above.*

20 “(E) *Any additional evidence that dem-*
21 *onstrates success in the implementation of this*
22 *subpart.*

23 “(d) *SUBGRANTS TO LOCAL EDUCATIONAL AGEN-*
24 *CIES.—*

1 “(1) *IN GENERAL.*—*The Secretary may make a*
2 *grant to a State under this section only if the State*
3 *agrees to expend 100 percent of the amount of the*
4 *funds provided under the grant for the purpose of*
5 *making competitive subgrants in accordance with this*
6 *subsection to local educational agencies.*

7 “(2) *NOTICE.*—*A State receiving a grant under*
8 *this section shall provide notice to all local edu-*
9 *catinal agencies in the State of the availability of*
10 *competitive subgrants under this subsection and of the*
11 *requirements for applying for the subgrants.*

12 “(3) *APPLICATION.*—*To be eligible to receive a*
13 *subgrant under this subsection, a local educational*
14 *agency shall submit an application to the State at*
15 *such time, in such manner, and containing such in-*
16 *formation as the State may reasonably require.*

17 “(4) *DISTRIBUTION.*—

18 “(A) *IN GENERAL.*—*A State shall distribute*
19 *subgrants under this section through a competi-*
20 *tive process based on relative need and the evi-*
21 *dence described in this paragraph.*

22 “(B) *EVIDENCE USED IN ALL YEARS.*—*For*
23 *all fiscal years, a State shall distribute subgrants*
24 *under this section based on evidence that a local*
25 *educational agency—*

1 “(i) satisfies the requirements of sec-
2 tion 1203(c)(4);

3 “(ii) will carry out its obligations
4 under this subpart, particularly paragraph
5 (5); and

6 “(iii) will work with other local edu-
7 cational agencies in the State that have not
8 received a subgrant under this subsection to
9 assist such non-receiving agencies in in-
10 creasing the reading achievement of stu-
11 dents.

12 “(C) EVIDENCE USED IN FISCAL YEARS
13 AFTER 2003.—For fiscal year 2004 and subse-
14 quent fiscal years, a State shall distribute sub-
15 grants under this section based on the evidence
16 described in subparagraph (B) and, in addition,
17 evidence that a local educational agency—

18 “(i) has significantly increased the
19 percentage of all students reading at grade
20 level or above;

21 “(ii) has significantly increased the
22 percentage of students in ethnic, racial, and
23 low-income populations who are reading at
24 grade level or above; and

1 “(iii) has demonstrated success in the
2 implementation of this subpart.

3 “(5) *LOCAL USES OF FUNDS.*—A local edu-
4 cational agency that receives a subgrant under this
5 subsection—

6 “(A) shall use the funds provided under the
7 subgrant to carry out the activities described in
8 section 1203(c)(7)(A); and

9 “(B) may use such funds to carry out the
10 activities described in section 1203(c)(7)(B).

11 “(e) *DEFINITION.*—For purposes of this section, the
12 term ‘State’ means each of the 50 States, the District of
13 Columbia, and the Commonwealth of Puerto Rico.

14 “**SEC. 1206. EXTERNAL EVALUATION.**

15 “(a) *IN GENERAL.*—From funds reserved under section
16 1203(b)(1)(C), the Secretary shall contract with an inde-
17 pendent outside organization for a 5-year, rigorous, sci-
18 entifically valid, quantitative evaluation of this subpart.

19 “(b) *PROCESS.*—Such evaluation shall be conducted by
20 an organization outside of the Department that is capable
21 of designing and carrying out an independent evaluation
22 that identifies the effects of specific activities carried out
23 by States and local educational agencies under this subpart
24 on improving reading instruction. Such evaluation shall
25 use only data relating to students served under this subpart

1 *and shall take into account factors influencing student per-*
2 *formance that are not controlled by teachers or education*
3 *administrators.*

4 “(c) *ANALYSIS.—Such evaluation shall include the fol-*
5 *lowing:*

6 “(1) *An analysis of the relationship between each*
7 *of the essential components of reading instruction and*
8 *overall reading proficiency.*

9 “(2) *An analysis of whether assessment tools*
10 *used by States and local educational agencies measure*
11 *the essential components of reading instruction.*

12 “(3) *An analysis of how State reading standards*
13 *correlate with the essential components of reading in-*
14 *struction.*

15 “(4) *An analysis of whether the receipt of a dis-*
16 *cretionary grant under section 1205 results in an in-*
17 *crease in the number of children who read pro-*
18 *ficiently.*

19 “(5) *A measurement of the extent to which spe-*
20 *cific instructional materials improve reading pro-*
21 *ficiency.*

22 “(6) *A measurement of the extent to which spe-*
23 *cific rigorous diagnostic reading and screening assess-*
24 *ment tools assist teachers in identifying specific read-*
25 *ing deficiencies.*

1 “(7) *A measurement of the extent to which pro-*
2 *fessional development programs implemented by*
3 *States using funds received under this subpart im-*
4 *prove reading instruction.*

5 “(8) *A measurement of how well students pre-*
6 *paring to enter the teaching profession are prepared*
7 *to teach the essential components of reading instruc-*
8 *tion.*

9 “(9) *An analysis of changes in students’ interest*
10 *in reading and time spent reading outside of school.*

11 “(10) *Any other analysis or measurement perti-*
12 *nent to this subpart that is determined to be appro-*
13 *priate by the Secretary.*

14 “(d) *PROGRAM IMPROVEMENT.—The findings of the*
15 *evaluation conducted under this section shall be provided*
16 *to States and local educational agencies on a periodic basis*
17 *for use in program improvement.*

18 **“SEC. 1207. NATIONAL ACTIVITIES.**

19 “*From funds reserved under section 1203(b)(1)(D), the*
20 *Secretary may provide technical assistance in achieving the*
21 *purposes of this subpart to States, local educational agen-*
22 *cies, and schools requesting such assistance.*

23 **“SEC. 1208. INFORMATION DISSEMINATION.**

24 “(a) *IN GENERAL.—From funds reserved under section*
25 *1203(b)(1)(E), the National Institute for Literacy, in col-*

1 *laboration with the Secretary of Education, the Secretary*
2 *of Health and Human Services, and the Director of the Na-*
3 *tional Institute for Child Health and Human Develop-*
4 *ment—*

5 “(1) *shall disseminate information on scientif-*
6 *ically based reading research pertaining to children,*
7 *youth, and adults;*

8 “(2) *shall identify and disseminate information*
9 *about schools, local educational agencies, and States*
10 *that effectively developed and implemented classroom*
11 *reading programs that meet the requirements of this*
12 *subpart, including those effective States, local edu-*
13 *cational agencies, and schools identified through the*
14 *evaluation and peer review provisions of this subpart;*
15 *and*

16 “(3) *shall support the continued identification*
17 *and dissemination of information on reading pro-*
18 *grams that contain the essential components of read-*
19 *ing instruction as supported by scientifically based*
20 *reading research, that can lead to improved reading*
21 *outcomes for children, youth, and adults.*

22 “(b) *DISSEMINATION.—*

23 “(1) *IN GENERAL.—At a minimum, the National*
24 *Institute for Literacy shall disseminate such informa-*
25 *tion to—*

1 “(A) recipients of Federal financial assist-
2 ance under part A of this title, part A of title
3 III, the Head Start Act, the Individuals with
4 Disabilities Education Act, and the Adult Edu-
5 cation and Family Literacy Act; and

6 “(B) each Bureau funded school (as defined
7 in section 1141(3) of the Education Amendments
8 of 1978).

9 “(2) *USE OF EXISTING NETWORKS.*—In carrying
10 out this section, the National Institute for Literacy
11 shall, to the extent practicable, utilize existing infor-
12 mation and dissemination networks developed and
13 maintained through other public and private entities.

14 **“SEC. 1209. DEFINITIONS.**

15 *“For purposes of this subpart:*

16 “(1) *ELIGIBLE PROFESSIONAL DEVELOPMENT*
17 *PROVIDER.*—The term ‘eligible professional develop-
18 ment provider’ means a provider of professional devel-
19 opment in reading instruction to teachers, including
20 special education teachers, that is based on scientif-
21 ically based reading research.

22 “(2) *ESSENTIAL COMPONENTS OF READING IN-*
23 *STRUCTION.*—The term ‘essential components of read-
24 ing instruction’ means explicit and systematic in-
25 struction in—

1 “(A) *phonemic awareness;*

2 “(B) *phonics;*

3 “(C) *vocabulary development;*

4 “(D) *oral reading fluency; and*

5 “(E) *reading comprehension strategies.*

6 “(3) *INSTRUCTIONAL STAFF.—The term ‘instruc-*
7 *tional staff’—*

8 “(A) *means individuals who have responsi-*
9 *bility for teaching children to read; and*

10 “(B) *includes principals, teachers, super-*
11 *visors of instruction, librarians, library school*
12 *media specialists, teachers of academic subjects*
13 *other than reading, and other individuals who*
14 *have responsibility for assisting children to learn*
15 *to read.*

16 “(4) *READING.—The term ‘reading’ means a*
17 *complex system of deriving meaning from print that*
18 *requires all of the following:*

19 “(A) *The skills and knowledge to under-*
20 *stand how phonemes, or speech sounds, are con-*
21 *nected to print.*

22 “(B) *The ability to decode unfamiliar*
23 *words.*

24 “(C) *The ability to read fluently.*

1 “(D) *Sufficient background information*
2 *and vocabulary to foster reading comprehension.*

3 “(E) *The development of appropriate active*
4 *strategies to construct meaning from print.*

5 “(F) *The development and maintenance of a*
6 *motivation to read.*

7 “(5) *RIGOROUS DIAGNOSTIC READING AND*
8 *SCREENING ASSESSMENT TOOLS.—The term ‘rigorous*
9 *diagnostic reading and screening assessment tools’*
10 *means assessments that—*

11 “(A) *are valid, reliable, and based on sci-*
12 *entifically based reading research;*

13 “(B) *measure progress in developing pho-*
14 *nemic awareness and phonics skills, vocabulary,*
15 *reading fluency, and reading comprehension;*

16 “(C) *identify students who may be at risk*
17 *for reading failure or who are having difficulty*
18 *reading; and*

19 “(D) *are used to improve instruction.*

20 “(6) *SCIENTIFICALLY BASED READING RE-*
21 *SEARCH.—The term ‘scientifically based reading re-*
22 *search’—*

23 “(A) *means the application of rigorous, sys-*
24 *tematic, and objective procedures to obtain valid*

1 *knowledge relevant to reading development, read-*
2 *ing instruction, and reading difficulties; and*

3 “(B) shall include research that—

4 “(i) employs systematic, empirical
5 methods that draw on observation or experi-
6 ment;

7 “(ii) involves rigorous data analyses
8 that are adequate to test the stated
9 hypotheses and justify the general conclu-
10 sions drawn;

11 “(iii) relies on measurements or obser-
12 vational methods that provide valid data
13 across evaluators and observers and across
14 multiple measurements and observations;
15 and

16 “(iv) has been accepted by a peer-re-
17 viewed journal or approved by a panel of
18 independent experts through a comparably
19 rigorous, objective, and scientific review.

20 **“Subpart 2—Early Reading First**

21 **“SEC. 1221. PURPOSES.**

22 *“The purposes of this subpart are as follows:*

23 “(1) *To improve prereading skills in children*
24 *aged 3 through 5, particularly children from low-in-*

1 *come families, in high-quality oral language and lit-*
2 *erature-rich environments.*

3 “(2) *To provide professional development for*
4 *early childhood teachers that prepares them with sci-*
5 *entific research-based knowledge of early reading de-*
6 *velopment to assist in developing the children’s—*

7 “(A) *automatic recognition of the letters of*
8 *the alphabet;*

9 “(B) *understanding that spoken words are*
10 *made up of small segments of speech sounds and*
11 *that certain letters regularly represent such*
12 *speech sounds;*

13 “(C) *spoken vocabulary and oral com-*
14 *prehension abilities; and*

15 “(D) *understanding of semiotic concepts.*

16 “(3) *To use scientific research-based screening*
17 *tools or other appropriate measures to determine*
18 *whether preschool children are developing the skills*
19 *identified in this section.*

20 “(4) *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.*

24 “(5) *To integrate such scientific research-based*
25 *instructional materials and literacy activities with*

1 existing programs of preschools, child care agencies,
2 and Head Start centers, and with family literacy
3 services.

4 **“SEC. 1222. LOCAL EARLY READING FIRST GRANTS.**

5 “(a) *PROGRAM AUTHORIZED.*—From amounts appro-
6 priated under section 1002(b)(2), the Secretary shall make
7 awards, on a competitive basis and for periods of not more
8 than 5 years, to eligible applicants to enable such appli-
9 cants to carry out activities that are consistent with the
10 purposes of this subpart.

11 “(b) *DEFINITION OF ELIGIBLE APPLICANT.*—In this
12 subpart, the term ‘eligible applicant’ means—

13 “(1) a local educational agency;

14 “(2) one or more public or private organizations,
15 acting on behalf of one or more programs that serve
16 children aged 3 through 5 (such as a program at a
17 child care agency or Head Start center or a family
18 literacy program), which organizations shall be lo-
19 cated in a community served by a local educational
20 agency; or

21 “(3) one or more local educational agencies in
22 collaboration with one or more organizations de-
23 scribed in paragraph (2).

24 “(c) *APPLICATIONS.*—An eligible applicant that de-
25 sires to receive a grant under this subpart shall submit an

1 *application to the Secretary, which shall include a descrip-*
2 *tion of—*

3 “(1) *the programs to be served by the proposed*
4 *project, including general demographic and socio-*
5 *economic information on the communities in which*
6 *the proposed project will be administered;*

7 “(2) *how the proposed project will enhance the*
8 *school readiness of children aged 3 through 5 in high-*
9 *quality oral language and literature-rich environ-*
10 *ments;*

11 “(3) *how the proposed project will provide early*
12 *childhood teachers with scientific research-based*
13 *knowledge of early reading development and assist*
14 *such teachers in developing the children’s prereading*
15 *skills;*

16 “(4) *how the proposed project will provide serv-*
17 *ices and utilize instructional materials that are based*
18 *on scientifically based reading research on early lan-*
19 *guage acquisition, prereading activities, and the de-*
20 *velopment of spoken vocabulary skills;*

21 “(5) *how the proposed project will integrate such*
22 *instructional materials and literacy activities with*
23 *existing preschool programs and family literacy serv-*
24 *ices;*

1 “(6) how the proposed project will help staff in
2 the programs to meet the diverse needs of children in
3 the community, including children with limited
4 English proficiency and children with learning dis-
5 abilities;

6 “(7) how the proposed project will help children,
7 particularly children experiencing difficulty with spo-
8 ken language, prereading, and early reading skills, to
9 make the transition from preschool to formal class-
10 room instruction in school;

11 “(8) how the activities conducted under this sub-
12 part will be coordinated with the eligible applicant’s
13 activities under subpart 1, if the applicant has re-
14 ceived a subgrant under such subpart, at the kinder-
15 garten through third grade levels;

16 “(9) how the proposed project will evaluate the
17 success of the activities supported under this subpart
18 in enhancing the early language and reading develop-
19 ment of children served by the project; and

20 “(10) such other information as the Secretary
21 may require.

22 “(d) APPROVAL OF LOCAL APPLICATIONS.—The Sec-
23 retary shall select applicants for funding under this subpart
24 based on the quality of the applications and the rec-

1 *ommendations of the peer review panel convened under sec-*
2 *tion 1204(c)(2).*

3 “(e) *LOCAL USES OF FUNDS.*—

4 “(1) *REQUIRED ACTIVITIES.*—*An eligible appli-*
5 *cant that receives a grant under this subpart shall use*
6 *the funds provided under the grant to carry out the*
7 *following activities:*

8 “(A) *Providing children aged 3 through 5*
9 *with high-quality oral language and literature-*
10 *rich environments in which to acquire*
11 *prereading skills.*

12 “(B) *Providing professional development for*
13 *early childhood teachers that prepares them with*
14 *scientific research-based knowledge of early read-*
15 *ing development to assist in developing the chil-*
16 *dren’s—*

17 “(i) *automatic recognition of the letters*
18 *of the alphabet;*

19 “(ii) *understanding that spoken words*
20 *are made up of small segments of speech*
21 *sounds and that certain letters regularly*
22 *represent such speech sounds;*

23 “(iii) *spoken vocabulary and oral com-*
24 *prehension abilities; and*

1 “(iv) understanding of semiotic con-
2 cepts.

3 “(C) Identifying and providing scientific
4 research-based prereading language and literacy
5 activities and instructional materials for use in
6 developing the children’s—

7 “(i) automatic recognition of the letters
8 of the alphabet;

9 “(ii) understanding that spoken words
10 are made up of small segments of speech
11 sounds and that certain letters regularly
12 represent such speech sounds;

13 “(iii) spoken vocabulary and oral com-
14 prehension abilities; and

15 “(iv) understanding of semiotic con-
16 cepts.

17 “(2) *OPTIONAL ACTIVITIES.*—An eligible appli-
18 cant that receives a grant under this subpart may use
19 the funds provided under the grant to carry out the
20 following activities:

21 “(A) Using scientific research-based screen-
22 ing tools or other appropriate measures to deter-
23 mine whether preschool children are developing
24 the skills identified in this subsection.

1 “(B) Integrating such instructional mate-
2 rials and literacy activities with programs of ex-
3 isting child care agencies, preschools, and Head
4 Start centers, and with family literacy services.

5 “(f) AWARD AMOUNTS.—The Secretary may establish
6 a maximum award amount, or ranges of award amounts,
7 for grants under this subpart.

8 **“SEC. 1223. FEDERAL ADMINISTRATION.**

9 “The Secretary shall consult with the Secretary of
10 Health and Human Services in order to coordinate the ac-
11 tivities undertaken under this subpart with programs under
12 the Head Start Act (42 U.S.C. 9831 et seq.).

13 **“SEC. 1224. REPORTING REQUIREMENTS.**

14 “Each eligible applicant receiving a grant under this
15 subpart shall report annually to the Secretary regarding
16 the eligible applicant’s progress in addressing the purposes
17 of this subpart.

18 **“SEC. 1225. EVALUATION.**

19 “From the total amount made available under section
20 1002(b)(2) for the period beginning October 1, 2002, and
21 ending September 30, 2006, the Secretary shall reserve not
22 more than \$1,000,000 to conduct an independent evaluation
23 of the effectiveness of this subpart.

1 **“SEC. 1226. ADDITIONAL RESEARCH.**

2 *“From the amount made available under section*
3 *1002(b)(2) for each of the fiscal years 2002 through 2006,*
4 *the Secretary shall reserve not more than \$3,000,000 to con-*
5 *duct, in consultation with the National Institute for Child*
6 *Health and Human Development, the National Institute for*
7 *Literacy, and the Department of Health and Human Serv-*
8 *ices, additional research on language and literacy develop-*
9 *ment for children aged 3 through 5.”.*

10 **SEC. 112. AMENDMENTS TO EVEN START.**

11 *Part B of title I (20 U.S.C. 6361 et seq.), as amended*
12 *by section 111, is further amended—*

13 *(1) by inserting before section 1231 (as so redes-*
14 *ignated by section 111) the following:*

15 **“Subpart 3—William F. Goodling Even Start Family**
16 **Literacy Programs”;**

17 *(2) in each of sections 1231 through 1242 (as so*
18 *redesignated by section 111)—*

19 *(A) by striking “this part” each place such*
20 *term appears and inserting “this subpart”; and*

21 *(B) by striking “1002(b)” each place such*
22 *term appears and inserting “1002(b)(3)”;*

23 *(3) in section 1231(4), by striking “2252” and*
24 *inserting “1209”;*

25 *(4) in section 1232—*

26 *(A) in subsection (b)—*

1 (i) in paragraph (1)(A), by striking
2 “1209;” and inserting “1239;”; and

3 (ii) in paragraph (2), by striking
4 “1211(b)” each place such term appears
5 and inserting “1241(b)”; and

6 (B) in subsection (c)—

7 (i) by amending paragraph (2)(C) to
8 read as follows:

9 “(C) COORDINATION WITH SUBPART 1.—The
10 consortium shall coordinate its activities with
11 the activities of the reading and literacy partner-
12 ship for the State established under section
13 1204(d), if the State receives a grant under sec-
14 tion 1203.”; and

15 (ii) in paragraph (3), by striking
16 “2252).” and inserting “1209).”;

17 (5) in section 1233—

18 (A) by striking “1202(d)(1)” each place
19 such term appears and inserting “1232(d)(1)”;
20 and

21 (B) by striking “1210.” and inserting
22 “1240.”;

23 (6) in section 1234—

24 (A) in subsection (b)—

- 1 (i) in paragraph (1)(A), by moving the
2 margins of clauses (v) and (vi) 2 ems to the
3 right; and
- 4 (ii) in paragraph (3), by striking
5 “1202(a)(1)(C)” and inserting
6 “1232(a)(1)(C)”; and
- 7 (B) in subsection (c)—
- 8 (i) in paragraph (1)—
- 9 (I) by striking “1203(a),” and in-
10 serting “1233(a),”; and
- 11 (II) by striking “1203(b)” and in-
12 serting “1233(b)”; and
- 13 (ii) in paragraph (2), by striking
14 “1210.” and inserting “1240.”;
- 15 (7) in section 1235—
- 16 (A) in paragraph (10), by striking “2252)”
17 and inserting “1209”;
- 18 (B) in paragraph (12), by striking “2252),”
19 and inserting “1209,”; and
- 20 (C) in paragraph (15), by striking “pro-
21 gram.” and inserting “program to be used for
22 program improvement.”;
- 23 (8) in section 1237—
- 24 (A) in subsection (c)(1)—

1 (i) in subparagraph (B), by striking
2 “1205;” and inserting “1235;”; and

3 (ii) in subparagraph (F), by striking
4 “14306;” and inserting “8306;”; and
5 (B) in subsection (d), by striking “14302.”
6 and inserting “8302.”;

7 (9) in section 1238—

8 (A) in subsection (a)(1)—

9 (i) in subparagraph (A)(ii), by strik-
10 ing “1205;” and inserting “1235;”; and

11 (ii) in subparagraph (F), by striking
12 “1204(b);” and inserting “1234(b);”; and

13 (B) in subsection (b)—

14 (i) in paragraph (3)—

15 (I) by striking “1207(c)(1)(A)”
16 and inserting “1237(c)(1)(A)”; and

17 (II) by striking “1210.” and in-
18 serting “1240.”;

19 (ii) in paragraph (4), by striking
20 “1210,” and inserting “1240;”; and

21 (iii) in paragraph (5)(B), by striking
22 “1204(b).” and inserting “1234(b).”;

23 (10) in section 1239—

24 (A) by striking “1202(b)(1),” and inserting
25 “1232(b)(1),”; and

1 (B) by striking “1205(10)” and inserting
2 “1235(10)”; and
3 (11) in section 1241—
4 (A) in subsection (b)(1)—
5 (i) by striking “1202(b)(2),” and in-
6 serting “1232(b)(2),”; and
7 (ii) by striking “2252);” and inserting
8 “1209);”; and
9 (B) in subsection (c), by striking “2258,”
10 and inserting “1208,”.

11 **SEC. 113. INEXPENSIVE BOOK DISTRIBUTION PROGRAM.**

12 (a) *TRANSFER AND REDESIGNATION.*—Part E of title
13 X (20 U.S.C. 8131) is transferred and redesignated as sub-
14 part 4 of part B of title I. Section 10501 is redesignated
15 as section 1251.

16 (b) *PURPOSE.*—Section 1251 (as so redesignated) is
17 amended—

18 (1) by striking subsection (e);

19 (2) by redesignating subsection (d) as subsection
20 (g);

21 (3) by redesignating subsections (a) through (c)
22 as subsections (b) through (d), respectively; and

23 (4) by inserting before subsection (b) (as so re-
24 designated) the following:

1 “(a) *PURPOSE.*—*The purpose of this program is to es-*
2 *tablish and implement a model partnership between a gov-*
3 *ernmental entity and a private entity, to help prepare*
4 *young children for reading, and motivate older children to*
5 *read, through the distribution of inexpensive books. Local*
6 *reading motivation programs assisted under this section*
7 *shall use such assistance to provide books, training for vol-*
8 *unteers, motivational activities, and other essential literacy*
9 *resources, and shall assign the highest priority to serving*
10 *the youngest and neediest children in the United States.”.*

11 (c) *AUTHORIZATION.*—*Section 1251(b) (as so redesign-*
12 *ated) is amended by striking “books to students, that moti-*
13 *vate children to read.” and inserting “books to young and*
14 *school-aged children that motivate them to read.”.*

15 (d) *REQUIREMENTS OF CONTRACT.*—*Section 1251(c)*
16 *(as so redesignated) is amended—*

17 (1) *in the matter preceding paragraph (1), by*
18 *striking “subsection (a)” and inserting “subsection*
19 *(b)”;* and

20 (2) *in paragraph (4), by inserting “training*
21 *and” before “technical”.*

22 (e) *SPECIAL RULES FOR CERTAIN SUBCONTRACTORS;*
23 *MULTI-YEAR CONTRACTS.*—*Section 1251 (as so redesign-*
24 *ated) is amended by inserting after subsection (d) the fol-*
25 *lowing:*

1 “(e) *SPECIAL RULES FOR CERTAIN SUBCONTRAC-*
2 *TORS.*—

3 “(1) *FUNDS FROM OTHER FEDERAL SOURCES.*—
4 *Subcontractors operating programs under this section*
5 *in low-income communities with a substantial num-*
6 *ber or percentage of children with special needs, as*
7 *described in subsection (c)(3), may use funds from*
8 *other Federal sources to pay the non-Federal share of*
9 *the cost of the program, if those funds do not comprise*
10 *more than 50 percent of the non-Federal share of the*
11 *funds used for the cost of acquiring and distributing*
12 *books.*

13 “(2) *WAIVER AUTHORITY.*—*Notwithstanding*
14 *subsection (c), the contractor may waive, in whole or*
15 *in part, the requirement in subsection (c)(1) for a*
16 *subcontractor, if the subcontractor demonstrates that*
17 *it would otherwise not be able to participate in the*
18 *program, and enters into an agreement with the con-*
19 *tractor with respect to the amount of the non-Federal*
20 *share to which the waiver will apply. In a case in*
21 *which such a waiver is granted, the requirement in*
22 *subsection (c)(2) shall not apply.*

23 “(f) *MULTI-YEAR CONTRACTS.*—*The contractor may*
24 *enter into a multi-year subcontract under this section, if—*

1 “(1) the contractor believes that such subcontract
2 will provide the subcontractor with additional lever-
3 age in seeking local commitments; and

4 “(2) the subcontract does not undermine the fi-
5 nances of the national program.”.

6 (f) *CONTINUATION OF AWARDS.*—Notwithstanding any
7 other provision of this Act, any person or agency that was
8 awarded a contract under part E of title X (20 U.S.C.
9 8131) prior to the date of the enactment of this Act shall
10 continue to receive funds in accordance with the terms of
11 such contract until the date on which the contract period
12 terminates under such terms.

13 **PART C—EDUCATION OF MIGRATORY CHILDREN**

14 **SEC. 121. STATE ALLOCATIONS.**

15 Section 1303 (20 U.S.C. 6393) is amended—

16 (1) by amending subsection (a) to read as fol-
17 lows:

18 “(a) *STATE ALLOCATIONS.*—

19 “(1) *FISCAL YEAR 2002.*—For fiscal year 2002,
20 each State (other than the Commonwealth of Puerto
21 Rico) is entitled to receive under this part an amount
22 equal to—

23 “(A) the sum of the estimated number of
24 migratory children aged three through 21 who
25 reside in the State full time and the full-time

1 *equivalent of the estimated number of migratory*
2 *children aged three through 21 who reside in the*
3 *State part time, as determined in accordance*
4 *with subsection (d); multiplied by*

5 *“(B) 40 percent of the average per-pupil ex-*
6 *penditure in the State, except that the amount*
7 *determined under this paragraph shall not be*
8 *less than 32 percent, nor more than 48 percent,*
9 *of the average expenditure per pupil in the*
10 *United States.*

11 “(2) *SUBSEQUENT YEARS.—*

12 “(A) *BASE AMOUNT.—*

13 “(i) *IN GENERAL.—Except as provided*
14 *in subsection (b) and clause (ii), each State*
15 *(other than the Commonwealth of Puerto*
16 *Rico) is entitled to receive under this part,*
17 *for fiscal year 2003 and succeeding fiscal*
18 *years, an amount equal to—*

19 “(I) *the amount that such State*
20 *received under this part for fiscal year*
21 *2002; plus*

22 “(II) *the amount allocated to the*
23 *State under subparagraph (B).*

24 “(ii) *NONPARTICIPATING STATES.—In*
25 *the case of a State (other than the Common-*

1 *wealth of Puerto Rico) that did not receive*
2 *any funds for fiscal year 2002 under this*
3 *part, the State shall receive, for fiscal year*
4 *2003 and succeeding fiscal years, an*
5 *amount equal to—*

6 *“(I) the amount that such State*
7 *would have received under this part for*
8 *fiscal year 2002 if its application*
9 *under section 1304 for the year had*
10 *been approved; plus*

11 *“(II) the amount allocated to the*
12 *State under subparagraph (B).*

13 *“(B) ALLOCATION OF ADDITIONAL*
14 *AMOUNT.—For fiscal year 2003 and succeeding*
15 *fiscal years, the amount (if any) by which the*
16 *funds appropriated to carry out this part for the*
17 *year exceed such funds for fiscal year 2002 shall*
18 *be allocated to a State (other than the Common-*
19 *wealth of Puerto Rico) so that the State receives*
20 *an amount equal to—*

21 *“(i) the sum of—*

22 *“(I) the number of identified eligi-*
23 *ble migratory children, aged 3 through*
24 *21, residing in the State during the*
25 *previous year; and*

1 “(II) the number of identified eli-
2 gible migratory children, aged 3
3 through 21, who received services under
4 this part in summer or intersession
5 programs provided by the State during
6 such year; multiplied by

7 “(ii) 40 percent of the average per-
8 pupil expenditure in the State, except that
9 the amount determined under this clause
10 may not be less than 32 percent, or more
11 than 48 percent, of the average per-pupil
12 expenditure in the United States.”;

13 (2) by amending subsection (b) to read as fol-
14 lows:

15 “(b) ALLOCATION TO PUERTO RICO.—

16 “(1) IN GENERAL.—For each fiscal year, the
17 grant which the Commonwealth of Puerto Rico shall
18 be eligible to receive under this part shall be the
19 amount determined by multiplying the number of
20 children counted under subsection (a)(1)(A) for the
21 Commonwealth of Puerto Rico by the product of—

22 “(A) the percentage which the average per
23 pupil expenditure in the Commonwealth of Puer-
24 to Rico is of the lowest average per pupil expend-
25 iture of any of the 50 States; and

1 “(B) 32 percent of the average per pupil ex-
2 penditure in the United States.

3 “(2) *MINIMUM PERCENTAGE.*—The percentage in
4 paragraph (1)(A) shall not be less than—

5 “(A) for fiscal year 2002, 77.5 percent;

6 “(B) for fiscal year 2003, 80.0 percent;

7 “(C) for fiscal year 2004, 82.5 percent; and

8 “(D) for fiscal year 2005 and succeeding
9 fiscal years, 85.0 percent.

10 “(3) *LIMITATION.*—If the application of para-
11 graph (2) would result in any of the 50 States or the
12 District of Columbia receiving less under this part
13 than it received under this part for the preceding fis-
14 cal year, the percentage in paragraph (1) shall be the
15 greater of the percentage in paragraph (1)(A) or the
16 percentage used for the preceding fiscal year.”; and

17 (3) by striking subsection (d) and redesignating
18 subsection (e) as subsection (d).

19 **SEC. 122. STATE APPLICATIONS; SERVICES.**

20 (a) *PROGRAM INFORMATION.*—Section 1304(b) (20
21 U.S.C. 6394(b)) is amended—

22 (1) in paragraph (1), by striking “addressed
23 through” and all that follows through the semicolon at
24 the end and inserting the following:

25 “addressed through—

1 “(A) *the full range of services that are*
2 *available for migratory children from appro-*
3 *priate local, State, and Federal educational pro-*
4 *grams;*

5 “(B) *joint planning among local, State, and*
6 *Federal educational programs serving migrant*
7 *children, including programs under part A of*
8 *title III;*

9 “(C) *the integration of services available*
10 *under this part with services provided by those*
11 *other programs; and*

12 “(D) *measurable program goals and out-*
13 *comes;”;* and

14 (2) *in paragraph (5), by striking “the require-*
15 *ments of paragraph (1);” and inserting “the numbers*
16 *and needs of migratory children, the requirements of*
17 *subsection (d), and the availability of funds from*
18 *other Federal, State, and local programs;”.*

19 (b) *ASSURANCES.—Section 1304(c) (20 U.S.C.*
20 *6394(c)) is amended—*

21 (1) *in paragraph (1), by striking “1306(b)(1);”*
22 *and inserting “1306(a);”;*

23 (2) *in paragraph (2), by striking “part F;” and*
24 *inserting “part H;”*

25 (3) *in paragraph (3)—*

1 (A) by striking “appropriate”;

2 (B) by striking “out, to the extent feasible,”

3 and inserting “out”; and

4 (C) by striking “1118;” and inserting

5 “1118, unless extraordinary circumstances make

6 implementation consistent with such section im-

7 practical;”; and

8 (4) in paragraph (7), by striking “section

9 1303(e)” and inserting “paragraphs (1)(A) and

10 (2)(B)(i) of section 1303(a)”.

11 **SEC. 123. AUTHORIZED ACTIVITIES.**

12 Section 1306 (20 U.S.C. 6396) is amended to read as

13 follows:

14 **“SEC. 1306. AUTHORIZED ACTIVITIES.**

15 “(a) *IN GENERAL.*—

16 “(1) *FLEXIBILITY.*—Each State educational

17 agency, through its local educational agencies, shall

18 have the flexibility to determine the activities to be

19 provided with funds made available under this part,

20 except that such funds shall first be used to meet the

21 identified needs of migratory children that result from

22 their migratory lifestyle, and to permit these children

23 to participate effectively in school.

24 “(2) *UNADDRESSED NEEDS.*—Funds provided

25 under this part shall be used to address the needs of

1 “(1) *ASSISTANCE.*—*The Secretary shall assist*
2 *States in developing effective methods for the transfer*
3 *of student records and in determining the number of*
4 *migratory children in each State. The Secretary, in*
5 *consultation with the States, shall determine the min-*
6 *imum data elements that each State receiving funds*
7 *under this part shall collect and maintain. The Sec-*
8 *retary shall assist States to implement a system of*
9 *linking their student record transfer systems for the*
10 *purpose of electronic records maintenance and trans-*
11 *fer for migrant students.*

12 “(2) *NO COST FOR CERTAIN TRANSFERS.*—*A*
13 *State educational agency or local educational agency*
14 *receiving assistance under this part shall make stu-*
15 *dent records available to another State or local edu-*
16 *cational agency that requests the records at no cost to*
17 *the requesting agency, if the request is made in order*
18 *to meet the needs of a migratory child.”.*

19 “(c) *AVAILABILITY OF FUNDS.*—*Section 1308(c) (20*
20 *U.S.C. 6398(c)) is amended by striking “\$6,000,000” and*
21 *inserting “\$10,000,000”.*

22 “(d) *INCENTIVE GRANTS.*—*Section 1308(d) (20 U.S.C.*
23 *6398(d)) is amended to read as follows:*

24 “(d) *INCENTIVE GRANTS.*—*From the amounts made*
25 *available to carry out this section for any fiscal year, the*

1 *Secretary may reserve not more than \$3,000,000 to award*
2 *grants of not more than \$250,000 on a competitive basis*
3 *to State educational agencies that propose a consortium ar-*
4 *rangement with another State or other appropriate entity*
5 *that the Secretary determines, pursuant to criteria that the*
6 *Secretary shall establish, will improve the delivery of serv-*
7 *ices to migratory children whose education is interrupted.”.*

8 ***PART D—NEGLECTED OR DELINQUENT YOUTH***

9 ***SEC. 131. NEGLECTED OR DELINQUENT YOUTH.***

10 *The heading for part D of title I is amended to read*
11 *as follows:*

12 ***“PART D—PREVENTION AND INTERVENTION PRO-***
13 ***GRAMS FOR NEGLECTED OR DELINQUENT***
14 ***CHILDREN AND YOUTH”.***

15 ***SEC. 132. FINDINGS.***

16 *Section 1401(a) (20 U.S.C. 6421(a)) is amended by*
17 *striking paragraphs (6) through (9) and inserting the fol-*
18 *lowing:*

19 *“(6) Youth returning from correctional facilities*
20 *need to be involved in programs that provide them*
21 *with high-level skills and other support to help them*
22 *stay in school and complete their education.*

23 *“(7) Pregnant and parenting teenagers are a*
24 *high-at-risk group for dropping out of school and*
25 *should be targeted by dropout prevention programs.”.*

1 **SEC. 133. ALLOCATION OF FUNDS.**

2 *Section 1412(b) (20 U.S.C. 6432(b)) is amended to*
3 *read as follows:*

4 *“(b) SUBGRANTS TO STATE AGENCIES IN PUERTO*
5 *RICO.—*

6 *“(1) IN GENERAL.—For each fiscal year, the*
7 *amount of the subgrant which a State agency in the*
8 *Commonwealth of Puerto Rico shall be eligible to re-*
9 *ceive under this part shall be the amount determined*
10 *by multiplying the number of children counted under*
11 *subparagraph (a)(1)(A) for the Commonwealth of*
12 *Puerto Rico by the product of—*

13 *“(A) the percentage which the average per-*
14 *pupil expenditure in the Commonwealth of Puer-*
15 *to Rico is of the lowest average per-pupil expend-*
16 *iture of any of the 50 States; and*

17 *“(B) 32 percent of the average per-pupil ex-*
18 *penditure in the United States.*

19 *“(2) MINIMUM PERCENTAGE.—The percentage in*
20 *paragraph (1)(A) shall not be less than—*

21 *“(A) for fiscal year 2002, 77.5 percent;*

22 *“(B) for fiscal year 2003, 80.0 percent;*

23 *“(C) for fiscal year 2004, 82.5 percent; and*

24 *“(D) for fiscal year 2005 and succeeding*
25 *fiscal years, 85.0 percent.*

1 “(3) *LIMITATION.*—If the application of para-
2 graph (2) would result in any of the 50 States or the
3 District of Columbia receiving less under this part
4 than it received under this part for the preceding fis-
5 cal year, the percentage in paragraph (1) shall be the
6 greater of the percentage in paragraph (1)(A) or the
7 percentage used for the preceding fiscal year.”.

8 **SEC. 134. STATE PLAN AND STATE AGENCY APPLICATIONS.**

9 Section 1414 (20 U.S.C. 6434) is amended to read as
10 follows:

11 **“SEC. 1414. STATE PLAN AND STATE AGENCY APPLICA-**
12 **TIONS.**

13 “(a) *STATE PLAN.*—

14 “(1) *IN GENERAL.*—Each State educational
15 agency that desires to receive a grant under this part
16 shall submit, for approval by the Secretary, a plan
17 for meeting the educational needs of neglected and de-
18 linquent youth, for assisting in their transition from
19 institutions to locally operated programs, and which
20 is integrated with other programs under this Act or
21 other Acts, as appropriate, consistent with section
22 8306.

23 “(2) *CONTENTS.*—Each such State plan shall—

24 “(A) describe the program goals, objectives,
25 and performance measures established by the

1 *State that will be used to assess the effectiveness*
2 *of the program in improving academic and voca-*
3 *tional and technical skills of children in the pro-*
4 *gram;*

5 “(B) *provide that, to the extent feasible,*
6 *such children will have the same opportunities to*
7 *learn as such children would have if such chil-*
8 *dren were in the schools of local educational*
9 *agencies in the State; and*

10 “(C) *contain assurances that the State edu-*
11 *cational agency will—*

12 “(i) *ensure that programs assisted*
13 *under this part will be carried out in ac-*
14 *cordance with the State plan described in*
15 *this subsection;*

16 “(ii) *carry out the evaluation require-*
17 *ments of section 1416;*

18 “(iii) *ensure that the State agencies re-*
19 *ceiving subgrants under this subpart com-*
20 *ply with all applicable statutory and regu-*
21 *latory requirements; and*

22 “(iv) *provide such other information as*
23 *the Secretary may reasonably require.*

24 “(3) *DURATION OF THE PLAN.—Each such State*
25 *plan shall—*

1 “(A) remain in effect for the duration of the
2 State’s participation under this part; and

3 “(B) be periodically reviewed and revised
4 by the State, as necessary, to reflect changes in
5 the State’s strategies and programs under this
6 part.

7 “(b) SECRETARIAL APPROVAL AND PEER REVIEW.—

8 “(1) SECRETARIAL APPROVAL.—The Secretary
9 shall approve each State plan that meets the require-
10 ments of this part.

11 “(2) PEER REVIEW.—The Secretary may review
12 any State plan with the assistance and advice of in-
13 dividuals with relevant expertise.

14 “(c) STATE AGENCY APPLICATIONS.—Any State agen-
15 cy that desires to receive funds to carry out a program
16 under this part shall submit an application to the State
17 educational agency that—

18 “(1) describes the procedures to be used, con-
19 sistent with the State plan under section 1111, to as-
20 sess the educational needs of the children to be served;

21 “(2) provides assurances that in making services
22 available to youth in adult correctional facilities, pri-
23 ority will be given to such youth who are likely to
24 complete incarceration within a 2-year period;

1 “(3) describes the program, including a budget
2 for the first year of the program, with annual updates
3 to be provided to the State educational agency;

4 “(4) describes how the program will meet the
5 goals and objectives of the State plan under this sub-
6 part;

7 “(5) describes how the State agency will consult
8 with experts and provide the necessary training for
9 appropriate staff, to ensure that the planning and op-
10 eration of institution-wide projects under section 1416
11 are of high quality;

12 “(6) describes how the agency will carry out the
13 evaluation requirements of section 8651 and how the
14 results of the most recent evaluation are used to plan
15 and improve the program;

16 “(7) includes data showing that the agency has
17 maintained fiscal effort required of a local edu-
18 cational agency, in accordance with section 8501;

19 “(8) describes how the programs will be coordi-
20 nated with other appropriate State and Federal pro-
21 grams, such as job training programs, vocational and
22 technical education programs, State and local drop-
23 out prevention programs, and special education pro-
24 grams;

1 “(9) describes how States will encourage correc-
2 tional facilities receiving funds under this subpart to
3 coordinate with local educational agencies or alter-
4 native education programs attended by incarcerated
5 youth prior to their incarceration to ensure that stu-
6 dent assessments and appropriate academic records
7 are shared jointly between the correctional facility
8 and the local educational agency or alternative edu-
9 cation program;

10 “(10) describes how appropriate professional de-
11 velopment will be provided to teachers and other staff;

12 “(11) designates an individual in each affected
13 institution to be responsible for issues relating to the
14 transition of children and youth from the institution
15 to locally operated programs;

16 “(12) describes how the agency will endeavor to
17 coordinate with businesses for training and men-
18 toring for participating youth;

19 “(13) provides assurances that the agency will
20 assist in locating alternative programs through which
21 students can continue their education if students are
22 not returning to school after leaving the correctional
23 facility;

24 “(14) provides assurances that the agency will
25 work with parents to secure parents’ assistance in im-

1 *proving the educational achievement of their children*
2 *and preventing their children's further involvement in*
3 *delinquent activities;*

4 *“(15) provides assurances that the agency works*
5 *with special education youth in order to meet an ex-*
6 *isting individualized education program and an as-*
7 *surance that the agency will notify the youth's local*
8 *school if such youth—*

9 *“(A) is identified as in need of special edu-*
10 *cation services while the youth is in the facility;*
11 *and*

12 *“(B) intends to return to the local school;*

13 *“(16) provides assurances that the agency will*
14 *work with youth who dropped out of school before en-*
15 *tering the facility to encourage the youth to reenter*
16 *school once the term of incarceration has been com-*
17 *pleted or provide the youth with the skills necessary*
18 *to gain employment, continue the education of the*
19 *youth, or achieve a secondary school diploma or the*
20 *recognized equivalent if the youth does not intend to*
21 *return to school;*

22 *“(17) provides assurances that teachers and other*
23 *qualified staff are also trained to work with children*
24 *with disabilities and other students with special*

1 *needs, taking into consideration the unique needs of*
2 *such students;*

3 *“(18) describes any additional services to be pro-*
4 *vided to youth, such as career counseling, distance*
5 *learning, and assistance in securing student loans*
6 *and grants; and*

7 *“(19) provides assurances that the program*
8 *under this subpart will be coordinated with any pro-*
9 *grams operated under the Juvenile Justice and Delin-*
10 *quency Prevention Act of 1974 (42 U.S.C. 5601 et*
11 *seq.) or other comparable programs, if applicable.”.*

12 **SEC. 135. USE OF FUNDS.**

13 *Section 1415(a) (20 U.S.C. 6435(a)) is amended—*

14 *(1) in paragraph (1)(B), by inserting “, voca-*
15 *tional and technical training” after “secondary school*
16 *completion”;*

17 *(2) in paragraph (2)(B)—*

18 *(A) in clause (i), by inserting “and” after*
19 *the semicolon;*

20 *(B) in clause (ii), by striking “; and” and*
21 *inserting a semicolon; and*

22 *(C) by striking clause (iii);*

23 *(3) in paragraph (2)(C), by striking “part F of*
24 *this title” and inserting “part H”; and*

1 (4) in paragraph (2)(D), by striking “section
2 14701” and inserting “section 8651”.

3 **SEC. 136. TRANSITION SERVICES.**

4 Section 1418(a) (20 U.S.C. 6438(a)) is amended by
5 striking “10 percent” and inserting “15 percent”.

6 **SEC. 137. PURPOSE.**

7 Section 1421(3) (20 U.S.C. 6451(3)) is amended to
8 read as follows:

9 “(3) operate programs in local schools for youth
10 returning from correctional facilities and programs
11 which may also serve youth at risk of dropping out
12 of school.”.

13 **SEC. 138. PROGRAMS OPERATED BY LOCAL EDUCATIONAL**
14 **AGENCIES.**

15 Section 1422 (20 U.S.C. 6452) is amended—

16 (1) in subsection (a), by striking “retained”;

17 (2) by amending subsection (b) to read as fol-
18 lows:

19 “(b) *SPECIAL RULE.*—A local educational agency
20 which includes a correctional facility that operates a school
21 is not required to operate a program of support for children
22 returning from such school to a school not operated by a
23 correctional agency but served by such local educational
24 agency if more than 30 percent of the youth attending the
25 school operated by the correctional facility will reside out-

1 *side the boundaries of the local educational agency after*
2 *leaving such facility.”; and*

3 *(3) by adding at the end the following:*

4 *“(d) TRANSITIONAL AND ACADEMIC SERVICES.—Tran-*
5 *sitional and supportive programs operated in local edu-*
6 *cational agencies under this subpart shall be designed pri-*
7 *marily to meet the transitional and academic needs of stu-*
8 *dents returning to local educational agencies or alternative*
9 *education programs from correctional facilities. Services to*
10 *students at risk of dropping out of school shall not have*
11 *a negative impact on meeting the transitional and aca-*
12 *demic needs of the students returning from correctional fa-*
13 *cilities.”.*

14 **SEC. 139. LOCAL EDUCATIONAL AGENCY APPLICATIONS.**

15 *Section 1423 (20 U.S.C. 6453) is amended by striking*
16 *paragraphs (4) through (9) and inserting the following:*

17 *“(4) a description of the program operated by*
18 *participating schools for children returning from cor-*
19 *rectional facilities and the types of services that such*
20 *schools will provide such youth and other at-risk*
21 *youth;*

22 *“(5) a description of the characteristics (includ-*
23 *ing learning difficulties, substance abuse problems,*
24 *and other special needs) of the youth who will be re-*
25 *turning from correctional facilities and, as appro-*

1 *priate, other at-risk youth expected to be served by the*
2 *program and how the school will coordinate existing*
3 *educational programs to meet the unique educational*
4 *needs of such youth;*

5 *“(6) as appropriate, a description of how schools*
6 *will coordinate with existing social, health, and other*
7 *services to meet the needs of students returning from*
8 *correctional facilities, students at risk of dropping out*
9 *of school, and other participating students, including*
10 *prenatal health care and nutrition services related to*
11 *the health of the parent and child, parenting and*
12 *child development classes, child care, targeted reentry*
13 *and outreach programs, referrals to community re-*
14 *sources, and scheduling flexibility;*

15 *“(7) as appropriate, a description of any part-*
16 *nerships with local businesses to develop training,*
17 *curriculum-based youth entrepreneurship education,*
18 *and mentoring services for participating students;*

19 *“(8) as appropriate, a description of how pro-*
20 *grams will involve parents in efforts to improve the*
21 *educational achievement of their children, prevent the*
22 *involvement of their children in delinquent activities,*
23 *and encourage their children to remain in school and*
24 *complete their education;*

1 “(9) a description of how the program under this
2 subpart will be coordinated with other Federal, State,
3 and local programs, such as job training programs
4 and vocational and technical education programs
5 serving this at-risk population of youth.”.

6 **SEC. 140. USES OF FUNDS.**

7 Section 1424 (20 U.S.C. 6454) is amended by striking
8 paragraphs (1) through (3) and inserting the following:

9 “(1) programs that serve youth returning from
10 correctional facilities to local schools, to assist in the
11 transition of such youth to the school environment
12 and help them remain in school in order to complete
13 their education;

14 “(2) providing assistance to other youth at risk
15 of dropping out of school, including pregnant and
16 parenting teenagers;

17 “(3) the coordination of social, health, and other
18 services, including day care, for participating youth,
19 if the provision of such services will improve the like-
20 lihood that such youth will complete their 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 entrepreneur-

1 *ship education, and assistance in securing student*
2 *loans or grants for postsecondary education; 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 feasible,*
12 *ensure educational programs” and inserting “to the*
13 *extent practicable, ensure that educational programs”;*

14 *(4) in paragraphs (3) and (8), by striking*
15 *“where feasible,” and inserting “to the extent prac-*
16 *ticable,”;*

17 *(5) in paragraph (9)—*

18 *(A) by striking “this program” and insert-*
19 *ing “this subpart”;*

20 *(B) by inserting “and technical” after “vo-*
21 *cational”; and*

22 *(C) by striking “title I of the Workforce In-*
23 *vestment Act of 1998” and inserting “other job*
24 *training programs”;*

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 entrepre-
8 neurship 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 as
17 follows:

18 **“SEC. 1501. EVALUATIONS.**

19 “(a) NATIONAL ASSESSMENT.—

20 “(1) IN GENERAL.—In accordance with this sec-
21 tion, the Secretary shall conduct a national assess-
22 ment 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 im-
3 plementation on increasing student academic
4 achievement, particularly schools with high con-
5 centrations of children living in poverty;

6 “(B) the implementation of State standards,
7 assessments, and accountability systems devel-
8 oped under this title and the impact of such im-
9 plementation on educational programs and in-
10 struction at the local level;

11 “(C) the impact of schoolwide programs and
12 targeted assistance programs under this title on
13 improving student academic achievement;

14 “(D) the extent to which varying models of
15 comprehensive school reform are funded under
16 this title, and the effect of the implementation of
17 such models on improving achievement of dis-
18 advantaged students;

19 “(E) the costs as compared to the benefits of
20 the activities assisted under this title;

21 “(F) the impact of school choice options
22 under section 1116 on the academic achievement
23 of disadvantaged students, on schools in school
24 improvement, and on schools from which stu-
25 dents have transferred under such options;

1 “(G) the extent to which actions authorized
2 under section 1116 of this title are employed by
3 State and local educational agencies to improve
4 the academic achievement of students in low-per-
5 forming schools, and the effectiveness of the im-
6 plementation of such actions;

7 “(H) the extent to which technical assist-
8 ance made available under this title is used to
9 improve the achievement of students in low-per-
10 forming schools, and the impact of such assist-
11 ance on such achievement;

12 “(I) the extent to which State and local fis-
13 cal accounting requirements under this title
14 limit the flexibility of schoolwide programs;

15 “(J) the impact of the professional develop-
16 ment activities assisted under this title on in-
17 struction and student performance;

18 “(K) the extent to which the assistance
19 made available under this title is targeted to dis-
20 advantaged students and schools that need them
21 the most;

22 “(L) the effectiveness of Federal administra-
23 tion assistance made available under this title,
24 including monitoring and technical assistance;
25 and

1 “(M) such other issues as the Secretary con-
2 siders appropriate.

3 “(3) SOURCES OF INFORMATION.—In conducting
4 the assessment under this subsection, the Secretary
5 shall use information from a variety of sources, in-
6 cluding the National Assessment of Educational
7 Progress (carried out under section 411 of the Na-
8 tional Education Statistics Act of 1994 (20 U.S.C.
9 9010)), state evaluations, and other research studies.

10 “(4) COORDINATION.—In carrying out this sub-
11 section, the Secretary shall—

12 “(A) coordinate conducting the national as-
13 sessment with conducting the longitudinal study
14 described in subsection (c); and

15 “(B) ensure that the independent review
16 panel described in subsection (d) participates in
17 conducting the national assessment, including
18 planning for and reviewing the assessment.

19 “(5) REPORTS.—

20 “(A) INTERIM REPORT.—Not later than 3
21 years after the date of enactment of the Leave No
22 Child Behind Act of 2001, the Secretary shall
23 transmit to the President and the Congress an
24 interim report on the national assessment con-
25 ducted under this subsection.

1 “(B) *FINAL REPORT.*—Not later than 4
2 years after the date of enactment of the Leave No
3 Child Behind Act of 2001, the Secretary shall
4 transmit to the President and the Congress a
5 final report on the national assessment con-
6 ducted under this subsection.

7 “(b) *STUDIES AND DATA COLLECTION.*—

8 “(1) *IN GENERAL.*—In addition to other activi-
9 ties described in this section, the Secretary may, di-
10 rectly or through the making of grants to or contracts
11 with appropriate entities—

12 “(A) conduct studies and evaluations of the
13 need for, and effectiveness of, each program au-
14 thorized under this title;

15 “(B) collect the data necessary to comply
16 with the Government Performance and Results
17 Act of 1993; and

18 “(C) provide guidance and technical assist-
19 ance to State educational agencies and local edu-
20 cational agencies in developing and maintaining
21 management information systems through which
22 such agencies can develop program performance
23 indicators in order to improve services and per-
24 formance.

1 “(2) *MINIMUM INFORMATION.*—*Under this sub-*
2 *section, the Secretary shall collect, at a minimum,*
3 *trend information on the effect of each program au-*
4 *thorized under this title, which shall complement the*
5 *data collected and reported under subsections (a) and*
6 *(c).*

7 “(c) *NATIONAL LONGITUDINAL STUDY.*—

8 “(1) *IN GENERAL.*—*The Secretary shall conduct*
9 *a longitudinal study of schools receiving assistance*
10 *under this title.*

11 “(2) *ISSUES TO BE EXAMINED.*—*In carrying out*
12 *this subsection, the Secretary shall ensure that the*
13 *study referred to in paragraph (1) provides the Con-*
14 *gress and educators with each of the following:*

15 “(A) *An accurate description and analysis*
16 *of short-term and long-term effectiveness of the*
17 *assistance made available under this title upon*
18 *academic performance.*

19 “(B) *Information that can be used to im-*
20 *prove the effectiveness of the assistance made*
21 *available under this title in enabling students to*
22 *meet challenging achievement standards.*

23 “(C) *An analysis of educational practices or*
24 *model programs that are effective in improving*
25 *the achievement of disadvantaged children.*

1 “(D) *An analysis of the costs as compared*
2 *to the benefits of the assistance made available*
3 *under this title in improving the achievement of*
4 *disadvantaged children.*

5 “(E) *An analysis of the effects of the avail-*
6 *ability of school choice options under section*
7 *1116 on the academic achievement of disadvan-*
8 *taged students, on schools in school improvement,*
9 *and on schools from which students have trans-*
10 *ferred under such options.*

11 “(F) *Such other information as the Sec-*
12 *retary considers appropriate.*

13 “(3) *SCOPE.—In conducting the study referred to*
14 *in paragraph (1), the Secretary shall ensure that the*
15 *study—*

16 “(A) *bases its analysis on a nationally rep-*
17 *resentative sample of schools participating in*
18 *programs under this part;*

19 “(B) *to the extent practicable, includes in*
20 *its analysis students who transfer to different*
21 *schools during the course of the study; and*

22 “(C) *analyzes varying models or strategies*
23 *for delivering school services, including—*

24 “(i) *schoolwide and targeted services;*
25 *and*

1 “(ii) comprehensive school reform mod-
2 els.

3 “(d) INDEPENDENT REVIEW PANEL.—

4 “(1) IN GENERAL.—The Secretary shall establish
5 an independent review panel (in this subsection re-
6 ferred to as the ‘Review Panel’) to advise the Sec-
7 retary on methodological and other issues that arise
8 in carrying out subsections (a) and (c).

9 “(2) APPOINTMENT OF MEMBERS.—

10 “(A) IN GENERAL.—Subject to subpara-
11 graph (B), the Secretary shall appoint members
12 of the Review Panel from among qualified indi-
13 viduals who are—

14 “(i) specialists in statistics, evaluation,
15 research, and assessment;

16 “(ii) education practitioners, including
17 teachers, principals, and local and State su-
18 perintendents; and

19 “(iii) other individuals with technical
20 expertise who would contribute to the over-
21 all rigor and quality of the program evalua-
22 tion.

23 “(B) LIMITATIONS.—In appointing mem-
24 bers of the Review Panel under this subpara-
25 graph (A), the Secretary shall ensure that—

1 “(i) in order to ensure diversity, a ma-
2 jority of the number of individuals ap-
3 pointed under subparagraph (A)(i) rep-
4 resent disciplines or programs outside the
5 field of education; and

6 “(ii) the total number of the individ-
7 uals appointed under subparagraph (A)(ii)
8 or (A)(iii) does not exceed $\frac{1}{3}$ of the total
9 number of the individuals appointed under
10 this paragraph.

11 “(3) FUNCTIONS.—The Review Panel shall con-
12 sult with and advise the Secretary—

13 “(A) to ensure that the assessment con-
14 ducted under subsection (a) and the study con-
15 ducted under subsection (c)—

16 “(i) adhere to the highest possible
17 standards of quality with respect to research
18 design, statistical analysis, and the dissemi-
19 nation of findings; and

20 “(ii) use valid and reliable measures to
21 document program implementation and im-
22 pacts; and

23 “(B) to ensure—

24 “(i) that the final report described in
25 subsection (a)(5)(B) is reviewed not later

1 *than 120 days after its completion by not*
2 *less than 2 independent experts in program*
3 *evaluation;*

4 “(ii) *that such experts evaluate and*
5 *comment on the degree to which the report*
6 *complies with subsection (a); and*

7 “(iii) *that the comments of such ex-*
8 *ports are transmitted with the report under*
9 *subsection (a)(5)(B).”.*

10 **SEC. 152. DEMONSTRATIONS OF INNOVATIVE PRACTICES.**

11 *(a) IN GENERAL.—Section 1502 (20 U.S.C. 6492) is*
12 *amended—*

13 *(1) by redesignating subsection (b) as subsection*
14 *(c);*

15 *(2) by striking in subsection (a) “(2) EVALUA-*
16 *TION.—The Secretary” and inserting “(b) EVALUA-*
17 *TION.—The Secretary” and by moving such sub-*
18 *section (b) 2 ems to the left;*

19 *(3) by striking in subsection (a) “Such projects*
20 *shall include promising” and all that follows through*
21 *“career guidance opportunities.”;*

22 *(4) by striking “student performance standards”*
23 *and inserting “student achievement standards”;*

24 *(5) by inserting “academic” after “to meet chal-*
25 *lenging State”; and*

1 (6) by striking “(a) DEMONSTRATION PRO-
2 GRAMS” and all that follows through “IN GENERAL.—
3 From the” and inserting “(a) IN GENERAL.—From
4 the”.

5 **SEC. 153. ELLENDER-CLOSE UP FELLOWSHIP PROGRAM;**
6 **DROPOUT REPORTING.**

7 (a) IN GENERAL.—Part E of title I (20 U.S.C. 6491
8 et seq.) is further amended by adding at the end the fol-
9 lowing:

10 **“SEC. 1503. ELLENDER-CLOSE UP FELLOWSHIP PROGRAM**

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

12 “(1) It is a worthwhile goal to ensure that all
13 students in America are prepared for responsible citi-
14 zenship and that all students should have the oppor-
15 tunity to be involved in activities that promote and
16 demonstrate good citizenship.

17 “(2) It is a worthwhile goal to ensure that Amer-
18 ica’s educators have access to programs for the contin-
19 ued improvement of their professional skills.

20 “(3) Allen J. Ellender, a Senator from Lou-
21 isiana and President pro tempore of the United
22 States Senate, had a distinguished career in public
23 service characterized by extraordinary energy and
24 real concern for young people. Senator Ellender pro-
25 vided valuable support and encouragement to the

1 *Close Up Foundation, a nonpartisan, nonprofit founda-*
2 *tion promoting knowledge and understanding of the*
3 *Federal Government among young people and edu-*
4 *cators. Therefore, it is a fitting and appropriate trib-*
5 *ute to Senator Ellender to provide fellowships in his*
6 *name to students of limited economic means and the*
7 *teachers who work with such students, so that such*
8 *students and teachers may participate in the pro-*
9 *grams supported by the Close Up Foundation.*

10 “(4) *The Close Up Foundation is a nonpartisan,*
11 *nonprofit, education foundation promoting civic re-*
12 *sponsibility and knowledge and understanding of the*
13 *Federal Government among young people and edu-*
14 *cators. The Congress has consistently supported the*
15 *Close Up Foundation’s work with disadvantaged*
16 *young people and their educators through the Allen J.*
17 *Ellender Fellowship Program. Therefore, it is fitting*
18 *and appropriate to continue support under the suc-*
19 *cessor Ellender-Close Up Fellowship Program to stu-*
20 *dents of limited economic means and the teachers who*
21 *work with such students, so that such students and*
22 *teachers may participate in the programs supported*
23 *by the Close Up Foundation.*

24 “(b) *PROGRAM FOR MIDDLE AND SECONDARY SCHOOL*

25 *STUDENTS.—*

1 “(1) *ESTABLISHMENT.*—

2 “(A) *GENERAL AUTHORITY.*—*In accordance*
3 *with this subsection, the Secretary may make*
4 *grants to the Close Up Foundation of Wash-*
5 *ington, District of Columbia, a nonpartisan,*
6 *nonprofit foundation, for the purpose of assisting*
7 *the Close Up Foundation in carrying out its*
8 *programs of increasing civic responsibility and*
9 *understanding of the Federal Government among*
10 *middle and secondary school students.*

11 “(B) *USE OF FUNDS.*—*Grants under this*
12 *subsection shall be used only to provide financial*
13 *assistance to economically disadvantaged stu-*
14 *dents who participate in the program described*
15 *in subparagraph (A). Financial assistance re-*
16 *ceived pursuant to this subsection by such stu-*
17 *dents shall be known as Ellender-Close Up fel-*
18 *lowships.*

19 “(2) *APPLICATIONS.*—

20 “(A) *APPLICATION REQUIRED.*—*No grant*
21 *under this subsection may be made except upon*
22 *an application at such time, in such manner,*
23 *and accompanied by such information as the*
24 *Secretary may reasonably require.*

1 “(B) *CONTENTS OF APPLICATION.*—*Each*
2 *application submitted under this paragraph*
3 *shall contain provisions to assure—*

4 “(i) *that fellowship grants are made to*
5 *economically disadvantaged middle and sec-*
6 *ondary school students;*

7 “(ii) *that every effort will be made to*
8 *ensure the participation of students from*
9 *rural and small town areas, as well as from*
10 *urban areas, and that in awarding fellow-*
11 *ships to economically disadvantaged stu-*
12 *dents, special consideration will be given to*
13 *the participation of students with special*
14 *educational needs, including students with*
15 *disabilities, ethnic minority students, recent*
16 *immigrants, and gifted and talented stu-*
17 *dents; and*

18 “(iii) *the proper disbursement of the*
19 *funds received under this subsection.*

20 “(c) *PROGRAM FOR MIDDLE AND SECONDARY SCHOOL*
21 *TEACHERS.*—

22 “(1) *ESTABLISHMENT.*—

23 “(A) *GENERAL AUTHORITY.*—*In accordance*
24 *with this subsection, the Secretary may make*
25 *grants to the Close Up Foundation of Wash-*

1 ington, District of Columbia, a nonpartisan,
2 nonprofit foundation, for the purpose of assisting
3 the Close Up Foundation in carrying out its
4 programs of professional development for middle
5 and secondary school teachers and to promote
6 greater civic understanding and responsibility
7 among the students of such teachers.

8 “(B) *USE OF FUNDS.*—Grants under this
9 subsection shall be used only for financial assist-
10 ance to teachers who participate in the program
11 described in subparagraph (A). Financial assist-
12 ance received pursuant to this subpart by such
13 individuals shall be known as *Ellender-Close Up*
14 *fellowships*.

15 “(2) *APPLICATIONS.*—

16 “(A) *APPLICATION REQUIRED.*—No grant
17 under this subsection may be made except upon
18 an application at such time, in such manner,
19 and accompanied by such information as the
20 Secretary may reasonably require.

21 “(B) *CONTENTS OF APPLICATION.*—Each
22 application submitted under this paragraph
23 shall contain provisions to assure—

24 “(i) that fellowship grants are made
25 only to teachers who have worked with at

1 *least one student from such teacher's school*
2 *who participates in the programs described*
3 *in subsection (b);*

4 “(ii) *that no teacher in each school*
5 *participating in the programs assisted*
6 *under subsection (b) may receive more than*
7 *one fellowship in any fiscal year; and*

8 “(iii) *the proper disbursement of the*
9 *funds received under this subsection.*

10 “(d) *PROGRAMS FOR RECENT IMMIGRANTS AND STU-*
11 *DENTS OF MIGRANT PARENTS.—*

12 “(1) *ESTABLISHMENT.—*

13 “(A) *GENERAL AUTHORITY.—In accordance*
14 *with this subsection, the Secretary may make*
15 *grants to the Close Up Foundation of Wash-*
16 *ington, District of Columbia, a nonpartisan,*
17 *nonprofit foundation, for the purpose of assisting*
18 *the Close Up Foundation in carrying out its*
19 *programs of increasing understanding of the*
20 *Federal Government among economically dis-*
21 *advantaged recent immigrants and students of*
22 *migrant parents.*

23 “(B) *USE OF FUNDS.—Grants under this*
24 *subsection shall be used for financial assistance*
25 *to economically disadvantaged older Americans,*

1 *recent immigrants and students of migrant par-*
2 *ents who participate in the program described in*
3 *subsection (a). Financial assistance received pur-*
4 *suant to this subpart by such individuals shall*
5 *be known as Ellender-Close Up fellowships.*

6 “(2) *APPLICATIONS.*—

7 “(A) *APPLICATION REQUIRED.*—*No grant*
8 *under this subsection may be made except upon*
9 *application at such time, in such manner, and*
10 *accompanied by such information as the Sec-*
11 *retary may reasonably require.*

12 “(B) *CONTENTS OF APPLICATION.*—*Each*
13 *application submitted under this paragraph*
14 *shall contain provisions—*

15 “(i) *to assure that fellowship grants*
16 *are made to economically disadvantaged re-*
17 *cent immigrants and students of migrant*
18 *parents;*

19 “(ii) *to assure that every effort will be*
20 *made to ensure the participation of recent*
21 *immigrants and students of migrant par-*
22 *ents from rural and small town areas, as*
23 *well as from urban areas, and that in*
24 *awarding fellowships, special consideration*
25 *will be given to the participation of recent*

1 immigrants and students of migrant par-
2 ents with special needs, including individ-
3 uals with disabilities, ethnic minorities,
4 and gifted and talented students;

5 “(iii) that fully describe the activities
6 to be carried out with the proceeds of the
7 grant; and

8 “(iv) to assure the proper disbursement
9 of the funds received under this subsection.

10 “(e) *GENERAL PROVISIONS.*—

11 “(1) *ADMINISTRATIVE PROVISIONS.*—

12 “(A) *GENERAL RULE.*—Payments under
13 this section may be made in installments, in ad-
14 vance, or by way of reimbursement, with nec-
15 essary adjustments on account of underpayment
16 or overpayment.

17 “(B) *AUDIT RULE.*—The Comptroller Gen-
18 eral of the United States or any of the Comp-
19 troller General’s duly authorized representatives
20 shall have access for the purpose of audit and ex-
21 amination to any books, documents, papers, and
22 records that are pertinent to any grant under
23 this section.

24 “(f) *LIMITATION.*—Of the funds appropriated to carry
25 out this section under section 1002, the Secretary may use

1 *not more than 30 percent to carry out subsection (c) of this*
2 *section.*

3 **“SEC. 1504. DROPOUT REPORTING.**

4 *“State educational agencies receiving funds under this*
5 *title shall annually report to the National Center on Edu-*
6 *cation Statistics (established under section 403 of the Na-*
7 *tional Education Statistics Act of 1994 (20 U.S.C. 9002))*
8 *on the dropout rate of students in the State, as defined for*
9 *the Center’s Common Core of Data.”.*

10 *(b) CONTINUATION OF AWARDS.—Notwithstanding*
11 *any other provision of this Act, any person or agency that*
12 *was awarded a grant under part G of title X (20 U.S.C.*
13 *8161 et seq.) prior to the date of the enactment of this Act*
14 *shall continue to receive funds in accordance with the terms*
15 *of such award until the date on which the award period*
16 *terminates under such terms.*

17 **PART F—COMPREHENSIVE SCHOOL REFORM**

18 **SEC. 161. SCHOOL REFORM.**

19 *Part F of title I is amended to read as follows:*

20 **“PART F—COMPREHENSIVE SCHOOL REFORM**

21 **“SEC. 1601. COMPREHENSIVE SCHOOL REFORM.**

22 *“(a) FINDINGS AND PURPOSE.—*

23 *“(1) FINDINGS.—Congress finds the following:*

24 *“(A) A number of schools across the country*
25 *have shown impressive gains in student perform-*

1 *ance through the use of comprehensive models for*
2 *schoolwide change that incorporate virtually all*
3 *aspects of school operations.*

4 “(B) *No single comprehensive school reform*
5 *model may be suitable for every school, however,*
6 *schools should be encouraged to examine success-*
7 *ful, externally developed comprehensive school re-*
8 *form approaches as they undertake comprehen-*
9 *sive school reform.*

10 “(C) *Comprehensive school reform is an im-*
11 *portant means by which children are assisted in*
12 *meeting challenging State student academic*
13 *achievement standards.*

14 “(2) *PURPOSE.—The purpose of this section is to*
15 *provide financial incentives for schools to develop*
16 *comprehensive school reforms, based upon scientif-*
17 *ically-based research and effective practices that in-*
18 *clude an emphasis on basic academics and parental*
19 *involvement so that all children can meet challenging*
20 *State content and academic achievement standards.*

21 “(b) *PROGRAM AUTHORIZED.—*

22 “(1) *IN GENERAL.—The Secretary is authorized*
23 *to provide grants to State educational agencies to*
24 *provide subgrants to local educational agencies to*
25 *carry out the purpose described in subsection (a)(2).*

1 “(2) *ALLOCATION.*—

2 “(A) *RESERVATION.*—*Of the amount appro-*
3 *propriated under this section, the Secretary may re-*
4 *serve—*

5 “(i) *not more than 1 percent for*
6 *schools supported by the Bureau of Indian*
7 *Affairs and in the United States Virgin Is-*
8 *lands, Guam, American Samoa, and the*
9 *Commonwealth of the Northern Mariana Is-*
10 *lands;*

11 “(ii) *not more than 1 percent to con-*
12 *duct national evaluation activities described*
13 *under subsection (e); and*

14 “(iii) *not more than 2 percent of the*
15 *amount appropriated in fiscal year 2002 to*
16 *carry out this part, for quality initiatives*
17 *described under subsection (f).*

18 “(B) *IN GENERAL.*—*Of the amount of funds*
19 *remaining after the reservation under subpara-*
20 *graph (A), the Secretary shall allocate to each*
21 *State for a fiscal year, an amount that bears the*
22 *same ratio to the remainder for that fiscal year*
23 *as the amount made available under section*
24 *1124 to the State for the preceding fiscal year*

1 *bears to the total amount allocated under section*
2 *1124 to all States for that year.*

3 “(C) *REALLOCATION.*—*If a State does not*
4 *apply for funds under this section, the Secretary*
5 *shall reallocate such funds to other States that do*
6 *apply in proportion to the amount allocated to*
7 *such States under subparagraph (B).*

8 “(c) *STATE AWARDS.*—

9 “(1) *STATE APPLICATION.*—

10 “(A) *IN GENERAL.*—*Each State educational*
11 *agency that desires to receive a grant under this*
12 *section shall submit an application to the Sec-*
13 *retary at such time, in such manner and con-*
14 *taining such other information as the Secretary*
15 *may reasonably require.*

16 “(B) *CONTENTS.*—*Each State application*
17 *shall also describe—*

18 “(i) *the process and selection criteria*
19 *by which the State educational agency,*
20 *using expert review, will select local edu-*
21 *cational agencies to receive subgrants under*
22 *this section;*

23 “(ii) *how the agency will ensure that*
24 *funds under this part are used only for*

1 *comprehensive school reform programs*
2 *that—*

3 “(I) *include each of the compo-*
4 *nents described in subsection (d)(2);*

5 “(II) *have the capacity to improve*
6 *the academic achievement of all stu-*
7 *dents in core academic subjects within*
8 *participating schools; and*

9 “(III) *are supported by technical*
10 *assistance providers that have a suc-*
11 *cessful track record, financial stability,*
12 *and the capacity to deliver high-qual-*
13 *ity materials and professional develop-*
14 *ment for school personnel.*

15 “(iii) *how the agency will disseminate*
16 *materials regarding information on com-*
17 *prehensive school reforms that are based on*
18 *scientifically-based research and effective*
19 *practices;*

20 “(iv) *how the agency will evaluate an-*
21 *nually the implementation of such reforms*
22 *and measure the extent to which the reforms*
23 *resulted in increased student academic per-*
24 *formance; and*

1 “(v) how the agency will provide, tech-
2 nical assistance to the local educational
3 agency or consortia of local educational
4 agencies, and to participating schools, in
5 evaluating, developing, and implementing
6 comprehensive school reform.

7 “(2) USES OF FUNDS.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (E), a State educational agency
10 that receives an award under this section shall
11 use such funds to provide competitive grants to
12 local educational agencies or consortia of local
13 educational agencies in the State receiving funds
14 under part A to support comprehensive school re-
15 forms in schools eligible for funds under such
16 part.

17 “(B) GRANT REQUIREMENTS.—A grant to a
18 local educational agency or consortium shall
19 be—

20 “(i) of sufficient size and scope to sup-
21 port the initial costs of the comprehensive
22 school reforms selected or designed by each
23 school identified in the application of the
24 local educational agency or consortium;

1 “(ii) in an amount not less than
2 \$50,000 to each participating school; and

3 “(iii) renewable for two additional 1-
4 year periods after the initial 1-year grant is
5 made if schools are making substantial
6 progress in the implementation of their re-
7 forms.

8 “(C) *PRIORITY.*—The State, in awarding
9 grants under this paragraph, shall give priority
10 to local educational agencies that—

11 “(i) plan to use the funds in schools
12 identified as being in need of improvement
13 or corrective action under section 1116(c);
14 or

15 “(ii) demonstrate a commitment to as-
16 sist schools with budget allocation, profes-
17 sional development, and other strategies
18 necessary to ensure the comprehensive school
19 reforms are properly implemented and are
20 sustained in the future.

21 “(D) *GRANT CONSIDERATION.*—In making
22 subgrant awards under this part, the State edu-
23 cational agency shall take into account the equi-
24 table distribution of awards to different geo-
25 graphic regions within the State, including

1 *urban and rural areas, and to schools serving el-*
2 *ementary and secondary students.*

3 “(E) *ADMINISTRATIVE COSTS.*—*A State*
4 *educational agency that receives a grant award*
5 *under this section may reserve not more than 5*
6 *percent of such award for administrative, eval-*
7 *uation, and technical assistance expenses.*

8 “(F) *SUPPLEMENT.*—*Funds made available*
9 *under this section shall be used to supplement,*
10 *not supplant, any other Federal, State, or local*
11 *funds that would otherwise be available to carry*
12 *out this section.*

13 “(3) *REPORTING.*—*Each State educational agen-*
14 *cy that receives an award under this section shall*
15 *provide to the Secretary such information as the Sec-*
16 *retary may require, including the names of local edu-*
17 *cational agencies and schools selected to receive*
18 *subgrant awards under this section, the amount of*
19 *such award, a description of the comprehensive school*
20 *reforms selected and in use and a copy of the State’s*
21 *annual evaluation of the implementation of com-*
22 *prehensive school reforms supported under this part*
23 *and student achievement results.*

24 “(d) *LOCAL AWARDS.*—

1 “(1) *IN GENERAL.*—*Each local educational agen-*
2 *cy or consortium that applies for a subgrant under*
3 *this section shall—*

4 “(A) *identify which schools eligible for*
5 *funds under part A plan to implement a com-*
6 *prehensive school reform program, including the*
7 *projected costs of such a program;*

8 “(B) *describe the comprehensive school re-*
9 *forms based on scientifically-based research and*
10 *effective practices that such schools will imple-*
11 *ment;*

12 “(C) *describe how the agency or consortium*
13 *will provide technical assistance and support for*
14 *the effective implementation of the school reforms*
15 *based on scientifically-based research and effec-*
16 *tive practices selected by such schools; and*

17 “(D) *describe how the agency or consortium*
18 *will evaluate the implementation of such reforms*
19 *and measure the results achieved in improving*
20 *student academic performance.*

21 “(2) *COMPONENTS OF THE PROGRAM.*—*A local*
22 *educational agency that receives a subgrant award*
23 *under this section shall provide such funds to schools*
24 *that implement a comprehensive school reform pro-*
25 *gram that—*

1 “(A) employs proven strategies and proven
2 methods for student learning, teaching, and
3 school management that are based on scientif-
4 ically-based research and effective practices and
5 have been replicated successfully in similar
6 schools;

7 “(B) integrates a comprehensive design for
8 effective school functioning, including instruc-
9 tion, assessment, classroom management, profes-
10 sional development, parental involvement, and
11 school management, that aligns the school’s cur-
12 riculum, technology, and professional develop-
13 ment into a comprehensive reform plan for
14 schoolwide change designed to enable all students
15 to meet challenging State content and chal-
16 lenging student performance standards and ad-
17 dresses needs identified through a school needs
18 assessment;

19 “(C) provides high-quality and continuous
20 teacher and staff professional development;

21 “(D) includes measurable goals for student
22 performance and benchmarks for meeting such
23 goals;

24 “(E) is supported by teachers, principals,
25 administrators, and other professional staff;

1 “(F) provides for the meaningful involve-
2 ment of parents and the local community in
3 planning and implementing school improvement
4 activities;

5 “(G) uses high quality external technical
6 support and assistance from an entity, which
7 may be an institution of higher education, with
8 experience and expertise in schoolwide reform
9 and improvement;

10 “(H) includes a plan for the annual evalua-
11 tion of the implementation of school reforms and
12 the student results achieved;

13 “(I) identifies how other resources, includ-
14 ing Federal, State, local, and private resources,
15 available to the school will be used to coordinate
16 services to support and sustain the school reform
17 effort; and

18 “(J)(i) has been found, through rigorous
19 field experiments in multiple sites, to signifi-
20 cantly improve the academic performance of stu-
21 dents participating in such activity or program
22 as compared to similar students in similar
23 schools, who have not participated in such activ-
24 ity or program; or

1 “(i) has been found to have strong evidence
2 that such model will significantly improve the
3 performance of participating children.

4 “(3) *SPECIAL RULE.*—A school that receives
5 funds to develop a comprehensive school reform pro-
6 gram shall not be limited to using nationally avail-
7 able approaches, but may develop its own comprehen-
8 sive school reform program for schoolwide change that
9 complies with paragraph (2).

10 “(e) *EVALUATION AND REPORT.*—

11 “(1) *IN GENERAL.*—The Secretary shall develop
12 a plan for a national evaluation of the programs de-
13 veloped pursuant to this section.

14 “(2) *EVALUATION.*—This national evaluation
15 shall evaluate the implementation and results
16 achieved by schools after 3 years of implementing
17 comprehensive school reforms, and assess the effective-
18 ness of comprehensive school reforms in schools with
19 diverse characteristics.

20 “(3) *REPORTS.*—Prior to the completion of a na-
21 tional evaluation, the Secretary shall submit an in-
22 terim report outlining first year implementation ac-
23 tivities to the Committees on Education and the
24 Workforce and Appropriations of the House of Rep-
25 resentatives and the Committees on Health, Edu-

1 *cation, Labor, and Pensions and Appropriations of*
2 *the Senate.*

3 “(f) *QUALITY INITIATIVES.—The Secretary, through*
4 *grants or contracts, shall provide funds for the following*
5 *activities:*

6 “(1) *TECHNICAL ASSISTANCE.—A joint public*
7 *and private partnership that receives matching funds*
8 *from private organizations, in order to assist States,*
9 *local educational agencies, and schools in making in-*
10 *formed decisions when approving or selecting pro-*
11 *viders of comprehensive school reform, consistent with*
12 *the requirements described in subsection (d)(3).*

13 “(2) *OTHER ACTIVITIES.—Other activities*
14 *that—*

15 “(A) *encourage the development of com-*
16 *prehensive reform models;*

17 “(B) *build the capacity of comprehensive*
18 *school reform providers to increase the number of*
19 *schools the providers can serve; and*

20 “(C) *ensure that schools served receive high*
21 *quality services that meet the needs of their*
22 *teachers and students.”.*

1 **PART G—RURAL EDUCATION FLEXIBILITY AND**
2 **ASSISTANCE**

3 **SEC. 171. RURAL EDUCATION.**

4 *Title I is amended by adding at the end the following*
5 *new part:*

6 **“PART G—RURAL EDUCATION FLEXIBILITY AND**
7 **ASSISTANCE**

8 **“SEC. 1701. SHORT TITLE.**

9 *“This part may be cited as the ‘Rural Education Ini-*
10 *tiative Act’.*

11 **“SEC. 1702. FINDINGS.**

12 *“Congress finds the following:*

13 *“(1) While there are rural education initiatives*
14 *identified at the State and local level, no Federal edu-*
15 *cation policy focuses on the specific and unique needs*
16 *of rural school districts and schools.*

17 *“(2) Small school districts often cannot use Fed-*
18 *eral grant funds distributed by formula because the*
19 *formula allocation does not provide enough revenue to*
20 *carry out the program the grant is intended to fund.*

21 *“(3) Rural schools often cannot compete for Fed-*
22 *eral funding distributed by competitive grants because*
23 *the schools lack the personnel needed to prepare grant*
24 *applications and the resources to hire specialists in*
25 *the writing of Federal grant proposals.*

1 “(4) *A critical problem for rural school districts*
2 *involves the hiring and retention of qualified admin-*
3 *istrators and certified teachers (especially in reading,*
4 *science, and mathematics). As a result, teachers in*
5 *rural schools are almost twice as likely to provide in-*
6 *struction in three or more subject areas than teachers*
7 *in urban schools. Rural schools also face other tough*
8 *challenges, such as shrinking local tax bases, high*
9 *transportation costs, aging buildings, limited course*
10 *offerings, and limited resources.*

11 **“Subpart 1—Rural Education Flexibility**

12 **“SEC. 1711. FORMULA GRANT PROGRAM AUTHORIZED.**

13 “(a) *ALTERNATIVE USES.—*

14 “(1) *IN GENERAL.—Notwithstanding any other*
15 *provision of law, an eligible local educational agency*
16 *may use the applicable funding, that the agency is el-*
17 *igible to receive from the State educational agency for*
18 *a fiscal year, to carry out local activities authorized*
19 *in part A of title I, part A of title II, part A of title*
20 *III, part A of title IV, or part A or B of title V.*

21 “(2) *NOTIFICATION.—An eligible local edu-*
22 *cational agency shall notify the State educational*
23 *agency of the local educational agency’s intention to*
24 *use the applicable funding in accordance with para-*

1 *graph (1) not later than a date that is established by*
2 *the State educational agency for the notification.*

3 “(b) *ELIGIBILITY.*—

4 “(1) *IN GENERAL.*—*A local educational agency*
5 *shall be eligible to use the applicable funding in ac-*
6 *cordance with subsection (a) if—*

7 “(A)(i) *the total number of students in aver-*
8 *age daily attendance at all of the schools served*
9 *by the local educational agency is less than 600;*
10 *and*

11 “(ii) *all of the schools served by the local*
12 *educational agency are designated with a school*
13 *locale code of 7 or 8 as determined by the Sec-*
14 *retary of Education; or*

15 “(B) *the agency meets the criteria estab-*
16 *lished in subparagraph (A)(i) and the Secretary,*
17 *in accordance with paragraph (2), grants the*
18 *local educational agency’s request to waive the*
19 *criteria described in subparagraph (A)(ii).*

20 “(2) *CERTIFICATION.*—*The Secretary shall deter-*
21 *mine whether or not to waive the criteria described in*
22 *paragraph (1)(A)(ii) based on a demonstration by a*
23 *local educational agency and concurrence by the State*
24 *educational agency that the local educational agency*

1 *is located in an area defined as rural by a govern-*
2 *mental agency of the State.*

3 “(c) *APPLICABLE FUNDING.*—*In this section, the term*
4 *‘applicable funding’ means funds provided under part A*
5 *of title II, section 3106, part A of title IV, part A of title*
6 *V, and section 5212(2)(A).*

7 “(d) *DISBURSEMENT.*—*Each State educational agency*
8 *that receives applicable funding for a fiscal year shall dis-*
9 *burse the applicable funding to local educational agencies*
10 *for alternative uses under this section for the fiscal year*
11 *at the same time that the State educational agency dis-*
12 *burses the applicable funding to local educational agencies*
13 *that do not intend to use the applicable funding for such*
14 *alternative uses for the fiscal year.*

15 “(e) *SUPPLEMENT NOT SUPPLANT.*—*Funds used*
16 *under this section shall be used to supplement and not sup-*
17 *plant any other Federal, State, or local education funds*
18 *that would otherwise be available for the purpose of this*
19 *subpart.*

20 “(f) *APPLICABLE RULE.*—*Except as otherwise pro-*
21 *vided in this subpart, funds transferred under this subpart*
22 *are subject to each of the rules and requirements applicable*
23 *to the funds allocated by the Secretary under the provision*
24 *to which the transferred funds are transferred.*

1 **“SEC. 1712. PROGRAM AUTHORIZED.**

2 “(a) *IN GENERAL.*—*The Secretary is authorized to*
3 *award grants to eligible local educational agencies under*
4 *section 1711(b) to enable the local educational agencies to*
5 *support local or statewide education reform efforts intended*
6 *to improve the academic achievement of elementary school*
7 *and secondary school students and the quality of instruction*
8 *provided for the students.*

9 “(b) *ALLOCATION.*—

10 “(1) *IN GENERAL.*—*Except as provided in para-*
11 *graph (3), the Secretary shall award a grant to an*
12 *eligible local educational agency under section*
13 *1711(b) for a fiscal year in an amount equal to the*
14 *initial amount determined under paragraph (2) for*
15 *the fiscal year minus the total amount received under*
16 *the provisions of law described under section 1711(c)*
17 *for the preceding fiscal year.*

18 “(2) *DETERMINATION OF THE INITIAL*
19 *AMOUNT.*—*The initial amount referred to in para-*
20 *graph (1) is equal to \$100 multiplied by the total*
21 *number of students, over 50 students, in average daily*
22 *attendance in such eligible agency plus \$20,000, ex-*
23 *cept that the initial amount may not exceed \$60,000.*

24 “(3) *RATABLE ADJUSTMENT.*—

25 “(A) *IN GENERAL.*—*If the amount made*
26 *available for this subpart for any fiscal year is*

1 *not sufficient to pay in full the amounts that*
2 *local educational agencies are eligible to receive*
3 *under paragraph (1) for such year, the Secretary*
4 *shall ratably reduce such amounts for such year.*

5 “(B) *ADDITIONAL AMOUNTS.*—*If additional*
6 *funds become available for making payments*
7 *under paragraph (1) for such fiscal year, pay-*
8 *ments that were reduced under subparagraph (A)*
9 *shall be increased on the same basis as such pay-*
10 *ments were reduced.*

11 “(4) *CENSUS DETERMINATION.*—

12 “(A) *IN GENERAL.*—*Each local educational*
13 *agency desiring a grant under this section shall*
14 *conduct a census not later than December 1 of*
15 *each year to determine the number of kinder-*
16 *garten through grade 12 students in average*
17 *daily attendance at the schools served by the*
18 *local educational agency.*

19 “(B) *SUBMISSION.*—*Each local educational*
20 *agency shall submit the number described in sub-*
21 *paragraph (A) to the Secretary not later than*
22 *March 1 of each year.*

23 “(c) *DISBURSAL.*—*The Secretary shall disburse the*
24 *funds awarded to a local educational agency under this sec-*
25 *tion for a fiscal year not later than July 1 of that year.*

1 “(d) *SPECIAL RULE.*—A local educational agency that
2 is eligible to receive a grant under this subpart for a fiscal
3 year shall be ineligible to receive funds for such fiscal year
4 under subpart 2.

5 “(e) *SUPPLEMENT NOT SUPPLANT.*—Funds made
6 available under this section shall be used to supplement and
7 not supplant any other Federal, State, or local education
8 funds.

9 **“SEC. 1713. ACCOUNTABILITY.**

10 “(a) *ACADEMIC ACHIEVEMENT.*—

11 “(1) *IN GENERAL.*—Each local educational agen-
12 cy that uses or receives funds under section 1711 or
13 1712 for a fiscal year shall administer an assessment
14 consistent with section 1111.

15 “(2) *SPECIAL RULE.*—Each local educational
16 agency that uses or receives funds under section 1711
17 or 1712 shall use the same assessment described in
18 paragraph (1) for each year of participation in the
19 program under such section.

20 “(b) *STATE EDUCATIONAL AGENCY DETERMINATION*
21 *REGARDING CONTINUING PARTICIPATION.*—Each State
22 educational agency that receives funding under the provi-
23 sions of law described in section 1711(c) shall—

24 “(1) after the second year that a local edu-
25 cational agency participates in a program under sec-

1 *tion 1711 or 1712 and on the basis of the results of*
2 *the assessments described in subsection (a), determine*
3 *whether the schools served by the local educational*
4 *agency participating in the program performed in ac-*
5 *cordance with section 1111; and*

6 *“(2) only permit those local educational agencies*
7 *that so participated and make adequate yearly*
8 *progress, as described in section 1111(b)(2), to con-*
9 *tinue to so participate.*

10 **“Subpart 2—Rural Education Assistance**

11 **“SEC. 1721. PROGRAM AUTHORIZED.**

12 *“(a) RESERVATIONS.—From amounts appropriated*
13 *under section 1002(f) for this subpart for a fiscal year, the*
14 *Secretary shall reserve $\frac{1}{2}$ of 1 percent to make awards to*
15 *elementary or secondary schools operated or supported by*
16 *the Bureau of Indian Affairs to carry out the purpose of*
17 *this subpart.*

18 *“(b) GRANTS TO STATES.—*

19 *“(1) IN GENERAL.—From amounts appropriated*
20 *under section 1002(f) for this subpart that are not re-*
21 *served under subsection (a), the Secretary shall award*
22 *grants for a fiscal year to State educational agencies*
23 *that have applications approved under section 1723*
24 *to enable the State educational agencies to award sub-*

1 *grants to eligible local educational agencies for local*
2 *authorized activities described in subsection (c)(2).*

3 “(2) *ALLOCATION.*—*From amounts appropriated*
4 *for this subpart, the Secretary shall allocate to each*
5 *State educational agency for a fiscal year an amount*
6 *that bears the same ratio to the amount of funds ap-*
7 *propriated under section 1002(f) for this subpart that*
8 *are not reserved under subsection (a) as the number*
9 *of students in average daily attendance served by eli-*
10 *gible local educational agencies in the State bears to*
11 *the number of all such students served by eligible local*
12 *educational agencies in all States for that fiscal year.*

13 “(3) *DIRECT AWARDS TO SPECIALLY QUALIFIED*
14 *AGENCIES.*—

15 “(A) *NONPARTICIPATING STATE.*—*If a State*
16 *educational agency elects not to participate in*
17 *the program under this subpart or does not have*
18 *an application approved under section 1723 a*
19 *specially qualified agency in such State desiring*
20 *a grant under this subpart shall submit an ap-*
21 *plication under such section directly to the Sec-*
22 *retary to receive an award under this subpart.*

23 “(B) *DIRECT AWARDS TO SPECIALLY QUALI-*
24 *FIED AGENCIES.*—*The Secretary may award, on*
25 *a competitive basis, the amount the State edu-*

1 *cational agency is eligible to receive under para-*
2 *graph (2) directly to specially qualified agencies*
3 *in the State.*

4 “(c) *LOCAL AWARDS.*—

5 “(1) *ELIGIBILITY.*—*A local educational agency*
6 *shall be eligible to receive funds under this subpart*
7 *if—*

8 “(A) *20 percent or more of the children aged*
9 *5 to 17, inclusive, served by the local educational*
10 *agency are from families with incomes below the*
11 *poverty line; and*

12 “(B) *all of the schools served by the agency*
13 *are designated with a school code of 6, 7, or 8*
14 *as determined by the Secretary of Education.*

15 “(2) *USES OF FUNDS.*—*Grant funds awarded to*
16 *local educational agencies or made available to*
17 *schools under this subpart shall be used for—*

18 “(A) *teacher recruitment and retention, in-*
19 *cluding the use of signing bonuses and other fi-*
20 *nancial incentives;*

21 “(B) *teacher professional development, in-*
22 *cluding programs that train teachers to utilize*
23 *technology to improve teaching and to train spe-*
24 *cial needs teachers;*

1 “(C) educational technology, including soft-
2 ware and hardware as described in part B of
3 title V;

4 “(D) parental involvement activities; or

5 “(E) programs to improve student academic
6 achievement.

7 **“SEC. 1722. STATE DISTRIBUTION OF FUNDS.**

8 “(a) AWARD BASIS.—A State educational agency shall
9 award grants to eligible local educational agencies—

10 “(1) on a competitive basis; or

11 “(2) according to a formula based on the number
12 of students in average daily attendance served by the
13 eligible local educational agencies or schools (as ap-
14 propriate) in the State, as determined by the State.

15 “(b) ADMINISTRATIVE COSTS.—A State educational
16 agency receiving a grant under this subpart may not use
17 more than 5 percent of the amount of the grant for State
18 administrative costs.

19 **“SEC. 1723. APPLICATIONS.**

20 “Each State educational agency and specially quali-
21 fied agency desiring to receive a grant under this subpart
22 shall submit an application to the Secretary at such time,
23 in such manner, and accompanied by such information as
24 the Secretary may require. Such application shall include
25 specific measurable goals and objectives relating to in-

1 *creased student academic achievement, decreased student*
2 *dropout rates, or such other factors that the State edu-*
3 *cational agency or specially qualified agency may choose*
4 *to measure.*

5 **“SEC. 1724. REPORTS.**

6 “(a) *STATE REPORTS.—Each State educational agen-*
7 *cy that receives a grant under this subpart shall provide*
8 *an annual report to the Secretary. The report shall de-*
9 *scribe—*

10 “(1) *the method the State educational agency*
11 *used to award grants to eligible local educational*
12 *agencies and to provide assistance to schools under*
13 *this subpart;*

14 “(2) *how local educational agencies and schools*
15 *used funds provided under this subpart; and*

16 “(3) *the degree to which progress has been made*
17 *toward meeting the goals and objectives described in*
18 *the application submitted under section 1723.*

19 “(b) *SPECIALLY QUALIFIED AGENCY REPORT.—Each*
20 *specially qualified agency that receives a grant under this*
21 *subpart shall provide an annual report to the Secretary.*
22 *Such report shall describe—*

23 “(1) *how such agency uses funds provided under*
24 *this subpart; and*

1 “(2) the degree to which progress has been made
2 toward meeting the goals and objectives described in
3 the application submitted under section 1723.

4 “(c) *REPORT TO CONGRESS.*—The Secretary shall pre-
5 pare and submit to the Committee on Education and the
6 Workforce for the House of Representatives and the Com-
7 mittee on Health, Education, Labor, and Pensions for the
8 Senate an annual report. The report shall describe—

9 “(1) the methods the State educational agency
10 used to award grants to eligible local educational
11 agencies and to provide assistance to schools under
12 this subpart;

13 “(2) how eligible local educational agencies and
14 schools used funds provided under this subpart; and

15 “(3) progress made in meeting specific measur-
16 able educational goals and objectives.

17 **“SEC. 1725. PERFORMANCE REVIEW.**

18 “Three years after a State educational agency or spe-
19 cially qualified agency receives funds under this part, the
20 Secretary shall review the progress of such agency toward
21 achieving the goals and objectives included in its applica-
22 tion, to determine whether the agency has made progress
23 toward meeting such goals and objectives. To review the per-
24 formance of each agency, the Secretary shall—

1 “(1) review the use of funds of such agency under
2 section 1721(c)(2); and

3 “(2) deny the provision of additional funds in
4 subsequent fiscal years to an agency only if the Sec-
5 retary determines, after notice and an opportunity for
6 a hearing, that the agency’s use of funds has been in-
7 adequate to justify continuation of such funding.

8 **“SEC. 1726. DEFINITIONS.**

9 *“In this subpart—*

10 “(1) The term ‘poverty line’ means the poverty
11 line (as defined by the Office of Management and
12 Budget, and revised annually in accordance with sec-
13 tion 673(2) of the Community Services Block Grant
14 Act (42 U.S.C. 9902(2))) applicable to a family of the
15 size involved.

16 “(2) The term ‘specially qualified agency’ means
17 an eligible local educational agency, located in a
18 State that does not participate in a program under
19 this subpart in a fiscal year, that may apply directly
20 to the Secretary for a grant in such year under sec-
21 tion 1721(b)(3)(A).

1 **“Subpart 3—General Provisions**

2 **“SEC. 1731. DEFINITION.**

3 *“In this part, the term ‘State’ means each of the 50*
4 *States, the District of Columbia, and the Commonwealth*
5 *of Puerto Rico.”.*

6 **PART H—GENERAL PROVISIONS OF TITLE I**

7 **SEC. 181. GENERAL PROVISIONS.**

8 *Title I is amended further by adding at the end the*
9 *following:*

10 **“PART H—GENERAL PROVISIONS**

11 **“SEC. 1801. FEDERAL REGULATIONS.**

12 *“(a) IN GENERAL.—The Secretary is authorized to*
13 *issue such regulations as are necessary to ensure reasonable*
14 *compliance with this title.*

15 *“(b) NEGOTIATED RULEMAKING PROCESS.—*

16 *“(1) IN GENERAL.—Prior to publishing in the*
17 *Federal Register proposed regulations to carry out*
18 *this title, the Secretary shall obtain the advice and*
19 *recommendations of representatives of Federal, State,*
20 *and local administrators, parents, teachers, para-*
21 *professionals, and members of local boards of edu-*
22 *cation involved with the implementation and oper-*
23 *ation of programs under this title.*

24 *“(2) MEETINGS AND ELECTRONIC EXCHANGE.—*

25 *Such advice and recommendation may be obtained*

1 *through such mechanisms as regional meetings and*
2 *electronic exchanges of information.*

3 “(3) *PROPOSED REGULATIONS.*—*After obtaining*
4 *such advice and recommendations, and prior to pub-*
5 *lishing proposed regulations, the Secretary shall—*

6 “(A) *establish a negotiated rulemaking*
7 *process on a minimum of three key issues, in-*
8 *cluding—*

9 “(i) *accountability;*

10 “(ii) *implementation of assessments;*

11 *and*

12 “(iii) *use of paraprofessionals;*

13 “(B) *select individuals to participate in*
14 *such process from among individuals or groups*
15 *which provided advice and recommendations, in-*
16 *cluding representation from all geographic re-*
17 *gions of the United States; and*

18 “(C) *prepare a draft of proposed regulations*
19 *that shall be provided to the individuals selected*
20 *by the Secretary under subparagraph (B) not*
21 *less than 15 days prior to the first meeting*
22 *under such process.*

23 “(4) *PROCESS.*—*Such process—*

24 “(A) *shall be conducted in a timely manner*
25 *to ensure that final regulations are issued by the*

1 *Secretary not later than 1 year after the date of*
2 *the enactment of the No Child Left Behind Act*
3 *of 2001; and*

4 *“(B) shall not be subject to the Federal Ad-*
5 *visory Committee Act but shall otherwise follow*
6 *the provisions of the Negotiated Rulemaking Act*
7 *of 1990 (5 U.S.C. 561 et seq.).*

8 *“(5) EMERGENCY SITUATION.—In an emergency*
9 *situation in which regulations to carry out this title*
10 *must be issued within a very limited time to assist*
11 *State and local educational agencies with the oper-*
12 *ation of a program under this title, the Secretary*
13 *may issue proposed regulations without following*
14 *such process but shall, immediately thereafter and*
15 *prior to issuing final regulations, conduct regional*
16 *meetings to review such proposed regulations.*

17 *“(c) LIMITATION.—Regulations to carry out this part*
18 *may not require local programs to follow a particular in-*
19 *structional model, such as the provision of services outside*
20 *the regular classroom or school program.*

21 **“SEC. 1802. AGREEMENTS AND RECORDS.**

22 *“(a) AGREEMENTS.—All published proposed regula-*
23 *tions shall conform to agreements that result from nego-*
24 *tiated rulemaking described in section 1801 unless the Sec-*
25 *retary reopens the negotiated rulemaking process or pro-*

1 *vides a written explanation to the participants involved in*
2 *the process explaining why the Secretary decided to depart*
3 *from and not adhere to such agreements.*

4 “(b) *RECORDS.*—*The Secretary shall ensure that an*
5 *accurate and reliable record of agreements reached during*
6 *the negotiations process is maintained.*

7 **“SEC. 1803. STATE ADMINISTRATION.**

8 “(a) *RULEMAKING.*—

9 “(1) *IN GENERAL.*—*Each State that receives*
10 *funds under this title shall—*

11 “(A) *ensure that any State rules, regula-*
12 *tions, and policies relating to this title conform*
13 *to the purposes of this title and provide any such*
14 *proposed rules, regulations, and policies to the*
15 *committee of practitioners under subsection (b)*
16 *for their review and comment;*

17 “(B) *minimize such rules, regulations, and*
18 *policies to which their local educational agencies*
19 *and schools are subject;*

20 “(C) *eliminate or modify State and local*
21 *fiscal accounting requirements in order to facili-*
22 *tate the ability of schools to consolidate funds*
23 *under schoolwide programs; and*

24 “(D) *identify any such rule, regulation, or*
25 *policy as a State-imposed requirement.*

1 “(2) *SUPPORT AND FACILITATION.*—*State rules,*
2 *regulations, and policies under this title shall support*
3 *and facilitate local educational agency and school-*
4 *level systemic reform designed to enable all children*
5 *to meet the challenging State student academic*
6 *achievement standards.*

7 “(b) *COMMITTEE OF PRACTITIONERS.*—

8 “(1) *IN GENERAL.*—*Each State educational*
9 *agency shall create a State committee of practitioners*
10 *to advise the State in carrying out its responsibilities*
11 *under this title.*

12 “(2) *MEMBERSHIP.*—*Each such committee shall*
13 *include—*

14 “(A) *as a majority of its members, rep-*
15 *resentatives from local educational agencies;*

16 “(B) *administrators, including the admin-*
17 *istrators of programs described in other parts of*
18 *this title;*

19 “(C) *teachers, including vocational edu-*
20 *cators;*

21 “(D) *parents;*

22 “(E) *members of local boards of education;*

23 “(F) *representatives of private school chil-*
24 *dren; and*

25 “(G) *pupil services personnel.*

1 “(3) *DUTIES.*—*The duties of such committee*
2 *shall include a review, prior to publication, of any*
3 *proposed or final State rule or regulation pursuant to*
4 *this title. In an emergency situation where such rule*
5 *or regulation must be issued within a very limited*
6 *time to assist local educational agencies with the op-*
7 *eration of the program under this title, the State edu-*
8 *cational agency may issue a regulation without prior*
9 *consultation, but shall immediately thereafter convene*
10 *the State committee of practitioners to review the*
11 *emergency regulation prior to issuance in final form.*

12 **“SEC. 1804. LOCAL ADMINISTRATIVE COST LIMITATION.**

13 “(a) *LOCAL ADMINISTRATIVE COST LIMITATION.*—
14 *Each local educational agency may use not more than 4*
15 *percent of funds received under part A for administrative*
16 *expenses.*

17 “(b) *REGULATIONS.*—*The Secretary, after consulting*
18 *with State and local officials and other experts in school*
19 *finance, shall develop and issue regulations that define the*
20 *term administrative cost for purposes of this title. Such def-*
21 *inition shall be consistent with generally accepted account-*
22 *ing principles. The Secretary shall publish final regulations*
23 *on this section not later than 1 year after the date of the*
24 *enactment of the No Child Left Behind Act of 2001.*

1 **“SEC. 1805. APPLICABILITY.**

2 *“Nothing in this title shall be construed to affect home*
3 *schools nor shall any home schooled student be required to*
4 *participate in any assessment referenced in this title.*

5 **“SEC. 1806. PRIVATE SCHOOLS.**

6 *“Nothing in this title shall be construed to affect any*
7 *private school that does not receive funds or services under*
8 *this title, nor shall any student who attends a private school*
9 *that does not receive funds or services under this title be*
10 *required to participate in any assessment referenced in this*
11 *title.*

12 **“SEC. 1807. PRIVACY OF ASSESSMENT RESULTS.**

13 *“Any results from individual assessments referenced in*
14 *this title which become part of the education records of the*
15 *student shall have the protections as provided in section 444*
16 *of the General Education Provisions Act.”.*

17 **TITLE II—PREPARING, TRAIN-**
18 **ING, AND RECRUITING QUAL-**
19 **ITY TEACHERS**

20 **SEC. 201. TEACHER QUALITY TRAINING AND RECRUITING**
21 **FUND.**

22 *Title II (20 U.S.C. 6601 et seq.) is amended to read*
23 *as follows:*

1 **“TITLE II—PREPARING, TRAIN-**
2 **ING, AND RECRUITING QUAL-**
3 **ITY TEACHERS**

4 **“PART A—TEACHER QUALITY TRAINING AND**
5 **RECRUITING FUND**

6 **“SEC. 2001. PURPOSE.**

7 *“The purpose of this part is to provide grants to States*
8 *and local educational agencies in order to assist their efforts*
9 *to increase student academic achievement through such*
10 *strategies as improving teacher and principal quality and*
11 *increasing the number of highly qualified teachers in the*
12 *classroom.*

13 **“Subpart 1—Grants to States to Prepare, Train, and**
14 **Recruit Qualified Teachers**

15 **“SEC. 2011. FORMULA GRANTS TO STATES.**

16 *“(a) IN GENERAL.—In the case of each State that in*
17 *accordance with section 2013 submits to the Secretary an*
18 *application for a fiscal year, the Secretary shall make a*
19 *grant for the year to the State for the uses specified in sec-*
20 *tion 2012. The grant shall consist of the allotment deter-*
21 *mined for the State under subsection (b).*

22 **“(b) DETERMINATION OF AMOUNT OF ALLOTMENTS.—**

23 *“(1) RESERVATION OF FUNDS.—From the*
24 *amount made available to carry out this subpart for*
25 *any fiscal year, the Secretary shall reserve—*

1 “(A) $\frac{1}{2}$ of 1 percent for allotments for the
2 Virgin Islands, Guam, American Samoa, and
3 the Commonwealth of the Northern Mariana Is-
4 lands, to be distributed among these outlying
5 areas on the basis of their relative need, as deter-
6 mined by the Secretary in accordance with the
7 purpose of this part; and

8 “(B) $\frac{1}{2}$ of 1 percent for the Secretary of the
9 Interior for programs under this subpart for pro-
10 fessional development activities for teachers,
11 other staff, and administrators in schools oper-
12 ated or funded by the Bureau of Indian Affairs.

13 “(2) STATE ALLOTMENTS.—

14 “(A) HOLD HARMLESS.—

15 “(i) IN GENERAL.—Subject to subpara-
16 graph (B), from the total amount made
17 available to carry out this subpart for any
18 fiscal year and not reserved under para-
19 graph (1), the Secretary shall allot to each
20 of the 50 States, the District of Columbia,
21 and the Commonwealth of Puerto Rico an
22 amount equal to the total amount that such
23 State received for fiscal year 2001 under—

24 “(I) section 2202(b) of this Act
25 (as in effect on the day before the date

1 of the enactment of the No Child Left
2 Behind Act of 2001); and

3 “(II) section 306 of the Depart-
4 ment of Education Appropriations Act,
5 2001 (as enacted into law by section
6 1(a)(1) of Public Law 106–554).

7 “(ii) *NONPARTICIPATING STATES*.—In
8 the case of a State that did not receive any
9 funds for fiscal year 2001 under one or both
10 of the provisions referred to in subclauses
11 (I) and (II) of clause (i), the amount allot-
12 ted to the State under such clause shall be
13 the total amount that the State would have
14 received for fiscal year 2001 if it had elected
15 to participate in all of the programs for
16 which it was eligible under each of the pro-
17 visions referred to in such subclauses.

18 “(iii) *RATABLE REDUCTION*.—If the
19 total amount made available to carry out
20 this subpart for any fiscal year and not re-
21 served under paragraph (1) is insufficient
22 to pay the full amounts that all States are
23 eligible to receive under clause (i) for any
24 fiscal year, the Secretary shall ratably re-
25 duce such amounts for such fiscal year.

1 “(B) ALLOTMENT OF ADDITIONAL FUNDS.—

2 “*(i) IN GENERAL.—Subject to clause*
3 *(ii), for any fiscal year for which the total*
4 *amount made available to carry out this*
5 *subpart and not reserved under paragraph*
6 *(1) exceeds the total amount required to*
7 *make allotments under subparagraph (A),*
8 *the Secretary shall allot such excess amount*
9 *among the 50 States, the District of Colum-*
10 *bia, and the Commonwealth of Puerto Rico*
11 *as follows:*

12 “*(I) 50 percent of such excess*
13 *amount shall be allotted among such*
14 *States on the basis of their relative*
15 *populations of individuals aged 5*
16 *through 17, as determined by the Sec-*
17 *retary on the basis of the most recent*
18 *satisfactory data.*

19 “*(II) 50 percent of such excess*
20 *amount shall be allotted among such*
21 *States in proportion to the number of*
22 *children, aged 5 to 17, who reside*
23 *within the State from families with in-*
24 *comes below the poverty line (as de-*
25 *finied by the Office of Management and*

1 *Budget and revised annually in ac-*
2 *cordance with section 673(2) of the*
3 *Community Services Block Grant Act*
4 *(42 U.S.C. 9902(2)) applicable to a*
5 *family of the size involved for the most*
6 *recent fiscal year for which satisfactory*
7 *data are available, compared to the*
8 *number of such individuals who reside*
9 *in all such States for that fiscal year.*

10 *“(i) EXCEPTION.—No State receiving*
11 *an allotment under clause (i) may receive*
12 *less than 1/2 of 1 percent of the total excess*
13 *amount allotted under such clause.*

14 *“(3) REALLOTMENT.—If any State does not*
15 *apply for an allotment under this subsection for any*
16 *fiscal year, the Secretary shall reallocate such amount to*
17 *the remaining States in accordance with this sub-*
18 *section.*

19 **“SEC. 2012. WITHIN-STATE ALLOCATIONS.**

20 *“(a) USE OF FUNDS.—Each State receiving a grant*
21 *under this subpart shall use the funds provided under the*
22 *grant in accordance with this section to carry out activities*
23 *for the improvement of teaching and learning.*

24 *“(b) RESERVATION OF FUNDS.—*

1 “(1) *IN GENERAL.*—*A State that receives a grant*
2 *under this subpart may reserve not more than 5 per-*
3 *cent of the amount of the funds provided under the*
4 *grant for—*

5 “(A) *one or more of the authorized State ac-*
6 *tivities described in subsection (e); and*

7 “(B) *planning and administration related*
8 *to carrying out such activities and making sub-*
9 *grants to local educational agencies under sub-*
10 *parts 2 and 3.*

11 “(2) *LIMITATION ON ADMINISTRATIVE COSTS.*—
12 *The amount reserved by a State under paragraph*
13 *(1)(B) may not exceed 1 percent of the amount of the*
14 *funds provided under the grant.*

15 “(c) *SUBGRANTS TO LOCAL EDUCATIONAL AGEN-*
16 *CIES.*—

17 “(1) *IN GENERAL.*—*The Secretary may make a*
18 *grant to a State under this subpart only if the State*
19 *agrees to distribute the funds described in this sub-*
20 *section as subgrants to local educational agencies*
21 *under subpart 3.*

22 “(2) *HOLD HARMLESS.*—

23 “(A) *IN GENERAL.*—*From the funds that a*
24 *State receives under this subpart for any fiscal*
25 *year that are not reserved under subsection (b),*

1 *the State shall allot to each local educational*
2 *agency an amount equal to the total amount that*
3 *such agency received for fiscal year 2001*
4 *under—*

5 “(i) *section 2203(1)(B) of this Act (as*
6 *in effect on the day before the date of the en-*
7 *actment of the No Child Left Behind Act of*
8 *2001); and*

9 “(ii) *section 306 of the Department of*
10 *Education Appropriations Act, 2001 (as en-*
11 *acted into law by section 1(a)(1) of Public*
12 *Law 106–554).*

13 “(B) *NONPARTICIPATING AGENCIES.—In the*
14 *case of a local educational agency that did not*
15 *receive any funds for fiscal year 2001 under one*
16 *or both of the provisions referred to in clauses (i)*
17 *and (ii) of subparagraph (A), the amount allot-*
18 *ted to the agency under such subparagraph shall*
19 *be the total amount that the agency would have*
20 *received for fiscal year 2001 if it had elected to*
21 *participate in all of the programs for which it*
22 *was eligible under each of the provisions referred*
23 *to in such clauses.*

24 “(C) *RATABLE REDUCTION.—If the funds*
25 *described in subparagraph (A) are insufficient to*

1 *pay the full amounts that all local educational*
2 *agencies are eligible to receive under such sub-*
3 *paragraph for any fiscal year, the State shall*
4 *ratably reduce such amounts for such fiscal year.*

5 “(3) *ALLOTMENT OF ADDITIONAL FUNDS.—*

6 “(A) *IN GENERAL.—For any fiscal year for*
7 *which the funds that a State receives under this*
8 *subpart that are not reserved under subsection*
9 *(b) exceed the total amount required to make al-*
10 *lotments under paragraph (2), the State shall*
11 *distribute the amount described in subparagraph*
12 *(B) through a formula under which—*

13 “(i) *20 percent is allocated to local*
14 *educational agencies in accordance with the*
15 *relative enrollment in public and private*
16 *nonprofit elementary and secondary schools*
17 *within the boundaries of such agencies; and*

18 “(ii) *80 percent is allocated to local*
19 *educational agencies in proportion to the*
20 *number of children, aged 5 to 17, who reside*
21 *within the geographic area served by such*
22 *agency from families with incomes below*
23 *the poverty line (as defined by the Office of*
24 *Management and Budget and revised annu-*
25 *ally in accordance with section 673(2) of*

1 *the Community Services Block Grant Act*
2 *(42 U.S.C. 9902(2)) applicable to a family*
3 *of the size involved for the most recent fiscal*
4 *year for which satisfactory data are avail-*
5 *able, compared to the number of such indi-*
6 *viduals who reside in the geographic areas*
7 *served by all the local educational agencies*
8 *in the State for that fiscal year.*

9 “(B) *CALCULATION OF AMOUNT.—*

10 “(i) *IN GENERAL.—The amount de-*
11 *scribed in this subparagraph for a State for*
12 *any fiscal year is the base amount for such*
13 *State and year, plus any additional*
14 *amount for such State and year.*

15 “(ii) *BASE AMOUNT.—For purposes of*
16 *this subparagraph, the term ‘base amount’*
17 *means 50 percent of the funds that remain*
18 *to a State after a State makes the reserva-*
19 *tions described in subsection (b) and the al-*
20 *lotments described in paragraph (2).*

21 “(iii) *ADDITIONAL AMOUNT.—For pur-*
22 *poses of this subparagraph, the term ‘addi-*
23 *tional amount’ means the amount (if any)*
24 *by which the base amount for a State ex-*

1 ceeds the maximum amount described in
2 subsection (d)(2)(B).

3 “(d) *MATH AND SCIENCE PARTNERSHIPS.*—

4 “(1) *IN GENERAL.*—*The Secretary may make a*
5 *grant to a State under this subpart only if the State*
6 *agrees to distribute the amount described in para-*
7 *graph (2) through a competitive subgrant process in*
8 *accordance with subpart 2.*

9 “(2) *AMOUNT DESCRIBED.*—

10 “(A) *IN GENERAL.*—*The amount described*
11 *in this paragraph for a State for any fiscal year*
12 *is 50 percent of the funds that the State receives*
13 *under this subpart for the year that remain after*
14 *the State makes the reservations described in*
15 *subsection (b) and the allotments described in*
16 *subsection (c)(2).*

17 “(B) *LIMITATION.*—*In no case may the*
18 *amount described in this paragraph exceed a*
19 *maximum amount calculated by multiplying the*
20 *total amount of the funds that a State receives*
21 *under this subpart for a fiscal year that the*
22 *State does not reserve under subsection (b) by a*
23 *percentage, selected by the State, that shall be*
24 *not less than 15 nor more than 20 percent.*

1 “(e) *AUTHORIZED STATE ACTIVITIES.*—*The author-*
2 *ized State activities referred to in subsection (b)(1)(A) are*
3 *the following:*

4 “(1) *Reforming teacher certification, recertifi-*
5 *cation, or licensure requirements to ensure that—*

6 “(A) *teachers have the necessary teaching*
7 *skills and academic content knowledge in the*
8 *subject areas in which they are assigned to teach;*

9 “(B) *teacher certification, recertification, or*
10 *licensure requirements are aligned with the*
11 *State’s challenging State academic content*
12 *standards; and*

13 “(C) *teachers have the knowledge and skills*
14 *necessary to help students meet challenging State*
15 *student achievement standards.*

16 “(2) *Carrying out programs that—*

17 “(A) *include support during the initial*
18 *teaching or leadership experience, such as men-*
19 *toring programs that—*

20 “(i) *provide—*

21 “(I) *mentoring to beginning*
22 *teachers from veteran teachers with ex-*
23 *pertise in the same subject matter that*
24 *the beginning teachers will be teaching;*
25 *or*

1 “(II) similar mentoring to prin-
2 cipals or superintendents;

3 “(ii) provide mentors time for activi-
4 ties such as coaching, observing, and assist-
5 ing the teachers or school leaders who are
6 mentored; and

7 “(iii) use standards or assessments for
8 guiding beginning teachers that are con-
9 sistent with the State’s student achievement
10 standards and with the requirements for
11 professional development activities under
12 section 2033; and

13 “(B) establish, expand, or improve alter-
14 native routes to State certification of teachers,
15 especially in the areas of mathematics and
16 science, for highly qualified individuals with a
17 baccalaureate degree, including mid-career pro-
18 fessionals from other occupations, paraprofes-
19 sionals, former military personnel, and recent
20 college or university graduates with records of
21 academic distinction who demonstrate the poten-
22 tial to become highly effective teachers.

23 “(3) Developing and implementing effective
24 mechanisms to assist local educational agencies and

1 *schools in effectively recruiting and retaining highly*
2 *qualified and effective teachers and principals.*

3 *“(4) Reforming tenure systems and imple-*
4 *menting teacher testing and other procedures to expeditiously remove ineffective teachers from the class-*
5 *room.*

7 *“(5) Developing enhanced performance systems*
8 *to measure the effectiveness of specific professional de-*
9 *velopment programs and strategies.*

10 *“(6) Providing technical assistance to local edu-*
11 *cational agencies consistent with this part.*

12 *“(7) Funding projects to promote reciprocity of*
13 *teacher certification or licensure between or among*
14 *States, except that no reciprocity agreement developed*
15 *under this paragraph or developed using funds pro-*
16 *vided under this part may lead to the weakening of*
17 *any State teaching certification or licensing require-*
18 *ment.*

19 *“(8) Developing or assisting local educational*
20 *agencies in the development and utilization of proven,*
21 *innovative strategies to deliver intensive professional*
22 *development programs that are both cost-effective and*
23 *easily accessible, such as through the use of technology*
24 *and distance learning.*

1 “(9) *Providing assistance to local educational*
2 *agencies for the development and implementation of*
3 *innovative professional development programs that*
4 *train teachers to use technology to improve teaching*
5 *and learning and are consistent with the require-*
6 *ments of section 2033.*

7 “(10) *Developing or assisting local educational*
8 *agencies in developing merit-based performance sys-*
9 *tems, rigorous assessments for teachers, and strategies*
10 *which provide differential and bonus pay for teachers*
11 *in high-need subject areas such as reading, math, and*
12 *science and in high-poverty schools and districts.*

13 “(11) *Providing assistance to local educational*
14 *agencies for the development and implementation of*
15 *professional development programs for principals that*
16 *enable them to be effective school leaders and prepare*
17 *all students to achieve challenging State content and*
18 *student achievement standards, including the develop-*
19 *ment and support of school leadership academies to*
20 *help exceptionally talented aspiring or current prin-*
21 *cipals and superintendents become outstanding man-*
22 *agers and educational leaders.*

23 “(12) *Developing, or assisting local educational*
24 *agencies in developing, teacher advancement initia-*
25 *tives that promote professional growth and emphasize*

1 *multiple career paths, such as career teacher, mentor*
2 *teacher, and master teacher career paths, with pay*
3 *differentiation.*

4 “(f) *COORDINATION.*—*States receiving grants under*
5 *section 202 of the Higher Education Act of 1965 shall co-*
6 *ordinate the use of such funds with activities carried out*
7 *under this section.*

8 **“SEC. 2013. APPLICATIONS BY STATES.**

9 “(a) *IN GENERAL.*—*To be eligible to receive a grant*
10 *under this subpart, a State shall submit an application to*
11 *the Secretary at such time, in such manner, and containing*
12 *such information as the Secretary may reasonably require.*

13 “(b) *CONTENTS.*—*Each application under this section*
14 *shall include the following:*

15 “(1) *A description of how the State will ensure*
16 *that a local educational agency receiving a subgrant*
17 *under subpart 3 will comply with the requirements of*
18 *such subpart.*

19 “(2) *A description of how the State will use*
20 *funds under this part to meet the requirements of sec-*
21 *tion 1119(a)(2).*

22 “(3) *A description of how the State will coordi-*
23 *nate professional development activities authorized*
24 *under this part with professional development activi-*
25 *ties provided under other Federal, State, and local*

1 *programs, including those authorized under title I,*
2 *part A of title III, parts A and B of title V, and*
3 *(where applicable) the Individuals with Disabilities*
4 *Education Act and the Carl D. Perkins Vocational*
5 *and Technical Education Act. The application shall*
6 *also describe the comprehensive strategy that the State*
7 *will take as part of such coordination effort, to ensure*
8 *that teachers are trained in the utilization of tech-*
9 *nology so that technology and its applications are ef-*
10 *fectively used in the classroom to improve teaching*
11 *and learning in all curriculum and content areas, as*
12 *appropriate.*

13 *“(4) A description of how the State will encour-*
14 *age the development of proven, innovative strategies to*
15 *deliver intensive professional development programs*
16 *that are both cost-effective and easily accessible, such*
17 *as through the use of technology and distance learn-*
18 *ing.*

19 *“(5) A description of how the State will ensure*
20 *that local educational agencies will comply with the*
21 *requirements under section 2033, especially with re-*
22 *spect to ensuring the participation of teachers, prin-*
23 *cipals, and parents.*

24 *“(c) APPLICATION APPROVAL.—A State application*
25 *submitted to the Secretary under this section shall be*

1 *deemed approved by the Secretary unless the Secretary*
2 *makes a written determination, within 90 days after receiv-*
3 *ing the application, that the application is in violation of*
4 *the provisions of this subpart. The Secretary shall not fi-*
5 *nally disapprove a State application except after giving the*
6 *State notice and opportunity for a hearing.*

7 **“Subpart 2—Math and Science Partnerships**

8 **“SEC. 2021. PURPOSE.**

9 *“The purpose of this subpart is to improve the achieve-*
10 *ment of students in the areas of mathematics and science*
11 *by encouraging States, institutions of higher education, and*
12 *local educational agencies to participate in programs*
13 *that—*

14 *“(1) focus on education and training of mathe-*
15 *matics and science teachers that improves teachers’*
16 *knowledge and skills and encourages intellectual*
17 *growth;*

18 *“(2) improve mathematics and science teaching*
19 *by encouraging institutions of higher education to as-*
20 *sume greater responsibility for improving mathe-*
21 *matics and science teacher education through the es-*
22 *tablishment of a comprehensive, integrated system of*
23 *recruiting, training, and advising such teachers; and*

24 *“(3) bring mathematics and science teachers in*
25 *elementary and secondary schools together with sci-*

1 *entists, mathematicians, and engineers to increase the*
2 *subject matter knowledge of teachers and improve*
3 *their teaching skills through the use of sophisticated*
4 *laboratory equipment and work space, computing fa-*
5 *cilities, libraries, and other resources that institutions*
6 *of higher education are better able to provide than the*
7 *schools.*

8 **“SEC. 2022. APPLICATION REQUIREMENTS.**

9 *“(a) IN GENERAL.—An eligible partnership seeking to*
10 *receive a subgrant from a State under this subpart shall*
11 *submit an application to the State at such time, in such*
12 *manner, and accompanied by such information as the State*
13 *may require.*

14 *“(b) PARTNERSHIP APPLICATION CONTENTS.—Each*
15 *such application shall include—*

16 *“(1) an assessment of the teacher quality and*
17 *professional development of all the schools and agen-*
18 *cies participating in the eligible partnership with re-*
19 *spect to the teaching and learning of mathematics*
20 *and science;*

21 *“(2) a description of how the activities to be car-*
22 *ried out by the eligible partnership will be aligned*
23 *with State academic content standards in mathe-*
24 *matics and science and with other educational reform*

1 *activities that promote student achievement in mathe-*
2 *matics and science;*

3 *“(3) a description of how the activities to be car-*
4 *ried out by the eligible partnership will be based on*
5 *a review of relevant research, and an explanation of*
6 *why the activities are expected to improve student*
7 *achievement and to strengthen the quality of mathe-*
8 *matics and science instructions; and*

9 *“(4) a description of—*

10 *“(A) how the eligible partnership will carry*
11 *out the activities described in section 2023(c);*
12 *and*

13 *“(B) the eligible partnership’s evaluation*
14 *and accountability plan described in section*
15 *2024.*

16 **“SEC. 2023. MATH AND SCIENCE PARTNERSHIP SUBGRANTS.**

17 *“(a) IN GENERAL.—From the amount described in sec-*
18 *tion 2012(d), the State educational agency, working in con-*
19 *junction with the State agency for higher education (if such*
20 *agencies are separate), shall award subgrants on a competi-*
21 *tive basis to eligible partnerships to enable such partner-*
22 *ships to carry out activities described in subsection (c).*

23 *“(b) DURATION.—The State shall award subgrants*
24 *under this subpart for a period of not less than 2 and not*
25 *more than 5 years.*

1 “(c) *AUTHORIZED ACTIVITIES.*—A recipient of funds
2 provided under this subpart may use the funds for the fol-
3 lowing activities related to elementary or secondary schools:

4 “(1) *Establishing and operating mathematics*
5 *and science summer professional development work-*
6 *shops or institutes for elementary and secondary*
7 *school teachers that—*

8 “(A) shall—

9 “(i) *directly relate to the curriculum*
10 *and content areas in which the teacher pro-*
11 *vides instruction, and focus only second-*
12 *arily on pedagogy;*

13 “(ii) *enhance the ability of a teacher to*
14 *understand and use the State’s academic*
15 *content standards for mathematics and*
16 *science and to select appropriate curricula;*

17 “(iii) *train teachers to use curricula*
18 *that are—*

19 “(I) *based on scientific research;*

20 “(II) *aligned with State academic*
21 *content standards; and*

22 “(III) *object-centered, experiment-*
23 *oriented, and concept- and content-*
24 *based; and*

1 “(iv) provide supplemental assistance
2 and follow-up training during the school
3 year for summer institute graduates; and

4 “(B) may include—

5 “(i) programs that provide prospective
6 teachers and novice teachers opportunities
7 to work under the guidance of experienced
8 teachers and college faculty;

9 “(ii) instruction in the use of data and
10 assessments to inform and instruct class-
11 room practice; and

12 “(iii) professional development activi-
13 ties, including supplemental and follow-up
14 activities, such as curriculum alignment,
15 distance learning, and activities that train
16 teachers to utilize technology in the class-
17 room.

18 “(2) Recruiting to the teaching profession—

19 “(A) students studying mathematics, engi-
20 neering, and science; or

21 “(B) mathematicians, engineers, and sci-
22 entists currently working in the field.

23 “(3) Establishing and operating programs to
24 bring teachers into contact with working scientists,
25 mathematicians, and engineers, to expand teacher

1 *content knowledge of and research in science and*
2 *mathematics.*

3 “(d) *PRIORITY.*—*In awarding subgrants under this*
4 *subpart, States shall give priority to applications seeking*
5 *funding for the activity described in subsection (c)(1).*

6 “(e) *COORDINATION.*—*Partnerships receiving grants*
7 *under section 203 of the Higher Education Act of 1965 (20*
8 *U.S.C. 1023) shall coordinate the use of such funds with*
9 *any related activities carried out by such partnership with*
10 *funds made available under this subpart.*

11 **“SEC. 2024. EVALUATION AND ACCOUNTABILITY PLAN.**

12 “(a) *IN GENERAL.*—*Each eligible partnership receiv-*
13 *ing a subgrant under this subpart shall develop an evalua-*
14 *tion and accountability plan for activities assisted under*
15 *this subpart that includes rigorous performance objectives*
16 *that measure the impact of activities funded under this sub-*
17 *part.*

18 “(b) *CONTENTS.*—*The plan—*

19 “(1) *shall include measurable goals to increase*
20 *the number of mathematics and science teachers who*
21 *participate in content-based professional development*
22 *activities; and*

23 “(2) *may include objectives and measures for—*

24 “(A) *improved student achievement on*
25 *State mathematics and science assessments;*

1 “(B) increased participation by students in
2 advanced courses in mathematics and science;

3 “(C) increased percentages of elementary
4 school teachers with academic majors or minors,
5 or group majors or minors, in mathematics, en-
6 gineering, or the sciences; and

7 “(D) increased percentages of secondary
8 school classes in mathematics and science taught
9 by teachers with academic majors in mathe-
10 matics and science, respectively.

11 **“SEC. 2025. REPORTS; REVOCATION OF SUBGRANTS.**

12 “(a) *REPORTS.*—Each eligible partnership receiving a
13 subgrant under this subpart annually shall report to the
14 State regarding the eligible partnership’s progress in meet-
15 ing the performance objectives described in section 2024.

16 “(b) *REVOCATION.*—If the State determines that an el-
17 igible partnership that receives a subgrant under this sub-
18 part for 5 years is not making substantial progress in meet-
19 ing the performance objectives described in section 2024 by
20 the end of the third year of the subgrant, the subgrant pay-
21 ments shall not be made for the fourth and fifth years.

22 **“SEC. 2026. DEFINITIONS.**

23 *“In this subpart:*

24 “(1) *ELIGIBLE PARTNERSHIP.*—The term ‘*eligi-*
25 *ble partnership*’ means a partnership that—

1 “(A) shall include—

2 “(i) a State educational agency;

3 “(ii) a mathematics or science depart-
4 ment of a private independent institution of
5 higher education or a State-supported pub-
6 lic institution of higher education; and

7 “(iii) a high need local educational
8 agency; and

9 “(B) may include—

10 “(i) another institution of higher edu-
11 cation or the teacher training department of
12 such an institution;

13 “(ii) additional local educational agen-
14 cies, public charter schools, public or pri-
15 vate elementary or secondary schools, or a
16 consortium of such schools;

17 “(iii) a business; or

18 “(iv) a nonprofit organization of dem-
19 onstrated effectiveness, including a museum
20 or research institution.

21 “(2) *SUMMER PROFESSIONAL DEVELOPMENT*
22 *WORKSHOP OR INSTITUTE.*—The term ‘summer pro-
23 fessional development workshop or institute’ means a
24 workshop or institute that—

1 “(A) is conducted during a period of not
2 less than 2 weeks;

3 “(B) includes as a component a program
4 that provides direct interaction between students
5 and faculty; and

6 “(C) provides for follow-up training during
7 the academic year that is conducted in the class-
8 room for a period of not less than 3 consecutive
9 or nonconsecutive days, except that—

10 “(i) if the workshop or institute is con-
11 ducted during a two-week period, the follow-
12 up training shall be conducted for a period
13 of at least 4 days; and

14 “(ii) if the follow-up training is for
15 teachers in rural school districts, it may be
16 conducted through distance learning.

17 **“Subpart 3—Subgrants to Local Educational**
18 **Agencies**

19 **“SEC. 2031. LOCAL USE OF FUNDS.**

20 “(a) *IN GENERAL.*—Subject to subsection (b), each
21 local educational agency that receives a subgrant under this
22 subpart may use the subgrant to carry out the following
23 activities:

1 “(1) *Initiatives to assist in recruiting and hiring*
2 *fully qualified teachers who will be assigned teaching*
3 *positions within their field, including—*

4 “(A) *providing signing bonuses or other fi-*
5 *nancial incentives, such as differential pay, for*
6 *teachers to teach in academic subject areas in*
7 *which there exists a shortage of such fully quali-*
8 *fied teachers within a school or the local edu-*
9 *cational agency;*

10 “(B) *establishing programs that—*

11 “(i) *recruit professionals from other*
12 *fields and provide such professionals with*
13 *alternative routes to teacher certification;*
14 *and*

15 “(ii) *provide increased opportunities*
16 *for minorities, individuals with disabilities,*
17 *and other individuals underrepresented in*
18 *the teaching profession; and*

19 “(C) *implementing hiring policies that en-*
20 *sure comprehensive recruitment efforts as a way*
21 *to expand the applicant pool, such as through*
22 *identifying teachers certified through alternative*
23 *routes, coupled with a system of intensive screen-*
24 *ing designed to hire the most qualified applicant.*

1 “(2) *Initiatives to promote retention of highly*
2 *qualified teachers and principals, particularly within*
3 *elementary and secondary schools with a high per-*
4 *centage of low-achieving students, including programs*
5 *that provide—*

6 “(A) *mentoring to newly hired teachers,*
7 *such as from master teachers, or principals or*
8 *superintendents;*

9 “(B) *incentives, including financial incen-*
10 *tives, to retain teachers who have a record of suc-*
11 *cess in helping low-achieving students improve*
12 *their academic success; or*

13 “(C) *incentives, including financial incen-*
14 *tives, to principals who have a record of improv-*
15 *ing the performance of all students, but particu-*
16 *larly students from economically disadvantaged*
17 *families and students from racial and ethnic mi-*
18 *nority groups.*

19 “(3) *Programs and activities that are designed*
20 *to improve the quality of the teacher force, such as—*

21 “(A) *innovative professional development*
22 *programs (which may be through partnerships*
23 *including institutions of higher education), in-*
24 *cluding programs that train teachers and prin-*
25 *cipals to utilize technology to improve teaching*

1 *and learning, are consistent with the require-*
2 *ments of section 2033, and are coordinated with*
3 *part B of title V;*

4 “(B) *development and utilization of proven,*
5 *cost-effective strategies for the implementation of*
6 *professional development activities, such as*
7 *through the utilization of technology and dis-*
8 *tance learning;*

9 “(C) *tenure reform;*

10 “(D) *merit pay;*

11 “(E) *testing of elementary and secondary*
12 *school teachers in the subject areas taught by*
13 *such teachers;*

14 “(F) *professional development programs*
15 *that provide instruction in how to teach children*
16 *with different learning styles, particularly chil-*
17 *dren with disabilities and children with special*
18 *learning needs (including those who are gifted*
19 *and talented); and*

20 “(G) *professional development programs*
21 *that provide instruction in methods of improving*
22 *student behavior in the classroom and how to*
23 *identify early and appropriate interventions to*
24 *help children described in subparagraph (F)*
25 *learn.*

1 “(4) *Teacher opportunity payments, consistent*
2 *with section 2034.*

3 “(5) *Professional activities designed to improve*
4 *the quality of principals and superintendents, includ-*
5 *ing the development and support of academies to help*
6 *exceptionally talented aspiring or current principals*
7 *and superintendents become outstanding managers*
8 *and educational leaders.*

9 “(6) *Hiring fully qualified teachers, including*
10 *teachers who become fully qualified through State and*
11 *local alternative routes, and special education teach-*
12 *ers, in order to reduce class size, particularly in the*
13 *early grades.*

14 “(7) *Teacher advancement initiatives that pro-*
15 *mote professional growth and emphasize multiple ca-*
16 *reer paths, such as career teacher, mentor teacher,*
17 *and master teacher career paths, with pay differentia-*
18 *tion.*

19 “(b) *SPECIAL RULE.—*

20 “(1) *IN GENERAL.—For any fiscal year for*
21 *which the amount described in section 2012(d)(2)(A)*
22 *for a State is less than 15 percent of the total amount*
23 *of the funds that the State receives under this subpart*
24 *for the year that the State does not reserve under sec-*
25 *tion 2012(b), each local educational agency that re-*

1 *ceives a subgrant under this subpart from the State*
2 *shall use the funds to comply with paragraph (2).*

3 *“(2) REQUIREMENT.—A local educational agency*
4 *required to comply with this paragraph shall use not*
5 *less than the amount expended by the agency under*
6 *section 2206(b) of this Act (as in effect on the day be-*
7 *fore the date of the enactment of the No Child Left Be-*
8 *hind Act of 2001), for the fiscal year preceding the*
9 *year in which such enactment occurs, to carry out*
10 *professional development activities in mathematics*
11 *and science.*

12 **“SEC. 2032. LOCAL APPLICATIONS.**

13 *“(a) IN GENERAL.—A local educational agency seeking*
14 *to receive a subgrant from a State under this subpart shall*
15 *submit an application to the State—*

16 *“(1) at such time as the State shall require; and*

17 *“(2) which is coordinated with other programs*
18 *under this Act, or other Acts, as appropriate.*

19 *“(b) LOCAL APPLICATION CONTENTS.—The local ap-*
20 *plication described in subsection (a), shall include, at a*
21 *minimum, the following:*

22 *“(1) An assurance that the local educational*
23 *agency will target funds to schools within the juris-*
24 *isdiction of the local educational agency that—*

1 “(A) have the lowest proportion of fully
2 qualified teachers;

3 “(B) have the largest average class size; or

4 “(C) are identified for school improvement
5 under section 1116(b).

6 “(2) A description of how the local educational
7 agency will coordinate professional development ac-
8 tivities authorized under this subpart with profes-
9 sional development activities provided through other
10 Federal, State, and local programs, including those
11 authorized under title I, part A of title III, parts A
12 and B of title V, and (where applicable) the Individ-
13 uals with Disabilities Education Act and the Carl D.
14 Perkins Vocational and Technical Education Act.

15 “(3) A description of how the local educational
16 agency will integrate funds under this subpart with
17 funds received under part B of title V that are used
18 for professional development to train teachers to uti-
19 lize technology to improve teaching and learning.

20 “(4) A description of how the local educational
21 agency has collaborated with teachers, principals,
22 parents, and administrators in the preparation of the
23 application.

1 **“SEC. 2033. PROFESSIONAL DEVELOPMENT FOR TEACHERS.**

2 “(a) *REQUIREMENTS FOR PROFESSIONAL DEVELOP-*
3 *MENT ACTIVITIES.—Professional development activities*
4 *under this subpart shall—*

5 “(1) *meet the requirements of section 1119(a)(2);*

6 “(2) *support professional development activities*
7 *that give teachers, principals, and administrators the*
8 *knowledge and skills to provide students with the op-*
9 *portunity to meet challenging State academic content*
10 *standards and student achievement standards;*

11 “(3) *support the recruiting, hiring, and training*
12 *of fully qualified teachers, including teachers fully*
13 *qualified through State and local alternative routes;*

14 “(4) *advance teacher understanding of effective*
15 *instructional strategies based on scientifically based*
16 *research for improving student achievement, at a*
17 *minimum, in reading or language arts and mathe-*
18 *matics;*

19 “(5) *be directly related to the curriculum and*
20 *content areas in which the teacher provides instruc-*
21 *tion, except that this paragraph shall not apply to*
22 *subparagraphs (F) and (G) of section 2031(3);*

23 “(6) *be designed to enhance the ability of a*
24 *teacher to understand and use the State’s standards*
25 *for the subject area in which the teacher provides in-*
26 *struction;*

1 “(7) be tied to scientifically based research dem-
2 onstrating the effectiveness of such professional devel-
3 opment activities or programs in increasing student
4 achievement or substantially increasing the knowledge
5 and teaching skills of teachers;

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

10 “(9) be developed with extensive participation of
11 teachers, principals, parents, and administrators of
12 schools to be served under this subpart;

13 “(10) be designed to give teachers of limited
14 English proficient children, and other teachers and
15 instructional staff, the knowledge and skills to provide
16 instruction and appropriate language and academic
17 support services to such children, including the ap-
18 propriate use of curriculum and assessments;

19 “(11) to the extent appropriate, provide training
20 for teachers and principals in the use of technology so
21 that technology and its applications are effectively
22 used in the classroom to improve teaching and learn-
23 ing in the curriculum and academic content areas in
24 which the teachers provide instruction;

1 “(12) as a whole, be regularly evaluated for their
2 *impact on increased teacher effectiveness and im-*
3 *proved student achievement, with the findings of such*
4 *evaluations used to improve the quality of profes-*
5 *sional development; and*

6 “(13) provide instruction in methods of teaching
7 *children with special needs.*

8 “(b) *PROFESSIONAL DEVELOPMENT ACTIVITIES.—*
9 *Professional development activities under this subpart may*
10 *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 programs for paraprofes-*
23 *sionals (assisting teachers employed by a local edu-*
24 *cational agency receiving assistance under this part)*

1 to obtain the education necessary for such paraprofes-
2 sionals to become licensed and certified teachers; and

3 “(5) activities that provide follow-up training to
4 teachers who have participated in professional devel-
5 opment activities which are designed to ensure that
6 the knowledge and skills learned by the teacher are
7 implemented in the classroom.

8 “(c) ACCOUNTABILITY.—

9 “(1) IN GENERAL.—If, after any fiscal year, a
10 State determines that the programs or activities fund-
11 ed by a local educational agency fail to meet the re-
12 quirements of subsection (a), the State shall notify the
13 agency that—

14 “(A) it may be subject to paragraph (2);
15 and

16 “(B) technical assistance is available from
17 the State to help the agency meet those require-
18 ments.

19 “(2) REQUIREMENT TO PROVIDE TEACHER OP-
20 PORTUNITY PAYMENTS.—A local educational agency
21 that has been notified by a State for 2 consecutive
22 years under paragraph (1) shall expend under section
23 2034 for the succeeding fiscal year a proportion of the
24 amount the agency receives under this subpart that is
25 equal to the proportion of the amount the agency re-

1 *ceived under this part for the preceding fiscal year*
2 *that the agency used for professional development.*

3 **“SEC. 2034. TEACHER OPPORTUNITY PAYMENTS.**

4 *“(a) IN GENERAL.—A local educational agency receiv-*
5 *ing funds under this subpart may (or, in the case of a local*
6 *educational agency described in section 2033(c)(2), shall)*
7 *provide funds directly to a teacher or a group of teachers*
8 *seeking opportunities to participate in a professional devel-*
9 *opment activity of their choice that meets the requirements*
10 *of section 2033(a) and is selected in consultation with the*
11 *principal in order to coordinate such professional develop-*
12 *ment with other reform efforts at the school.*

13 *“(b) NOTICE TO TEACHERS.—Local educational agen-*
14 *cies distributing funds under this section shall establish and*
15 *implement a timely process through which proper notice of*
16 *availability of funds will be given to all teachers within*
17 *schools identified by the agency and shall develop a process*
18 *whereby teachers will have regular consultation with and*
19 *be specifically recommended by principals to participate in*
20 *such program by virtue of—*

21 *“(1) a teacher not being fully qualified to teach*
22 *in the subject or subjects in which they teach; or*

23 *“(2) a teacher’s need for additional assistance to*
24 *ensure that the teacher’s students make progress to-*

1 “(b) *ADMINISTRATION OF PROGRAM.*—*The Secretary*
2 *shall enter into a memorandum of agreement with the Sec-*
3 *retary of Defense under which the Secretary of Defense, act-*
4 *ing through the Defense Activity for Non-Traditional Edu-*
5 *cation Support of the Department of Defense, will perform*
6 *the actual administration of the Program, other than sec-*
7 *tion 2045. Using funds appropriated to the Secretary to*
8 *carry out this chapter, the Secretary shall transfer to the*
9 *Secretary of Defense such amounts as may be necessary to*
10 *administer the Program pursuant to the memorandum of*
11 *agreement.*

12 “(c) *INFORMATION REGARDING PROGRAM.*—*The Sec-*
13 *retary shall provide to the Secretary of Defense, for dis-*
14 *tribution as part of preseparation counseling provided*
15 *under section 1142 of title 10, United States Code, to mem-*
16 *bers of the Armed Forces described in section 2042, informa-*
17 *tion regarding the Troops-to-Teachers Program and appli-*
18 *cations to participate in the program.*

19 “(d) *PLACEMENT ASSISTANCE AND REFERRAL SERV-*
20 *ICES.*—*As part of the Troops-to-Teachers Program, the Sec-*
21 *retary may, with the agreement of the Secretary of Defense,*
22 *provide placement assistance and referral services regarding*
23 *employment opportunities with local educational agencies*
24 *to members of the Armed Forces who are discharged or re-*
25 *leased from active duty under other than adverse conditions.*

1 *Unless the member is also selected to participate in the Pro-*
2 *gram under section 2042, a member receiving placement as-*
3 *sistance and referral services under the authority of this*
4 *subsection is not eligible for financial assistance under sec-*
5 *tion 2043.*

6 **“SEC. 2042. RECRUITMENT AND SELECTION OF PROGRAM**
7 **PARTICIPANTS.**

8 *“(a) ELIGIBLE MEMBERS.—The following members*
9 *and former members of the Armed Forces are eligible for*
10 *selection to participate in the Troops-to-Teachers Program:*

11 *“(1) Any member who—*

12 *“(A) on or after October 1, 1999, becomes*
13 *entitled to retired or retainer pay in the manner*
14 *provided in title 10 or title 14, United States*
15 *Code; or*

16 *“(B) on or after the date of the enactment*
17 *of the No Child Left Behind Act of 2001, has an*
18 *approved date of voluntary retirement and, as of*
19 *the date the member submits an application to*
20 *participate in the Program, has one year or less*
21 *of active duty remaining before retirement.*

22 *“(2) Any member who, on or after the date of the*
23 *enactment of the No Child Left Behind Act of 2001—*

24 *“(A) is separated or released from active*
25 *duty after six or more years of continuous active*

1 *duty immediately before the separation or re-*
2 *lease; and*

3 “(B) *executes a reserve commitment agree-*
4 *ment for a period of three years under subsection*
5 *(e)(2).*

6 “(3) *Any member who, on or after the date of the*
7 *enactment of the No Child Left Behind Act of 2001,*
8 *is retired or separated for physical disability under*
9 *chapter 61 of title 10, United States Code.*

10 “(4) *Any member who—*

11 “(A) *during the period beginning on Octo-*
12 *ber 1, 1990, and ending on September 30, 1999,*
13 *was involuntarily discharged or released from*
14 *active duty for purposes of a reduction of force*
15 *after six or more years of continuous active duty*
16 *immediately before the discharge or release; or*

17 “(B) *applied for the teacher placement pro-*
18 *gram administered under section 1151 of title*
19 *10, United States Code, before its repeal, and*
20 *who satisfied the eligibility criteria specified in*
21 *subsection (c) of such section 1151.*

22 “(b) *SUBMISSION OF APPLICATIONS.—*

23 “(1) *FORM AND SUBMISSION.—Selection of eligi-*
24 *ble members and former members of the Armed Forces*
25 *to participate in the Troops-to-Teachers Program*

1 shall be made on the basis of applications submitted
2 to the Secretary within the time periods specified in
3 paragraph (2). An application shall be in such form
4 and contain such information as the Secretary may
5 require.

6 “(2) *TIME FOR SUBMISSION.*—An application
7 shall be considered to be submitted on a timely basis
8 under paragraph (1) if—

9 “(A) in the case of a member or former
10 member of the Armed Forces described in para-
11 graph (1), (2), or (3) of subsection (a), the appli-
12 cation is submitted not later than four years
13 after the date on which the member is retired or
14 separated or released from active duty, whichever
15 applies to the member; or

16 “(B) in the case of a member or former
17 member described in subsection (a)(4), the appli-
18 cation is submitted not later than September 30,
19 2003.

20 “(c) *SELECTION CRITERIA.*—

21 “(1) *ESTABLISHMENT.*—Subject to paragraphs
22 (2) and (3), the Secretary shall prescribe the criteria
23 to be used to select eligible members and former mem-
24 bers of the Armed Forces to participate in the Troops-
25 to-Teachers Program.

1 “(2) *EDUCATIONAL BACKGROUND.*—*If a member*
2 *or former member of the Armed Forces described in*
3 *paragraph (1), (2), or (3) of subsection (a) is apply-*
4 *ing for assistance for placement as an elementary or*
5 *secondary school teacher, the Secretary shall require*
6 *the member to have received a baccalaureate or ad-*
7 *vanced degree from an accredited institution of higher*
8 *education. If such a member is applying for assist-*
9 *ance for placement as a vocational or technical teach-*
10 *er, the Secretary shall require the member—*

11 “(A) *to have received the equivalent of one*
12 *year of college from an accredited institution of*
13 *higher education and have six or more years of*
14 *military experience in a vocational or technical*
15 *field; or*

16 “(B) *to otherwise meet the certification or*
17 *licensure requirements for a vocational or tech-*
18 *anical teacher in the State in which the member*
19 *seeks assistance for placement under the Pro-*
20 *gram.*

21 “(3) *HONORABLE SERVICE.*—*A member or*
22 *former member of the Armed Forces is eligible to par-*
23 *ticipate in the Troops-to-Teachers Program only if the*
24 *member’s last period of service in the Armed Forces*
25 *was characterized as honorable. If the member is se-*

1 lected to participate in the Program before the retire-
2 ment of the member or the separation or release of the
3 member from active duty, the member may continue
4 to participate in the Program only if, upon the retire-
5 ment or separation or release from active duty, the
6 member's last period of service is characterized as
7 honorable.

8 “(d) *SELECTION PRIORITIES.*—In selecting eligible
9 members and former members of the Armed Forces to re-
10 ceive assistance for placement as elementary or secondary
11 school teachers or vocational or technical teachers, the Sec-
12 retary shall give priority to members who have educational
13 or military experience in science, mathematics, special edu-
14 cation, or vocational or technical subjects and agree to seek
15 employment as science, mathematics, or special education
16 teachers in elementary or secondary schools or in other
17 schools under the jurisdiction of a local educational agency.

18 “(e) *OTHER CONDITIONS ON SELECTION.*—

19 “(1) *SELECTION SUBJECT TO FUNDING.*—The
20 Secretary may not select an eligible member or former
21 member of the Armed Forces to participate in the
22 Troops-to-Teachers Program under this section and
23 receive financial assistance under section 2043 unless
24 the Secretary has sufficient appropriations for the
25 Program available at the time of the selection to sat-

1 *isfy the obligations to be incurred by the United*
2 *States under section 2043 with respect to the member.*

3 *“(2) RESERVE COMMITMENT AGREEMENT.—The*
4 *Secretary may not select an eligible member or former*
5 *member of the Armed Forces described in subsection*
6 *(a)(2)(A) to participate in the Troops-to-Teachers*
7 *Program under this section and receive financial as-*
8 *sistance under section 2043 unless—*

9 *“(A) the Secretary notifies the Secretary*
10 *concerned and the member that the Secretary has*
11 *reserved a full stipend or bonus under section*
12 *2043 for the member; and*

13 *“(B) the member executes a written agree-*
14 *ment with the Secretary concerned to serve as a*
15 *member of the Selected Reserve of a reserve com-*
16 *ponent of the Armed Forces for a period of three*
17 *years (in addition to any other reserve commit-*
18 *ment the member may have).*

19 **“SEC. 2043. PARTICIPATION AGREEMENT AND FINANCIAL**
20 **ASSISTANCE.**

21 *“(a) PARTICIPATION AGREEMENT.—An eligible mem-*
22 *ber or former member of the Armed Forces selected to par-*
23 *ticipate in the Troops-to-Teachers Program under section*
24 *2042 and receive financial assistance under this section*

1 *shall be required to enter into an agreement with the Sec-*
2 *retary in which the member agrees—*

3 “(1) *to obtain, within such time as the Secretary*
4 *may require, certification or licensure as a fully*
5 *qualified elementary school teacher, secondary school*
6 *teacher, or vocational or technical teacher; and*

7 “(2) *to accept an offer of full-time employment*
8 *as a fully qualified elementary school teacher, sec-*
9 *ondary school teacher, or vocational or technical*
10 *teacher for not less than three school years with a*
11 *local educational agency or public charter school, to*
12 *begin the school year after obtaining that certification*
13 *or licensure.*

14 “(b) *VIOLATION OF PARTICIPATION AGREEMENT; EX-*
15 *CEPTIONS.—A participant in the Troops-to-Teachers Pro-*
16 *gram shall not be considered to be in violation of the par-*
17 *ticipation agreement entered into under subsection (a) dur-*
18 *ing any period in which the participant—*

19 “(1) *is pursuing a full-time course of study re-*
20 *lated to the field of teaching at an institution of high-*
21 *er education;*

22 “(2) *is serving on active duty as a member of the*
23 *Armed Forces;*

1 “(3) is temporarily totally disabled for a period
2 of time not to exceed three years as established by
3 sworn affidavit of a qualified physician;

4 “(4) is unable to secure employment for a period
5 not to exceed 12 months by reason of the care required
6 by a spouse who is disabled;

7 “(5) is seeking and unable to find full-time em-
8 ployment as a fully qualified teacher in an elemen-
9 tary or secondary school or as a vocational or tech-
10 nical teacher for a single period not to exceed 27
11 months; or

12 “(6) satisfies the provisions of additional reim-
13 bursement exceptions that may be prescribed by the
14 Secretary.

15 “(c) *STIPEND FOR PARTICIPANTS.*—

16 “(1) *STIPEND AUTHORIZED.*—Subject to para-
17 graph (2), the Secretary may pay to a participant in
18 the Troops-to-Teachers Program selected under section
19 2042 a stipend in an amount up to \$5,000.

20 “(2) *LIMITATION.*—The total number of stipends
21 that may be paid under paragraph (1) in any fiscal
22 year may not exceed 3,000.

23 “(d) *BONUS FOR PARTICIPANTS.*—

24 “(1) *BONUS AUTHORIZED.*—Subject to para-
25 graph (2), the Secretary may, in lieu of paying a sti-

1 *pend under subsection (c), pay a bonus of \$10,000 to*
2 *a participant in the Troops-to-Teachers Program se-*
3 *lected under section 2042 who agrees in the participa-*
4 *tion agreement under subsection (a) to accept full-*
5 *time employment as a fully qualified elementary*
6 *school teacher, secondary school teacher, or vocational*
7 *or technical teacher for not less than three years in*
8 *a high need school.*

9 *“(2) LIMITATION.—The total number of bonuses*
10 *that may be paid under paragraph (1) in any fiscal*
11 *year may not exceed 1,000.*

12 *“(3) HIGH NEED SCHOOL DEFINED.—For pur-*
13 *poses of this subsection, the term ‘high need school’*
14 *means a public elementary school, public secondary*
15 *school, or public charter school that meets one or more*
16 *of the following criteria:*

17 *“(A) At least 50 percent of the students en-*
18 *rolled in the school were children counted under*
19 *subsection (c) of section 1124 for purposes of*
20 *making grants under such section to local edu-*
21 *cational agencies, when such counting was most*
22 *recently performed.*

23 *“(B) The school has a large percentage of*
24 *students who qualify for assistance under part B*

1 *of the Individuals with Disabilities Education*
2 *Act (20 U.S.C. 1411 et seq.).*

3 “(C) *The school meets any other criteria es-*
4 *tablished by the Secretary in consultation with*
5 *the National Assessment Governing Board.*

6 “(e) *TREATMENT OF STIPEND AND BONUS.—A stipend*
7 *or bonus paid under this section to a participant in the*
8 *Troops-to-Teachers Program shall be taken into account in*
9 *determining the eligibility of the participant for Federal*
10 *student financial assistance provided under title IV of the*
11 *Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).*

12 “(f) *REIMBURSEMENT UNDER CERTAIN CIR-*
13 *CUMSTANCES.—*

14 “(1) *REIMBURSEMENT REQUIRED.—A partici-*
15 *part in the Troops-to-Teachers Program who is paid*
16 *a stipend or bonus under this section shall be required*
17 *to repay the stipend or bonus under the following cir-*
18 *cumstances:*

19 “(A) *The participant fails to obtain teacher*
20 *certification or licensure or employment as a*
21 *fully qualified elementary school teacher, sec-*
22 *ondary school teacher, or vocational or technical*
23 *teacher as required by the participation agree-*
24 *ment under subsection (a).*

1 “(B) *The participant voluntarily leaves, or*
2 *is terminated for cause, from employment as an*
3 *elementary school teacher, secondary school*
4 *teacher, or vocational or technical teacher during*
5 *the three years of required service in violation of*
6 *the participation agreement.*

7 “(C) *The participant executed a written*
8 *agreement with the Secretary concerned under*
9 *section 2042(e)(2) to serve as a member of a re-*
10 *serve component of the Armed Forces for a pe-*
11 *riod of three years and fails to complete the re-*
12 *quired term of service.*

13 “(2) *AMOUNT OF REIMBURSEMENT.—A partici-*
14 *part required to reimburse the Secretary for a sti-*
15 *pend or bonus paid to the participant under this sec-*
16 *tion shall pay an amount that bears the same ratio*
17 *to the amount of the stipend or bonus as the unserved*
18 *portion of required service bears to the three years of*
19 *required service. Any amount owed by the participant*
20 *shall bear interest at the rate equal to the highest rate*
21 *being paid by the United States on the day on which*
22 *the reimbursement is determined to be due for securi-*
23 *ties having maturities of ninety days or less and shall*
24 *accrue from the day on which the participant is first*
25 *notified of the amount due.*

1 “(3) *TREATMENT OF OBLIGATION.*—*The obliga-*
2 *tion to reimburse the Secretary under this subsection*
3 *is, for all purposes, a debt owing the United States.*
4 *A discharge in bankruptcy under title 11, United*
5 *States Code, shall not release a participant from the*
6 *obligation to reimburse the Secretary.*

7 “(4) *EXCEPTIONS TO REIMBURSEMENT REQUIRE-*
8 *MENT.*—*A participant shall be excused from reim-*
9 *bursement under this subsection if the participant be-*
10 *comes permanently totally disabled as established by*
11 *sworn affidavit of a qualified physician. The Sec-*
12 *retary may also waive reimbursement in cases of ex-*
13 *treme hardship to the participant, as determined by*
14 *the Secretary.*

15 “(g) *RELATIONSHIP TO EDUCATIONAL ASSISTANCE*
16 *UNDER MONTGOMERY GI BILL.*—*The receipt by a partici-*
17 *part in the Troops-to-Teachers Program of a stipend or*
18 *bonus under this section shall not reduce or otherwise affect*
19 *the entitlement of the participant to any benefits under*
20 *chapter 30 of title 38, United States Code, or chapter 1606*
21 *of title 10, United States Code.*

22 “**SEC. 2044. PARTICIPATION BY STATES.**

23 “(a) *DISCHARGE OF STATE ACTIVITIES THROUGH*
24 *CONSORTIA OF STATES.*—*The Secretary may permit States*
25 *participating in the Troops-to-Teachers Program to carry*

1 *out activities authorized for such States under the Program*
2 *through one or more consortia of such States.*

3 “(b) *ASSISTANCE TO STATES.*—

4 “(1) *GRANTS AUTHORIZED.*—Subject to para-
5 *graph (2), the Secretary may make grants to States*
6 *participating in the Troops-to-Teachers Program, or*
7 *to consortia of such States, in order to permit such*
8 *States or consortia of States to operate offices for pur-*
9 *poses of recruiting eligible members and former mem-*
10 *bers of the Armed Forces for participation in the Pro-*
11 *gram and facilitating the employment of participants*
12 *in the Program as elementary school teachers, sec-*
13 *ondary school teachers, and vocational or technical*
14 *teachers.*

15 “(2) *LIMITATION.*—The total amount of grants
16 *under paragraph (1) in any fiscal year may not ex-*
17 *ceed \$4,000,000.*

18 **“SEC. 2045. SUPPORT OF INNOVATIVE PRERETIREMENT**
19 **TEACHER CERTIFICATION PROGRAMS.**

20 “(a) *DEVELOPMENT, IMPLEMENTATION AND DEM-*
21 *ONSTRATION.*—The Secretary may enter into a memo-
22 *randum of agreement with a State, an institution of higher*
23 *education, or a consortia of States or institutions of higher*
24 *education, to develop, implement, and demonstrate teacher*
25 *certification programs for members of the Armed Forces de-*

1 *scribed in section 2042(a)(1)(B) for the purpose of assisting*
2 *such members to consider and prepare for a career as a*
3 *fully qualified elementary school teacher, secondary school*
4 *teacher, or vocational or technical teacher upon their retire-*
5 *ment from the Armed Forces.*

6 “(b) *PROGRAM ELEMENTS.—A teacher certification*
7 *program under subsection (a) must—*

8 “(1) *provide recognition of military experience*
9 *and training as related to licensure or certification*
10 *requirements;*

11 “(2) *provide courses of instruction that may be*
12 *conducted on or near a military installation;*

13 “(3) *incorporate alternative approaches to*
14 *achieve teacher certification, such as innovative meth-*
15 *ods to gaining field-based teaching experiences, and*
16 *assessment of background and experience as related to*
17 *skills, knowledge, and abilities required of elementary*
18 *school teachers, secondary school teachers, or voca-*
19 *tional or technical teachers;*

20 “(4) *provide for courses to also be delivered via*
21 *distance education methods; and*

22 “(5) *address any additional requirements or*
23 *specifications as established by the Secretary.*

24 “(c) *APPLICATION PROCEDURES.—A State or institu-*
25 *tion of higher education (or a consortia of States or institu-*

1 tions of higher education) that has a program leading to
2 State approved teacher certification programs may submit
3 a proposal to the Secretary for consideration under sub-
4 section (a). The Secretary shall give preference to proposals
5 that provide for a sharing of the costs to carry out the teach-
6 er certification program.

7 “(d) *CONTINUATION OF PROGRAMS.*—The purpose of
8 this section is to provide funding to develop, implement,
9 and demonstrate teacher certification programs under sub-
10 section (a). Upon successful completion of the demonstra-
11 tion phase, the continued operation of the teacher certifi-
12 cation programs shall not be the responsibility of the Sec-
13 retary.

14 “(e) *FUNDING LIMITATION.*—The total amount obli-
15 gated by the Secretary under this section in any fiscal year
16 may not exceed \$5,000,000.

17 **“SEC. 2046. REPORTING REQUIREMENTS.**

18 “(a) *REPORT REQUIRED.*—Not later than March 31
19 of each year, the Secretary (in consultation with the Sec-
20 retary of Defense and the Secretary of Transportation) and
21 the Comptroller General shall each submit to Congress a
22 report on the effectiveness of the Troops-to-Teachers Pro-
23 gram in the recruitment and retention of qualified per-
24 sonnel by local educational agencies and public charter
25 schools.

1 “(b) *ELEMENTS OF REPORT.*—*The report under sub-*
2 *section (a) shall include information on the following:*

3 “(1) *The number of participants in the Troops-*
4 *to-Teachers Program.*

5 “(2) *The schools in which the participants are*
6 *employed.*

7 “(3) *The grade levels at which the participants*
8 *teach.*

9 “(4) *The subject matters taught by the partici-*
10 *pants.*

11 “(5) *The rates of retention of the participants by*
12 *the local educational agencies and public charter*
13 *schools employing the participants.*

14 “(6) *Such other matters as the Secretary or the*
15 *Comptroller General, as the case may be, considers*
16 *appropriate.*

17 “(c) *RECOMMENDATIONS.*—*The report of the Comp-*
18 *troller General under this section shall also include any rec-*
19 *ommendations of the Comptroller General regarding any*
20 *means of improving the Troops-to-Teachers Program, in-*
21 *cluding means of enhancing the recruitment and retention*
22 *of participants in the Program.*

23 **“SEC. 2047. DEFINITIONS.**

24 *“For purposes of this chapter:*

1 “(1) *ARMED FORCES*.—The term ‘*Armed Forces*’
2 *means the Army, Navy, Air Force, Marine Corps, and*
3 *Coast Guard.*

4 “(2) *PROGRAM*.—The term ‘*Program*’ means the
5 *Troops-to-Teachers Program authorized by this sub-*
6 *part.*

7 “(3) *RESERVE COMPONENT*.—The term ‘*reserve*
8 *component*’ means—

9 “(A) *the Army National Guard of the*
10 *United States;*

11 “(B) *the Army Reserve;*

12 “(C) *the Naval Reserve;*

13 “(D) *the Marine Corps Reserve;*

14 “(E) *the Air National Guard of the United*
15 *States;*

16 “(F) *the Air Force Reserve; and*

17 “(G) *the Coast Guard Reserve.*

18 “(4) *SECRETARY CONCERNED*.—The term ‘*Sec-*
19 *retary concerned*’ means—

20 “(A) *the Secretary of the Army, with respect*
21 *to matters concerning a reserve component of the*
22 *Army;*

23 “(B) *the Secretary of the Navy, with respect*
24 *to matters concerning a reserve component of the*
25 *Navy;*

1 “(C) *the Secretary of the Air Force, with re-*
2 *spect to matters concerning a reserve component*
3 *of the Air Force; and*

4 “(D) *the Secretary of Transportation, with*
5 *respect to matters concerning the Coast Guard*
6 *Reserve.*

7 **“CHAPTER 2—TRANSITION TO TEACHING**

8 **“SEC. 2048. PROFESSIONALS SEEKING TO CHANGE CA-**
9 **REERS.**

10 “(a) *PURPOSE.—The purpose of this section is to ad-*
11 *dress the need of high-need local educational agencies for*
12 *highly qualified teachers in particular subject areas, such*
13 *as mathematics, science, foreign languages, bilingual edu-*
14 *cation, and special education, needed by those agencies, fol-*
15 *lowing the model of the program under chapter 1, by re-*
16 *cruiting, preparing, placing, and supporting career-chang-*
17 *ing professionals who have knowledge and experience that*
18 *will help them become such teachers.*

19 “(b) *PROGRAM AUTHORIZED.—The Secretary may*
20 *award grants, contracts, or cooperative agreements to insti-*
21 *tutions of higher education and public and private non-*
22 *profit agencies or organizations to carry out programs au-*
23 *thorized by this section.*

24 “(c) *APPLICATION.—Each applicant that desires an*
25 *award under subsection (b) shall submit an application to*

1 *the Secretary containing such information as the Secretary*
2 *requires, including—*

3 “(1) *a description of the target group of career-*
4 *changing professionals upon which the applicant will*
5 *focus its recruitment efforts in carrying out its pro-*
6 *gram under this section, including a description of*
7 *the characteristics of that target group that shows how*
8 *the knowledge and experience of its members are rel-*
9 *evant to meeting the purpose of this section;*

10 “(2) *a description of the training that program*
11 *participants will receive and how that training will*
12 *relate to their certification as teachers;*

13 “(3) *a description of how the applicant will col-*
14 *laborate, as needed, with other institutions, agencies,*
15 *or organizations to recruit, train, place, support, and*
16 *provide teacher induction programs to program par-*
17 *ticipants under this section, including evidence of the*
18 *commitment of those institutions, agencies, or organi-*
19 *zations to the applicant’s program;*

20 “(4) *a description of how the applicant will*
21 *evaluate the progress and effectiveness of its program,*
22 *including—*

23 “(A) *the program’s goals and objectives;*

1 “(B) the performance indicators the appli-
2 cant will use to measure the program’s progress;
3 and

4 “(C) the outcome measures that will be used
5 to determine the program’s effectiveness; and

6 “(5) such other information and assurances as
7 the Secretary may require.

8 “(d) *USES OF FUNDS AND PERIOD OF SERVICE.*—

9 “(1) *AUTHORIZED ACTIVITIES.*—*Funds under*
10 *this section may be used for—*

11 “(A) recruiting program participants, in-
12 cluding informing them of opportunities under
13 the program and putting them in contact with
14 other institutions, agencies, or organizations that
15 would train, place, and support them;

16 “(B) training stipends and other financial
17 incentives for program participants, not to ex-
18 ceed \$5,000 per participant;

19 “(C) assisting institutions of higher edu-
20 cation or other providers of teacher training to
21 tailor their training to meet the particular needs
22 of professionals who are changing their careers to
23 teaching;

24 “(D) placement activities, including identi-
25 fying high-need local educational agencies with a

1 *need for the particular skills and characteristics*
2 *of the newly trained program participants and*
3 *assisting those participants to obtain employ-*
4 *ment in those local educational agencies; and*

5 “(E) *post-placement induction or support*
6 *activities for program participants.*

7 “(2) *PERIOD OF SERVICE.*—*A program partici-*
8 *part in a program under this section who completes*
9 *his or her training shall serve in a high-need local*
10 *educational agency for at least 3 years.*

11 “(3) *REPAYMENT.*—*The Secretary shall establish*
12 *such requirements as the Secretary determines appro-*
13 *priate to ensure that program participants who re-*
14 *ceive a training stipend or other financial incentive*
15 *under paragraph (1)(B), but fail to complete their*
16 *service obligation under paragraph (2), repay all or*
17 *a portion of such stipend or other incentive.*

18 “(e) *EQUITABLE DISTRIBUTION.*—*To the extent prac-*
19 *ticable, the Secretary shall make awards under this section*
20 *that support programs in different geographic regions of the*
21 *United States.*

22 “(f) *DEFINITION.*—*As used in this section, the term*
23 *‘program participants’ means career-changing professionals*
24 *who—*

25 “(1) *hold at least a baccalaureate degree;*

1 *responding to the academic subject matter areas*
2 *in which teachers provide instruction; and*

3 “(B) *when referring to a specific academic*
4 *subject matter area, the disciplines or content*
5 *areas in which academic majors are offered by*
6 *the arts and sciences organizational unit.*

7 “(2) *BEGINNING TEACHER.*—*The term ‘begin-*
8 *ning teacher’ means an educator in a public school*
9 *who has not yet been teaching 3 full school years.*

10 “(3) *MENTORING PROGRAM.*—*The term ‘men-*
11 *toring program’ means to provide professional sup-*
12 *port and development, instruction, and guidance to*
13 *beginning teachers, but does not include a teacher or*
14 *individual who begins to work in a supervisory posi-*
15 *tion.*

16 “(4) *PUBLICLY REPORT.*—*The term ‘publicly re-*
17 *port’, when used with respect to the dissemination of*
18 *information, means that the information is made*
19 *widely available to the public, including parents and*
20 *students, through such means as the Internet and*
21 *major print and broadcast media outlets.’’.*

22 **SEC. 202. NATIONAL WRITING PROJECT.**

23 (a) *TRANSFER AND REDESIGNATION.*—*Part K of title*
24 *X (20 U.S.C. 8331 et seq.) is transferred and redesignated*

1 *as part B of title II. Sections 10991 and 10992 are redesignated as sections 2101 and 2102, respectively.*

3 (b) *EVALUATION.*—Section 2102(g) (as so redesignated) is amended—

5 (1) *in paragraph (1), by striking “14701.” and inserting “8651.”; and*

7 (2) *in paragraph (2), by striking “1994” and inserting “2002”.*

9 (c) *REAUTHORIZATION.*—Section 2102(i) (as so redesignated) is amended by striking “\$4,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 12 four succeeding fiscal years,” and inserting “such sums as 13 may be necessary for fiscal year 2002 and the four succeeding fiscal years,”.

15 (d) *CONTINUATION OF AWARDS.*—Notwithstanding 16 any other provision of this Act, any person or agency that 17 was awarded a grant or contract under part K of title X 18 (20 U.S.C. 8331 et seq.) prior to the date of the enactment 19 of this Act shall continue to receive funds in accordance 20 with the terms of such award until the date on which the 21 award period terminates under such terms.

1 **SEC. 203. CIVIC EDUCATION; TEACHER LIABILITY PROTEC-**
2 **TION.**

3 (a) *IN GENERAL.*—Title II, as amended by sections
4 201 and 202, is further amended by adding at the end the
5 following:

6 **“PART C—CIVIC EDUCATION**

7 **“SEC. 2201. SHORT TITLE.**

8 “This part may be cited as the ‘Education for Democ-
9 racy Act’.

10 **“SEC. 2202. FINDINGS.**

11 “The Congress finds that—

12 “(1) college freshmen surveyed in 1999 by the
13 Higher Education Research Institute at the Univer-
14 sity of California at Los Angeles demonstrated higher
15 levels of disengagement, both academically and politi-
16 cally, than any previous entering class of students;

17 “(2) college freshmen in 1999 demonstrated the
18 lowest levels of political interest in the 20-year history
19 of surveys conducted by the Higher Education Re-
20 search Institute at the University of California at Los
21 Angeles;

22 “(3) United States secondary school students ex-
23 pressed relatively low levels of interest in politics and
24 economics in a 1999 Harris survey;

25 “(4) the 32d Annual Phi Delta Kappa/Gallup
26 Poll of 2000 indicated that preparing students to be-

1 *come responsible citizens was the most important pur-*
2 *pose of public schools;*

3 *“(5) Americans surveyed by the Organization of*
4 *Economic Cooperation and Development indicated*
5 *that only 59 percent had confidence that schools have*
6 *a major effect on the development of good citizenship;*

7 *“(6) teachers too often do not have sufficient ex-*
8 *pertise in the subjects that they teach, and 50 percent*
9 *of all secondary school history students in America*
10 *are being taught by teachers with neither a major nor*
11 *a minor in history;*

12 *“(7) secondary school students correctly answered*
13 *fewer than 50 percent of the questions on a national*
14 *test of economic knowledge in a 1999 Harris survey;*

15 *“(8) the 1998 National Assessment of Edu-*
16 *cational Progress indicated that students have only*
17 *superficial knowledge of, and lacked a depth of under-*
18 *standing regarding, civics;*

19 *“(9) civics and economic education are impor-*
20 *tant not only to developing citizenship competencies*
21 *in the United States but also are critical to sup-*
22 *porting political stability and economic health in*
23 *other democracies, particularly emerging democratic*
24 *market economies;*

1 “(10) more than 75 percent of Americans sur-
2 veyed by the National Constitution Center in 1997
3 admitted that they knew only some or very little
4 about the Constitution of the United States; and

5 “(11) the Constitution of the United States is too
6 often viewed within the context of history and not as
7 a living document that shapes current events.

8 **“SEC. 2203. PURPOSE.**

9 *“It is the purpose of this part—*

10 *“(1) to improve the quality of civics and govern-
11 ment education by educating students about the his-
12 tory and principles of the Constitution of the United
13 States, including the Bill of Rights;*

14 *“(2) to foster civic competence and responsi-
15 bility; and*

16 *“(3) to improve the quality of civic education
17 and economic education through cooperative civic
18 education and economic education exchange programs
19 with emerging democracies.*

20 **“SEC. 2204. AUTHORITY.**

21 *“The Secretary may make grants to, or enter into con-
22 tracts with—*

23 *“(1) the Center for Civic Education to carry out
24 civic education activities in accordance with sections
25 2205 and 2206; and*

1 “(2) *the National Council on Economic Edu-*
2 *cation to carry out economic education activities in*
3 *accordance with section 2206.*

4 **“SEC. 2205. WE THE PEOPLE PROGRAM.**

5 “(a) *USE OF FUNDS.—The Center for Civic Education*
6 *may use funds made available under grants or contracts*
7 *under section 2204(1) only to carry out activities—*

8 “(1) *under the Citizen and the Constitution pro-*
9 *gram in accordance with subsection (b); and*

10 “(2) *under the Project Citizen program in ac-*
11 *cordance with subsection (c).*

12 “(b) *CITIZEN AND THE CONSTITUTION PROGRAM.—*

13 “(1) *EDUCATIONAL ACTIVITIES.—The Center for*
14 *Civic Education—*

15 “(A) *shall use funds made available under*
16 *grants or contracts under section 2204(1)—*

17 “(i) *to continue and expand the edu-*
18 *cational activities of the program entitled*
19 *the ‘We the People... The Citizen and the*
20 *Constitution’ administered by the Center for*
21 *Civic Education;*

22 “(ii) *to carry out activities to enhance*
23 *student attainment of challenging academic*
24 *content standards in civics and government;*

1 “(iii) to provide a course of instruction
2 on the basic principles of the Nation’s con-
3 stitutional democracy and the history of the
4 Constitution of the United States, including
5 the Bill of Rights;

6 “(iv) to provide, at the request of a
7 participating school, school and community
8 simulated congressional hearings following
9 the course of instruction described in clause
10 (iii); and

11 “(v) to provide an annual national
12 competition of simulated congressional hear-
13 ings for secondary school students who wish
14 to participate in such a program; and

15 “(B) may use assistance made available
16 under section 2204(1)—

17 “(i) to provide advanced sustained and
18 ongoing training of teachers about the Con-
19 stitution of the United States and the polit-
20 ical system of the United States;

21 “(ii) to provide materials and methods
22 of instruction, including teacher training,
23 that utilize the latest advancements in edu-
24 cational technology; and

1 “(iii) to provide civic education mate-
2 rials and services to address specific prob-
3 lems such as the prevention of school vio-
4 lence and the abuse of drugs and alcohol.

5 “(2) AVAILABILITY OF PROGRAM.—As a condi-
6 tion of receipt of funds under grants or contracts
7 under section 2204(1), the Secretary shall require the
8 Center for Civic Education to make the education
9 program authorized under this subsection available to
10 public and private elementary schools and secondary
11 schools, including Bureau-funded schools, in each of
12 the 435 congressional districts, and in the District of
13 Columbia, the Commonwealth of Puerto Rico, the Vir-
14 gin Islands, Guam, American Samoa, and the Com-
15 monwealth of the Northern Mariana Islands.

16 “(c) PROJECT CITIZEN.—

17 “(1) EDUCATIONAL ACTIVITIES.—The Center for
18 Civic Education—

19 “(A) shall use funds made available under
20 grants or contracts under section 2204(1)—

21 “(i) to continue and expand the edu-
22 cational activities of the program entitled
23 the ‘We the People... Project Citizen’ pro-
24 gram administered by the Center;

1 “(ii) to carry out activities to enhance
2 student attainment of challenging academic
3 content standards in civics and government;

4 “(iii) to provide a course of instruction
5 at the middle school level on the roles of
6 State and local governments in the Federal
7 system established by the Constitution of the
8 United States; and

9 “(iv) to provide an annual national
10 showcase or competition; and

11 “(B) may use funds made available under
12 grants or contracts under section 2204(1)—

13 “(i) to provide optional school and
14 community simulated State legislative hear-
15 ings;

16 “(ii) to provide advanced sustained
17 and ongoing training of teachers on the
18 roles of State and local governments in the
19 Federal system established by the Constitu-
20 tion of the United States;

21 “(iii) to provide materials and meth-
22 ods of instruction, including teacher train-
23 ing, that utilize the latest advancements in
24 educational technology; and

1 “(iv) to provide civic education mate-
2 rials and services to address specific prob-
3 lems such as the prevention of school vio-
4 lence and the abuse of drugs and alcohol.

5 “(2) AVAILABILITY OF PROGRAM.—As a condi-
6 tion of receipt of funds under grants or contracts
7 under section 2204(1), the Secretary shall require the
8 Center for Civic Education to make the education
9 program authorized under this subsection available to
10 public and private middle schools, including Bureau-
11 funded schools, in each of the 50 States, the District
12 of Columbia, the Commonwealth of Puerto Rico, the
13 Virgin Islands, Guam, American Samoa, and the
14 Commonwealth of the Northern Mariana Islands.

15 “(d) BUREAU-FUNDED SCHOOL DEFINED.—In this
16 section, the term ‘Bureau-funded school’ has the meaning
17 given such term in section 1146 of the Education Amend-
18 ments of 1978 (25 U.S.C. 2026).

19 “**SEC. 2206. COOPERATIVE CIVIC EDUCATION AND ECO-**
20 **NOMIC EDUCATION EXCHANGE PROGRAMS.**

21 “(a) USE OF FUNDS.—The Center for Civic Education
22 and the National Council on Economic Education may use
23 funds made available under grants or contracts under sec-
24 tion 2204(2) only to carry out cooperative education ex-
25 change programs that—

1 “(1) make available to educators from eligible
2 countries exemplary curriculum and teacher training
3 programs in civics and government education, and ec-
4 onomics education, developed in the United States;

5 “(2) assist eligible countries in the adaptation,
6 implementation, and institutionalization of programs
7 described in paragraph (1);

8 “(3) create and implement programs for civics
9 and government education, and economic education,
10 for students that draw upon the experiences of the
11 participating eligible countries;

12 “(4) provide means for the exchange of ideas and
13 experiences in civics and government education, and
14 economic education, among political, educational,
15 governmental, and private sector leaders of partici-
16 pating eligible countries; and

17 “(5) provide support for—

18 “(A) independent research and evaluation
19 to determine the effects of educational programs
20 on students’ development of the knowledge, skills,
21 and traits of character essential for the preserva-
22 tion and improvement of constitutional democ-
23 racy; and

1 “(B) *effective participation in and the pres-*
2 *ervation and improvement of an efficient market*
3 *economy.*

4 “(b) *ACTIVITIES.—In carrying out the cooperative*
5 *education exchange programs assisted under this section,*
6 *the Center for Civic Education and the National Council*
7 *on Economic Education shall—*

8 “(1) *provide to the participants from eligible*
9 *countries—*

10 “(A) *seminars on the basic principles of*
11 *United States constitutional democracy and eco-*
12 *nommic system, including seminars on the major*
13 *governmental and economic institutions and sys-*
14 *tems in the United States, and visits to such in-*
15 *stitutions;*

16 “(B) *visits to school systems, institutions of*
17 *higher education, and nonprofit organizations*
18 *conducting exemplary programs in civics and*
19 *government education, and economic education,*
20 *in the United States;*

21 “(C) *translations and adaptations with re-*
22 *spect to United States civics and government*
23 *education, and economic education, curricular*
24 *programs for students and teachers, and in the*
25 *case of training programs for teachers trans-*

1 *lations and adaptations into forms useful in*
2 *schools in eligible countries, and joint research*
3 *projects in such areas; and*

4 “(D) *independent research and evaluation*
5 *assistance—*

6 “(i) *to determine the effects of the coop-*
7 *erative education exchange programs on*
8 *students’ development of the knowledge,*
9 *skills, and traits of character essential for*
10 *the preservation and improvement of con-*
11 *stitutional democracy; and*

12 “(ii) *to identify effective participation*
13 *in and the preservation and improvement of*
14 *an efficient market economy;*

15 “(2) *provide to the participants from the United*
16 *States—*

17 “(A) *seminars on the histories, economies,*
18 *and systems of government of eligible countries;*

19 “(B) *visits to school systems, institutions of*
20 *higher education, and organizations conducting*
21 *exemplary programs in civics and government*
22 *education, and economic education, located in el-*
23 *igible countries;*

24 “(C) *assistance from educators and scholars*
25 *in eligible countries in the development of cur-*

1 *ricular materials on the history, government,*
2 *and economy of such countries that are useful in*
3 *United States classrooms;*

4 “(D) opportunities to provide onsite dem-
5 onstrations of United States curricula and peda-
6 gogy for educational leaders in eligible countries;
7 and

8 “(E) independent research and evaluation
9 assistance to determine—

10 “(i) the effects of the cooperative edu-
11 cation exchange programs assisted under
12 this section on students’ development of the
13 knowledge, skills, and traits of character es-
14 sential for the preservation and improve-
15 ment of constitutional democracy; and

16 “(ii) effective participation in and im-
17 provement of an efficient market economy;
18 and

19 “(3) assist participants from eligible countries
20 and the United States to participate in international
21 conferences on civics and government education, and
22 economic education, for educational leaders, teacher
23 trainers, scholars in related disciplines, and edu-
24 cational policymakers.

1 “(c) *PARTICIPANTS.*—*The primary participants in the*
2 *cooperative education exchange programs assisted under*
3 *this section shall be educational leaders in the areas of*
4 *civics and government education, and economic education,*
5 *including teachers, curriculum and teacher training spe-*
6 *cialists, scholars in relevant disciplines, and educational*
7 *policymakers, and government and private sector leaders*
8 *from the United States and eligible countries.*

9 “(d) *CONSULTATION.*—*The Secretary may make a*
10 *grant, or enter into a contract, under section 2204(2) only*
11 *if the Secretary of State concurs with the Secretary that*
12 *such grant, or contract, is consistent with the foreign policy*
13 *of the United States.*

14 “(e) *AVOIDANCE OF DUPLICATION.*—*With the concur-*
15 *rence of the Secretary of State, the Secretary shall ensure*
16 *that—*

17 “(1) *the activities carried out under the pro-*
18 *grams assisted under this section are not duplicative*
19 *of other activities conducted in eligible countries; and*

20 “(2) *any institutions in eligible countries, with*
21 *which the Center for Civic Education or the National*
22 *Council on Economic Education may work in con-*
23 *ducting such activities, are creditable.*

24 “(f) *ELIGIBLE COUNTRY DEFINED.*—*In this section,*
25 *the term ‘eligible country’ means a Central European coun-*

1 *try, an Eastern European country, Lithuania, Latvia, Es-*
2 *tonia, the independent states of the former Soviet Union*
3 *as defined in section 3 of the FREEDOM Support Act (22*
4 *U.S.C. 5801), the Republic of Ireland, the province of*
5 *Northern Ireland in the United Kingdom, and any devel-*
6 *oping country (as such term is defined in section 209(d)*
7 *of the Education for the Deaf Act) if the Secretary, with*
8 *the concurrence of the Secretary of State, determines that*
9 *such developing country has a democratic form of govern-*
10 *ment.*

11 **“SEC. 2207. FUNDING.**

12 “(a) *AUTHORIZATION OF APPROPRIATIONS.—*

13 “(1) *WE THE PEOPLE PROGRAM.—There are au-*
14 *thorized to be appropriated to carry out sections*
15 *2204(1) and 2205 such sums as may be necessary for*
16 *each of fiscal years 2002 through 2006.*

17 “(2) *COOPERATIVE CIVIC EDUCATION AND ECO-*
18 *NOMIC EDUCATION EXCHANGE PROGRAMS.—There are*
19 *authorized to be appropriated to carry out sections*
20 *2204(2) and 2206 such sums as may be necessary for*
21 *each of fiscal years 2002 through 2006.*

22 “(b) *LIMITATION.—In each fiscal year, the Secretary*
23 *may use not more than 50 percent of the amount appro-*
24 *priated under subsection (a)(2) for assistance for economic*
25 *educational activities.*

1 **“PART D—TEACHER LIABILITY PROTECTION**

2 **“SEC. 2301. TEACHER IMMUNITY.**

3 “(a) *IMMUNITY.*—*Notwithstanding any other provi-*
4 *sion of law, no school board member of, or teacher or admin-*
5 *istrator in, a local educational agency that receives funds*
6 *under this Act shall be liable for monetary damages in his*
7 *or her personal capacity for an action that was taken in*
8 *carrying out his or her official duties and intended to main-*
9 *tain school discipline, so long as that action was not prohib-*
10 *ited under State or local law and did not constitute reckless*
11 *or criminal misconduct.*

12 “(b) *LIMITATION.*—*The immunity established under*
13 *subsection (a) shall apply only to liability arising under*
14 *Federal law.”.*

15 “(b) *CONTINUATION OF AWARDS.*—*Notwithstanding*
16 *any other provision of this Act, any person or agency that*
17 *was awarded a grant under part F of title X (20 U.S.C.*
18 *8141 et seq.) prior to the date of the enactment of this Act*
19 *shall continue to receive funds in accordance with the terms*
20 *of such award until the date on which the award period*
21 *terminates under such terms.*

1 **TITLE III—EDUCATION OF LIM-**
 2 **ITED ENGLISH PROFICIENT**
 3 **AND IMMIGRANT CHILDREN;**
 4 **INDIAN AND ALASKA NATIVE**
 5 **EDUCATION**

6 **PART A—EDUCATION OF LIMITED ENGLISH**
 7 **PROFICIENT AND IMMIGRANT CHILDREN**

8 **SEC. 301. PROGRAMS AUTHORIZED.**

9 (a) *TITLE HEADING.*—*The heading for title III is*
 10 *amended to read as follows:*

11 **“TITLE III—EDUCATION OF LIM-**
 12 **ITED ENGLISH PROFICIENT**
 13 **AND IMMIGRANT CHILDREN;**
 14 **INDIAN AND ALASKA NATIVE**
 15 **EDUCATION”.**

16 (b) *SHORT TITLE.*—*Section 3101 (20 U.S.C. 6801) is*
 17 *repealed.*

18 (c) *LIMITATION ON AVAILABILITY OF CERTAIN FUNDS*
 19 *FOR SCHOOLS.*—

20 (1) *IN GENERAL.*—*Section 3601 (20 U.S.C.*
 21 *7001)—*

22 (A) *is transferred to part B of title V (as*
 23 *amended by section 501) and inserted after sec-*
 24 *tion 5204 (as so amended);*

25 (B) *is redesignated as section 5205; and*

1 (C) is amended by striking “this title” each
2 place such term appears and inserting “this
3 part”.

4 (2) *PART HEADING REPEAL.*—The part heading
5 for part F of title III is repealed.

6 (d) *LIMITED ENGLISH PROFICIENT AND IMMIGRANT*
7 *CHILDREN.*—Parts A through E of title III (20 U.S.C. 6811
8 *et seq.*) are amended to read as follows:

9 **“PART A—EDUCATION OF LIMITED ENGLISH**
10 **PROFICIENT AND IMMIGRANT CHILDREN**
11 **“Subpart 1—English Language and Academic**
12 **Instructional Programs**

13 **“SEC. 3101. SHORT TITLE.**

14 *“This subpart may be cited as the ‘English Language*
15 *Proficiency and Academic Achievement Act’.*

16 **“SEC. 3102. FINDINGS AND PURPOSES.**

17 *“(a) FINDINGS.—The Congress finds as follows:*

18 *“(1) English is the common language of the*
19 *United States and every citizen and other person re-*
20 *siding in the United States should have a command*
21 *of the English language in order to develop to their*
22 *full potential.*

23 *“(2) Limited English proficient children, includ-*
24 *ing recent immigrant children, must overcome a*
25 *number of challenges in receiving an education in*

1 *order to participate fully in American society, includ-*
2 *ing—*

3 “(A) *segregated educational programs;*

4 “(B) *disproportionate and improper place-*
5 *ment in special education and other special pro-*
6 *grams due to the use of inappropriate evaluation*
7 *procedures;*

8 “(C) *the limited English proficiency of their*
9 *parents, which hinders the parents’ ability to*
10 *fully participate in the education of their chil-*
11 *dren; and*

12 “(D) *a need for additional teachers and*
13 *other staff who are professionally trained and*
14 *qualified to serve such children.*

15 “(3) *States and local educational agencies need*
16 *assistance in developing the capacity to provide pro-*
17 *grams of instruction that offer and provide an equal*
18 *educational opportunity to children who need special*
19 *assistance because English is not their dominant lan-*
20 *guage.*

21 “(4) *Since 1979, the number of limited English*
22 *proficient children attending school in the United*
23 *States has more than doubled to greater than*
24 *4,000,000, and demographic trends indicate the popu-*

1 *lation of limited English proficient children will con-*
2 *tinue to increase.*

3 *“(5) Native Americans, including native resi-*
4 *dents of the outlying areas, and Native American lan-*
5 *guages (as such terms are defined in section 103 of*
6 *the Native American Languages Act) have a unique*
7 *status under Federal law that requires special policies*
8 *within the broad purposes of this part to serve the*
9 *educational needs of language minority students in*
10 *the United States.*

11 *“(6) Research, evaluation, and data collection*
12 *capabilities in the field of instruction for limited*
13 *English proficient children need to be strengthened so*
14 *that educators and other staff teaching limited*
15 *English proficient children in the classroom can bet-*
16 *ter identify and promote programs, program imple-*
17 *mentation strategies, and instructional practices that*
18 *result in the effective education of limited English*
19 *proficient children.*

20 *“(7) The Federal Government has a special and*
21 *continuing obligation to ensure that States and local*
22 *educational agencies provide children of limited*
23 *English proficiency the same educational opportuni-*
24 *ties afforded other children.*

25 *“(b) PURPOSES.—The purposes of this part are—*

1 “(1) to help ensure that children who are limited
2 *English proficient, including recent immigrant chil-*
3 *dren, attain English proficiency, develop high levels of*
4 *academic attainment in English, and meet the same*
5 *challenging State academic content standards and*
6 *challenging State student academic achievement*
7 *standards expected of all children;*

8 “(2) to develop high-quality programs designed
9 *to assist local educational agencies in teaching lim-*
10 *ited English proficient children;*

11 “(3) to assist local educational agencies to de-
12 *velop and enhance their capacity to provide high-*
13 *quality instructional programs designed to prepare*
14 *limited English proficient students, including recent*
15 *immigrant students, to enter all-English instructional*
16 *settings within 3 years; and*

17 “(4) to provide State educational agencies and
18 *local educational agencies with the flexibility to im-*
19 *plement instructional programs, tied to scientifically*
20 *based reading research and sound research and theory*
21 *on teaching limited English proficient children, that*
22 *the agencies believe to be the most effective for teach-*
23 *ing English.*

1 **“SEC. 3103. PARENTAL NOTIFICATION AND CONSENT FOR**
2 **ENGLISH LANGUAGE INSTRUCTION.**

3 “(a) *NOTIFICATION.—If a local educational agency*
4 *uses funds under this subpart to provide English language*
5 *instruction to limited English proficient children, the agen-*
6 *cy shall inform a parent or the parents of a child partici-*
7 *pating in an English language instruction program for*
8 *limited English proficient children assisted under this sub-*
9 *part of—*

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

12 “(2) *the child’s level of English proficiency, how*
13 *such level was assessed, and the status of the child’s*
14 *academic achievement;*

15 “(3) *how the English language instruction pro-*
16 *gram will specifically help the child acquire English*
17 *and meet age-appropriate standards for grade pro-*
18 *motion and graduation;*

19 “(4) *what the specific exit requirements are for*
20 *the program;*

21 “(5) *the expected rate of transition from the pro-*
22 *gram into a classroom that is not tailored for limited*
23 *English proficient children; and*

24 “(6) *the expected rate of graduation from high*
25 *school for the program if funds under this subpart are*
26 *used for children in secondary schools.*

1 “(b) *CONSENT.*—

2 “(1) *AGENCY REQUIREMENTS.*—

3 “(A) *INFORMED CONSENT.*—*For a child*
4 *who has been identified as limited English pro-*
5 *ficient prior to the beginning of the school year,*
6 *each local educational agency that receives funds*
7 *under this subpart shall make a reasonable and*
8 *substantial effort to obtain informed parental*
9 *consent prior to the placement of a child in an*
10 *English language instruction program for lim-*
11 *ited English proficient children funded under*
12 *this subpart, if the program does not include*
13 *classes which exclusively or almost exclusively*
14 *use the English language in instruction.*

15 “(B) *WRITTEN CONSENT NOT OBTAINED.*—

16 “(i) *IN GENERAL.*—*If written consent*
17 *is not obtained, the local educational agency*
18 *shall maintain a written record that in-*
19 *cludes the date and the manner in which*
20 *such informed consent was sought, includ-*
21 *ing the specific efforts made to obtain such*
22 *consent.*

23 “(ii) *PROOF OF EFFORT.*—*Notice, in*
24 *an understandable form, of specific efforts*
25 *made to obtain written consent and a copy*

1 of the written record described in clause (i)
2 shall be mailed or delivered in writing to a
3 parent or the parents of a child prior to
4 placing the child in a program described in
5 subparagraph (A), and shall include a final
6 request for parental consent for such serv-
7 ices. After such notice has been mailed or
8 delivered in writing, the local educational
9 agency shall provide appropriate edu-
10 cational services.

11 “(iii) *SPECIAL RULE APPLICABLE DUR-*
12 *ING SCHOOL YEAR.—For those children who*
13 *have not been identified as limited English*
14 *proficient prior to the beginning of the*
15 *school year, the local educational agency*
16 *shall make a reasonable and substantial ef-*
17 *fort to obtain parental consent under this*
18 *clause. For such children, the agency shall*
19 *document, in writing, its specific efforts to*
20 *obtain such consent prior to placing the*
21 *child in a program described in subpara-*
22 *graph (A). After such documentation has*
23 *been made, the local educational agency*
24 *shall provide appropriate educational serv-*
25 *ices to such child. The proof of documenta-*

1 *tion shall be mailed or delivered in writing*
2 *to a parent or the parents of the child in a*
3 *timely manner and shall include informa-*
4 *tion on how to have their child immediately*
5 *removed from the program upon their re-*
6 *quest. Nothing in this clause shall be con-*
7 *strued as exempting a local educational*
8 *agency from complying with the notifica-*
9 *tion requirements of subsection (a) and the*
10 *consent requirements of this paragraph.*

11 *“(2) PARENTAL RIGHTS.—A parent or the par-*
12 *ents of a child participating in an English language*
13 *instruction program for limited English proficient*
14 *children assisted under this subpart—*

15 *“(A) shall select among methods of instruc-*
16 *tion, if more than one method is offered in the*
17 *program; and*

18 *“(B) shall have the right to have their child*
19 *immediately removed from the program upon*
20 *their request.*

21 *“(c) RECEIPT OF INFORMATION.—A parent or the par-*
22 *ents of a child identified for participation in an English*
23 *language instruction program for limited English pro-*
24 *ficient children assisted under this subpart shall receive, in*
25 *a manner and form understandable to the parent or par-*

1 *ents, the information required by this subsection. At a min-*
2 *imum, the parent or parents shall receive—*

3 “(1) *timely information about English language*
4 *instruction programs for limited English proficient*
5 *children assisted under this part;*

6 “(2) *if a parent or the parents of a participating*
7 *child so desire, notice of opportunities for regular*
8 *meetings for the purpose of formulating and respond-*
9 *ing to recommendations from the parent or parents;*
10 *and*

11 “(3) *procedural information for removing a child*
12 *from a program for limited English proficient chil-*
13 *dren.*

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

18 **“SEC. 3104. TESTING OF LIMITED ENGLISH PROFICIENT**
19 **CHILDREN.**

20 “(a) *IN GENERAL.—Assessments of limited English*
21 *proficient children participating in programs funded under*
22 *this subpart, to the extent practicable, shall be in the lan-*
23 *guage and form most likely to yield accurate and reliable*
24 *information on what such students know and can do in con-*
25 *tent areas.*

1 “(b) *SPECIAL RULE.*—Notwithstanding subsection (a),
2 *in the case of an assessment of reading or language arts*
3 *of any student who has attended school in the United States*
4 *(excluding Puerto Rico) for 3 or more consecutive school*
5 *years, the assessment shall be in the form of a test written*
6 *in English, except that, if the entity administering the as-*
7 *essment determines, on a case-by-case individual basis,*
8 *that assessments in another language or form would likely*
9 *yield more accurate and reliable information on what such*
10 *student knows and can do, the entity may assess such stu-*
11 *dent in such language or form for 1 additional year.*

12 **“SEC. 3105. FORMULA GRANTS TO STATES.**

13 “(a) *IN GENERAL.*—In the case of each State that in
14 accordance with section 3107 submits to the Secretary an
15 application for a fiscal year, the Secretary shall make a
16 grant for the year to the State for the purposes specified
17 in subsection (b). The grant shall consist of the allotment
18 determined for the State under subsection (c).

19 “(b) *PURPOSES OF GRANTS.*—

20 “(1) *REQUIRED EXPENDITURES.*—The Secretary
21 may make a grant under subsection (a) only if the
22 State involved agrees that the State will expend at
23 least 95 percent of its allotment under subsection (c)
24 for the purpose of making subgrants to eligible enti-

1 *ties to provide assistance to limited English proficient*
2 *children in accordance with sections 3108 and 3109.*

3 “(2) *AUTHORIZED EXPENDITURES.*—Subject to
4 *paragraph (3), a State that receives a grant under*
5 *subsection (a) may expend not more than 5 percent*
6 *of its allotment under subsection (c) for one or more*
7 *of the following purposes:*

8 “(A) *Carrying out—*

9 “(i) *professional development activi-*
10 *ties, and other activities, that assist per-*
11 *sonnel in meeting State and local certifi-*
12 *cation requirements for teaching limited*
13 *English proficient children; and*

14 “(ii) *other activities that provide such*
15 *personnel with the skills and knowledge nec-*
16 *essary to educate limited English proficient*
17 *children.*

18 “(B) *Providing scholarships and fellowships*
19 *to students who agree to teach limited English*
20 *proficient children once they graduate.*

21 “(C) *Planning, administration, and inter-*
22 *agency coordination related to the subgrants re-*
23 *ferred to in paragraph (1).*

1 “(D) *Providing technical assistance and*
2 *other forms of assistance to local educational*
3 *agencies that—*

4 “(i) *educate limited English proficient*
5 *children; and*

6 “(ii) *are not receiving a subgrant from*
7 *a State under this subpart.*

8 “(E) *Providing bonuses to subgrantees*
9 *whose performance has been exceptional in terms*
10 *of the speed with which children enrolled in the*
11 *subgrantee’s programs and activities attain*
12 *English language proficiency and meet chal-*
13 *lenging State academic content standards and*
14 *challenging State student academic achievement*
15 *standards.*

16 “(3) *LIMITATION ON ADMINISTRATIVE COSTS.—*
17 *In carrying out paragraph (2), a State that receives*
18 *a grant under subsection (a) may expend not more*
19 *than 2 percent of its allotment under subsection (c)*
20 *for the purposes described in paragraph (2)(C).*

21 “(c) *DETERMINATION OF ALLOTMENT AMOUNTS.—*

22 “(1) *RESERVATIONS.—From the amount appro-*
23 *priated under section 3110 to carry out this subpart*
24 *for each fiscal year, the Secretary shall reserve—*

1 “(A) .5 percent of such amount for pay-
2 ments to entities that are considered to be local
3 educational agencies under section 3106(a) for
4 activities approved by the Secretary;

5 “(B) .5 percent of such amount for pay-
6 ments to outlying areas, to be allotted in accord-
7 ance with their respective needs for assistance
8 under this subpart, as determined by the Sec-
9 retary, for activities, approved by the Secretary,
10 consistent with this part; and

11 “(C) $\frac{1}{2}$ of 1 percent of such amount for
12 evaluation of the programs under this part and
13 for dissemination of best practices.

14 “(2) CONTINUATION AWARDS.—Before making
15 awards to States under paragraph (3) for any fiscal
16 year, the Secretary shall make continuation awards
17 to recipients of grants under subpart 1 of part A of
18 the Bilingual Education Act, as that Act was in effect
19 on the day before the effective date of the No Child
20 Left Behind Act of 2001, in order to allow such re-
21 cipients to continue to receive funds in accordance
22 with the terms of their grant until the date on which
23 the grant period otherwise would have terminated if
24 the No Child Left Behind Act of 2001 had not been
25 enacted.

1 “(3) *STATE ALLOTMENTS.*—

2 “(A) *IN GENERAL.*—From the amount ap-
3 propriated under section 3110 to carry out this
4 subpart for each fiscal year that remains after
5 carrying out paragraphs (1) and (2), the Sec-
6 retary shall allot to each of the 50 States, the
7 District of Columbia, and the Commonwealth of
8 Puerto Rico an amount which bears the same
9 ratio to such amount as the total number of chil-
10 dren and youth who are limited English pro-
11 ficient and who reside in such State bears to the
12 total number of such children and youth residing
13 in all such States that, in accordance with sec-
14 tion 3107, submit to the Secretary an applica-
15 tion for the year.

16 “(B) *REALLOTMENT.*—

17 “(i) *IN GENERAL.*—If any State de-
18 scribed in subparagraph (A) does not sub-
19 mit to the Secretary an application for a
20 fiscal year, or submits an application (or
21 any modification to an application) that
22 the Secretary, after reasonable notice and
23 opportunity for a hearing, determines does
24 not satisfy the requirements of this subpart,
25 the Secretary—

1 “(I) shall endeavor to make the
2 State’s allotment available on a com-
3 petitive basis to specially qualified
4 agencies within the State that satisfy
5 the requirements applicable to eligible
6 entities under section 3108 and any
7 additional requirements that may be
8 imposed by the Secretary; and

9 “(II) shall reallocate any portion of
10 such allotment remaining after the ap-
11 plication of subclause (I) to the re-
12 maining States in accordance with
13 subparagraph (A).

14 “(ii) *REQUIREMENTS ON SPECIALLY*
15 *QUALIFIED AGENCIES.*—If a specially quali-
16 fied agency receives funds under this sub-
17 paragraph, the requirements of subsection
18 (b) shall not apply to the agency. In lieu of
19 those requirements, the specially qualified
20 agency shall expend the funds for the au-
21 thorized activities described in section
22 3108(b) and otherwise shall satisfy the re-
23 quirements of section 3108.

24 “(C) *SPECIAL RULE FOR PUERTO RICO.*—
25 The total amount allotted to Puerto Rico for any

1 *fiscal year under subparagraph (A) shall not ex-*
2 *ceed .5 percent of the total amount allotted to all*
3 *States for that fiscal year.*

4 “(4) *USE OF DATA FOR DETERMINATIONS.—*

5 “(A) *IN GENERAL.—Except as provided in*
6 *subparagraph (B), for the purpose of deter-*
7 *mining the number of children and youth who*
8 *are limited English proficient and reside in a*
9 *State and in all States for each fiscal year, the*
10 *Secretary shall use the most recent satisfactory*
11 *data available from the Bureau of the Census*
12 *and the American Community Survey available*
13 *from the Department of Commerce.*

14 “(B) *EXCEPTION.—If the data described in*
15 *subparagraph (A) are more than 4 years old or*
16 *unavailable, the Secretary shall use the most re-*
17 *cent satisfactory data provided by the States,*
18 *such as enrollment data and data that reflect the*
19 *number of students taking the English pro-*
20 *ficiency assessments in the States.*

21 “(5) *NO REDUCTION PERMITTED BASED ON*
22 *TEACHING METHOD.—The Secretary may not reduce*
23 *a State’s allotment based on the State’s selection of*
24 *any method of instruction as its preferred method of*

1 *tary or secondary school operated under a contract*
2 *with or grant from the Bureau of Indian Affairs or*
3 *a tribal or community organization.*

4 “(b) *SUBMISSION OF APPLICATIONS FOR ASSIST-*
5 *ANCE.—Notwithstanding any other provision of this part,*
6 *an entity that is considered to be a local educational agency*
7 *under subsection (a), and that desires to submit an applica-*
8 *tion for Federal financial assistance under this subpart,*
9 *shall submit the application to the Secretary. In all other*
10 *respects, such an entity shall be eligible for a subgrant*
11 *under this subpart on the same basis as any other local*
12 *educational agency.*

13 **“SEC. 3107. APPLICATIONS BY STATES.**

14 “*For purposes of section 3105, an application sub-*
15 *mitted by a State for a grant under such section for a fiscal*
16 *year is in accordance with this section if the application—*

17 “(1) *describes the process that the State will use*
18 *in making competitive subgrants to eligible entities*
19 *under section 3109(c);*

20 “(2) *contains an agreement that, in carrying out*
21 *this subpart, the State will address the needs of school*
22 *systems of all sizes and in all geographic areas, in-*
23 *cluding rural and urban schools;*

24 “(3) *contains an agreement that competitive sub-*
25 *grants to eligible entities under section 3109(c) shall*

1 *be of sufficient size and scope to allow such entities*
2 *to carry out high quality education programs for lim-*
3 *ited English proficient children;*

4 *“(4) contains an agreement that the State will*
5 *coordinate its programs and activities under this sub-*
6 *part with its other programs and activities under this*
7 *Act and other Acts, as appropriate;*

8 *“(5) contains an agreement that the State—*

9 *“(A) shall monitor the progress of students*
10 *enrolled in programs and activities receiving as-*
11 *sistance under this subpart in attaining English*
12 *proficiency and in attaining challenging State*
13 *academic content standards and challenging*
14 *State student academic achievement standards;*

15 *“(B) shall establish standards and bench-*
16 *marks for English language development that are*
17 *aligned with State academic content and*
18 *achievement standards; and*

19 *“(C) will ensure that eligible entities com-*
20 *ply with section 3104 to annually test children*
21 *in English who have been in the United States*
22 *for 3 or more consecutive years;*

23 *“(6) contains an assurance that the State will*
24 *develop high-quality annual assessments to measure*
25 *English language proficiency and require eligible en-*

1 *tities receiving a subgrant under this subpart annu-*
2 *ally to assess the English proficiency of all children*
3 *with limited English proficiency participating in a*
4 *program funded under this subpart;*

5 *“(7) contains an agreement that the State will*
6 *develop annual performance objectives for raising the*
7 *level of English proficiency of each limited English*
8 *proficient student, and that these objectives shall in-*
9 *clude percentage increases in performance on annual*
10 *assessments in reading, writing, speaking, and listen-*
11 *ing comprehension as compared to the preceding*
12 *school year; and*

13 *“(8) contains an agreement that the State will*
14 *require eligible entities receiving a subgrant under*
15 *this subpart to use the subgrant in ways that will*
16 *build such recipient’s capacity to continue to offer*
17 *high-quality English language instruction and pro-*
18 *grams which assist limited English proficient chil-*
19 *dren in attaining challenging State academic content*
20 *standards and challenging State student academic*
21 *achievement standards once assistance under this sub-*
22 *part is no longer available.*

23 **“SEC. 3108. SUBGRANTS TO ELIGIBLE ENTITIES.**

24 *“(a) PURPOSES OF SUBGRANTS.—A State may make*
25 *a subgrant to an eligible entity from funds received by the*

1 *State under this subpart only if the entity agrees to expend*
2 *the funds to improve the education of limited English pro-*
3 *ficient children and their families, through the acquisition*
4 *of English and the attainment of challenging State aca-*
5 *demie content standards and challenging State student aca-*
6 *demie achievement standards, using approaches and meth-*
7 *odologies based on scientifically based reading research and*
8 *sound research and theory on teaching limited English pro-*
9 *ficient children, by—*

10 “(1) *developing and implementing new English*
11 *language and academic content instructional pro-*
12 *grams for children who are limited English pro-*
13 *ficient, including programs of early childhood edu-*
14 *cation and kindergarten through 12th grade edu-*
15 *cation;*

16 “(2) *carrying out highly focused, innovative, lo-*
17 *cally designed projects to expand or enhance existing*
18 *English language and academic content instruction*
19 *programs for limited English proficient children;*

20 “(3) *implementing, within an individual school,*
21 *schoolwide programs for restructuring, reforming, and*
22 *upgrading all relevant programs and operations re-*
23 *lating to English language and academic content in-*
24 *struction for limited English proficient students; or*

1 “(4) implementing, within the entire jurisdiction
2 of a local educational agency, agencywide programs
3 for restructuring, reforming, and upgrading all rel-
4 evant programs and operations relating to English
5 language and academic content instruction for lim-
6 ited English proficient students.

7 “(b) AUTHORIZED SUBGRANTEE ACTIVITIES.—

8 “(1) IN GENERAL.—Subject to paragraph (2), a
9 State may make a subgrant to an eligible entity from
10 funds received by the State under this subpart in
11 order that the eligible entity may achieve one of the
12 purposes described in subsection (a) by undertaking
13 one or more of the following activities to improve the
14 understanding, and use, of the English language,
15 based on a child’s learning skills and attainment of
16 challenging State academic content standards and
17 challenging State student academic achievement
18 standards:

19 “(A) Upgrading program objectives and ef-
20 fective instructional strategies.

21 “(B) Improving the instruction program for
22 limited English proficient students by identi-
23 fying, acquiring, and upgrading curricula, in-
24 structional materials, educational software, and
25 assessment procedures.

1 “(C) *Providing—*

2 “(i) *tutorials and academic or voca-*
3 *tional education for limited English pro-*
4 *ficient children; and*

5 “(ii) *intensified instruction.*

6 “(D) *Developing and implementing elemen-*
7 *tary or secondary school English language in-*
8 *structional programs that are coordinated with*
9 *other relevant programs and services.*

10 “(E) *Providing professional development to*
11 *classroom teachers, principals, administrators,*
12 *and other school or community-based organiza-*
13 *tional personnel to improve the instruction and*
14 *assessment of children who are limited English*
15 *proficient children.*

16 “(F) *Improving the English language pro-*
17 *ficiency and academic performance of limited*
18 *English proficient children.*

19 “(G) *Improving the instruction of limited*
20 *English proficient children by providing for the*
21 *acquisition or development of education tech-*
22 *nology or instructional materials, access to and*
23 *participation in electronic networks for mate-*
24 *rials, training and communications, and incor-*

1 *poration of such resources in curricula and pro-*
2 *grams, such as those funded under this subpart.*

3 *“(H) Developing tutoring programs for lim-*
4 *ited English proficient children that provide*
5 *early intervention and intensive instruction in*
6 *order to improve academic achievement, to in-*
7 *crease graduation rates among limited English*
8 *proficient children, and to prepare students for*
9 *transition as soon as possible into classrooms*
10 *where instruction is not tailored for limited*
11 *English proficient children.*

12 *“(I) Providing family literacy services and*
13 *parent outreach and training activities to lim-*
14 *ited English proficient children and their fami-*
15 *lies to improve their English language skills and*
16 *assist parents in helping their children to im-*
17 *prove their academic performance.*

18 *“(J) Other activities that are consistent*
19 *with the purposes of this part.*

20 *“(2) MOVING CHILDREN OUT OF SPECIALIZED*
21 *CLASSROOMS.—Any program or activity undertaken*
22 *by an eligible entity using a subgrant from a State*
23 *under this subpart shall be designed to assist students*
24 *enrolled in the program or activity to attain English*
25 *proficiency and meet challenging State academic con-*

1 *tent standards and challenging State student aca-*
2 *demie achievement standards as soon as possible, but*
3 *not later than after 3 consecutive years of attendance*
4 *in United States schools (excluding schools in Puerto*
5 *Rico), and to move into a classroom where instruction*
6 *is not tailored for limited English proficient children.*

7 “(c) *SELECTION OF METHOD OF INSTRUCTION.—To*
8 *receive a subgrant from a State under this subpart, an eligi-*
9 *ble entity shall select one or more methods or forms of in-*
10 *struction to be used in the programs and activities under-*
11 *taken by the entity to assist limited English proficient chil-*
12 *dren to attain English proficiency and meet challenging*
13 *State academic content standards and challenging State*
14 *student academic achievement standards. Such selection*
15 *shall be consistent with sections 3134 and 3135.*

16 “(d) *DURATION OF SUBGRANTS.—The duration of a*
17 *competitive subgrant made by a State under section 3109(c)*
18 *shall be determined by the State in its discretion.*

19 “(e) *APPLICATIONS BY ELIGIBLE ENTITIES.—*

20 “(1) *IN GENERAL.—To receive a subgrant from*
21 *a State under this subpart, an eligible entity shall*
22 *submit an application to the State at such time, in*
23 *such form, and containing such information as the*
24 *State may require.*

1 “(2) *REQUIRED DOCUMENTATION.*—*The applica-*
2 *tion shall—*

3 “(A) *describe the programs and activities*
4 *proposed to be developed, implemented, and ad-*
5 *ministered under the subgrant;*

6 “(B) *describe how the eligible entity will use*
7 *the subgrant funds to satisfy the requirement in*
8 *subsection (b)(2); and*

9 “(C) *describe how the eligible entity, using*
10 *the disaggregated results of the student assess-*
11 *ments required under section 1111(b)(4) and*
12 *other measures available, will annually review*
13 *the progress of elementary and secondary schools*
14 *within its jurisdiction, or served by it, to deter-*
15 *mine if such schools are making the adequate*
16 *yearly progress necessary to ensure that limited*
17 *English proficient students attending the schools*
18 *will meet the State’s proficient level of perform-*
19 *ance on the State assessment described in section*
20 *1111(b)(4), and will hold such schools account-*
21 *able for making such progress.*

22 “(3) *REQUIREMENTS FOR APPROVAL.*—*The ap-*
23 *plication shall contain assurances that—*

24 “(A) *the eligible entity will use qualified*
25 *personnel who have appropriate training and*

1 *professional credentials in teaching English to*
2 *children who are limited English proficient, and*
3 *who are proficient in English, including written*
4 *and oral communication skills;*

5 “(B) *if the eligible entity includes one or*
6 *more local educational agencies, each such agen-*
7 *cy is complying with section 3103(b) prior to,*
8 *and throughout, each school year;*

9 “(C) *the eligible entity annually will assess*
10 *the English proficiency of all children with lim-*
11 *ited English proficiency participating in pro-*
12 *grams funded under this subpart;*

13 “(D) *the eligible entity has based its pro-*
14 *posal on scientifically based reading research*
15 *and sound research and theory on teaching lim-*
16 *ited English proficient children;*

17 “(E) *the eligible entity has described in the*
18 *application how students enrolled in the pro-*
19 *grams and activities proposed in the application*
20 *will be proficient in English after 3 academic*
21 *years of enrollment;*

22 “(F) *the eligible entity will ensure that pro-*
23 *grams will enable children to speak, read, write,*
24 *and comprehend the English language and meet*
25 *challenging State academic content standards*

1 *and challenging State student academic achieve-*
2 *ment standards; and*

3 “(G) *the eligible entity is not in violation*
4 *of any State law, including State constitutional*
5 *law, regarding the education of limited English*
6 *proficient children, consistent with sections 3134*
7 *and 3135.*

8 “(4) *QUALITY.—For the purposes of awarding*
9 *competitive subgrants under section 3109(c), a State*
10 *shall consider the quality of each application and en-*
11 *sure that it is of sufficient size and scope to meet the*
12 *purposes of this subpart.*

13 **“SEC. 3109. DISTRIBUTION OF SUBGRANTS TO ELIGIBLE EN-**
14 **TITIES.**

15 “(a) *IN GENERAL.—A State shall expend at least 95*
16 *percent of its allotment under section 3105(c) each fiscal*
17 *year for the purpose of making subgrants to eligible entities*
18 *within the State that have approved applications, in ac-*
19 *cordance with subsections (b) and (c).*

20 “(b) *FORMULA SUBGRANTS.—*

21 “(1) *RESERVATION.—75 percent of the amount*
22 *expended by a State for subgrants under this subpart*
23 *shall be reserved for subgrants to eligible entities de-*
24 *scribed in subsection (a) in which, during the fiscal*
25 *year for which the subgrant is to be made, the number*

1 *of limited English proficient children and youth who*
2 *are enrolled in public and nonpublic elementary or*
3 *secondary schools located in geographic areas under*
4 *the jurisdiction of, or served by, such entities is equal*
5 *to at least 500 students, or 3 percent of the total num-*
6 *ber of children and youth enrolled in such schools*
7 *during such fiscal year, whichever is less.*

8 “(2) *ALLOTMENT.*—*From the amount reserved*
9 *under paragraph (1), the State shall allot to each eli-*
10 *gible entity described in such paragraph a percentage*
11 *based on the ratio of—*

12 “(A) *the number of limited English pro-*
13 *ficient children and youth who are enrolled in*
14 *public and nonpublic elementary or secondary*
15 *schools located in geographic areas under the ju-*
16 *risdiction of, or served by, such entity during the*
17 *fiscal year for which the allotment is to be made;*
18 *to*

19 “(B) *the number of such children and youth*
20 *in all such eligible entities.*

21 “(3) *REALLOTMENT.*—*Whenever a State deter-*
22 *mines that an allotment made to an eligible entity*
23 *under this subsection for a fiscal year will not be used*
24 *by the entity for the purpose for which it was made,*
25 *the State shall, in accordance with such rules as it*

1 *deems appropriate, reallocate such amount, consistent*
2 *with paragraph (2), to other eligible entities in the*
3 *State for carrying out that purpose.*

4 “(c) *COMPETITIVE SUBGRANTS.—25 percent of the*
5 *amount expended by a State for subgrants under this sub-*
6 *part shall be reserved for competitive subgrants to eligible*
7 *entities described in subsection (a) that the State deter-*
8 *mines—*

9 *“(1) have experienced significant increases, as*
10 *compared to the previous 2 years, in the percentage*
11 *or number of children and youth with limited English*
12 *proficiency, including recent immigrant children,*
13 *that have enrolled in public and nonpublic elemen-*
14 *tary or secondary schools in the geographic areas*
15 *under the jurisdiction of, or served by, such entities*
16 *during the fiscal year for which the subgrant is to be*
17 *made; or*

18 *“(2) do not satisfy the requirements of subsection*
19 *(b)(1) but have significant needs for programs under*
20 *this subpart.*

21 **“SEC. 3110. AUTHORIZATION OF APPROPRIATIONS.**

22 *“For the purpose of carrying out this subpart, there*
23 *are authorized to be appropriated \$750,000,000 for fiscal*
24 *year 2002 and such sums as may be necessary for each of*
25 *the 4 succeeding fiscal years.*

1 **“Subpart 2—Administration**

2 **“SEC. 3121. EVALUATIONS.**

3 “(a) *IN GENERAL.*—*Each eligible entity that receives*
4 *a subgrant from a State under subpart 1 shall provide the*
5 *State, at the conclusion of every second fiscal year during*
6 *which the subgrant is received, with an evaluation, in a*
7 *form prescribed by the State, of—*

8 “(1) *the programs and activities conducted by*
9 *the entity with funds received under subpart 1 during*
10 *the 2 immediately preceding fiscal years;*

11 “(2) *the progress made by students in learning*
12 *the English language and meeting challenging State*
13 *academic content standards and challenging State*
14 *student academic achievement standards;*

15 “(3) *the number and percentage of students in*
16 *the programs and activities attaining English lan-*
17 *guage proficiency by the end of each school year, as*
18 *determined by a valid and reliable assessment of*
19 *English proficiency; and*

20 “(4) *the progress made by students in meeting*
21 *challenging State academic content standards and*
22 *challenging State student academic achievement*
23 *standards for each of the 2 years after such students*
24 *are no longer receiving services under this part.*

1 “(b) *USE OF EVALUATION.*—*An evaluation provided*
2 *by an eligible entity under subsection (a) shall be used by*
3 *the entity and the State—*

4 “(1) *for improvement of programs and activities;*

5 “(2) *to determine the effectiveness of programs*
6 *and activities in assisting children who are limited*
7 *English proficient to attain English proficiency (as*
8 *measured consistent with subsection (d)) and meet*
9 *challenging State academic content standards and*
10 *challenging State student academic achievement*
11 *standards; and*

12 “(3) *in determining whether or not to continue*
13 *funding for specific programs or projects.*

14 “(c) *EVALUATION COMPONENTS.*—*An evaluation pro-*
15 *vided by an eligible entity under subsection (a) shall in-*
16 *clude—*

17 “(1) *an evaluation of whether students enrolling*
18 *in a program or activity conducted by the entity with*
19 *funds received under subpart 1—*

20 “(A) *have attained English proficiency and*
21 *are meeting challenging State academic content*
22 *academic and challenging State student aca-*
23 *ademic achievement standards; and*

24 “(B) *have achieved a working knowledge of*
25 *the English language that is sufficient to permit*

1 *them to perform, in English, in a classroom that*
2 *is not tailored to limited English proficient chil-*
3 *dren; and*

4 “(2) *such other information as the State may re-*
5 *quire.*

6 “(d) *EVALUATION MEASURES.—In prescribing the*
7 *form of an evaluation provided by an entity under sub-*
8 *section (a), a State shall approve evaluation measures, as*
9 *applicable, for use under subsection (c) that are designed*
10 *to assess—*

11 “(1) *oral language proficiency in kindergarten;*

12 “(2) *oral language proficiency, including speak-*
13 *ing and listening skills, in first grade;*

14 “(3) *both oral language proficiency, including*
15 *speaking and listening skills, and reading and writ-*
16 *ing proficiency in grades 2 and higher; and*

17 “(4) *attainment of challenging State student*
18 *academic achievement standards.*

19 **“SEC. 3122. REPORTING REQUIREMENTS.**

20 “(a) *STATES.—Based upon the evaluations provided*
21 *to a State under section 3121, each State that receives a*
22 *grant under subpart 1 shall prepare and submit every sec-*
23 *ond year to the Secretary a report on programs and activi-*
24 *ties undertaken by the State under such subpart and the*
25 *effectiveness of such programs and activities in improving*

1 *the education provided to children who are limited English*
2 *proficient.*

3 “(b) *SECRETARY.—Every second year, the Secretary*
4 *shall prepare and submit to the Committee on Education*
5 *and the Workforce of the House of Representatives and the*
6 *Committee on Health, Education, Labor, and Pensions of*
7 *the Senate a report on—*

8 “(1) *programs and activities undertaken by*
9 *States under subpart 1 and the effectiveness of such*
10 *programs and activities in improving the education*
11 *provided to children who are limited English pro-*
12 *ficient;*

13 “(2) *the types of instructional programs used*
14 *under subpart 1 to teach limited English proficient*
15 *children;*

16 “(3) *the number of programs or projects, if any,*
17 *that were terminated because they were not able to*
18 *reach program goals;*

19 “(4) *the number of limited English proficient*
20 *children served under subpart 1 who were*
21 *transitioned out of special instructional programs*
22 *funded under such subpart into classrooms where in-*
23 *struction is not tailored for limited English proficient*
24 *children; and*

1 “(5) other information gathered from the reports
2 submitted under subsection (a).

3 **“SEC. 3123. COORDINATION WITH RELATED PROGRAMS.**

4 *“In order to maximize Federal efforts aimed at serving
5 the educational needs of children and youth of limited
6 English proficiency, the Secretary shall coordinate and en-
7 sure close cooperation with other programs serving lan-
8 guage-minority and limited English proficient students
9 that are administered by the Department and other agen-
10 cies.*

11 **“Subpart 3—General Provisions**

12 **“SEC. 3131. DEFINITIONS.**

13 *“For purposes of this part:*

14 “(1) *CHILDREN AND YOUTH.—The term ‘children
15 and youth’ means individuals aged 3 through 21.*

16 “(2) *COMMUNITY-BASED ORGANIZATION.—The
17 term ‘community-based organization’ means a private
18 nonprofit organization of demonstrated effectiveness
19 or Indian tribe or tribally sanctioned educational au-
20 thority which is representative of a community or sig-
21 nificant segments of a community and which provides
22 educational or related services to individuals in the
23 community. Such term includes a Native Hawaiian
24 or Native American Pacific Islander native language
25 educational organization.*

1 “(3) *ELIGIBLE ENTITY*.—The term ‘eligible enti-
2 ty’ means—

3 “(A) one or more local educational agencies;

4 or

5 “(B) one or more local educational agencies
6 in collaboration with an institution of higher
7 education, community-based organization, or
8 State educational agency.

9 “(4) *NATIVE HAWAIIAN OR NATIVE AMERICAN PA-
10 CIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL OR-
11 GANIZATION*.—The term ‘Native Hawaiian or Native
12 American Pacific Islander native language edu-
13 cational organization’ means a nonprofit organiza-
14 tion with a majority of its governing board and em-
15 ployees consisting of fluent speakers of the traditional
16 Native American languages used in their educational
17 programs and with not less than 5 years successful
18 experience in providing educational services in tradi-
19 tional Native American languages.

20 “(5) *NATIVE LANGUAGE*.—The term ‘native lan-
21 guage’, when used with reference to an individual
22 who is limited English proficient, means the language
23 normally used by such individual.

24 “(6) *SPECIALLY QUALIFIED AGENCY*.—The term
25 ‘specially qualified agency’, when used with respect to

1 *a fiscal year, means an eligible entity located in a*
2 *State that, for that year—*

3 *“(A) does not submit to the Secretary an*
4 *application under sections 3105(a) and 3107; or*

5 *“(B) submits an application (or any modi-*
6 *fication to an application) that the Secretary,*
7 *after reasonable notice and opportunity for a*
8 *hearing, determines does not satisfy the require-*
9 *ments of subpart 1.*

10 *“(7) TRIBALLY SANCTIONED EDUCATIONAL AU-*
11 *THORITY.—The term ‘tribally sanctioned educational*
12 *authority’ means—*

13 *“(A) any department or division of edu-*
14 *cation operating within the administrative*
15 *structure of the duly constituted governing body*
16 *of an Indian tribe; and*

17 *“(B) any nonprofit institution or organiza-*
18 *tion that is—*

19 *“(i) chartered by the governing body of*
20 *an Indian tribe to operate a school de-*
21 *scribed in section 3106(a) or otherwise to*
22 *oversee the delivery of educational services*
23 *to members of the tribe; and*

24 *“(ii) approved by the Secretary for the*
25 *purpose of carrying out programs under*

1 *subpart 1 for individuals served by a school*
2 *described in section 3106(a).*

3 **“SEC. 3132. RULES OF CONSTRUCTION.**

4 *“Nothing in subpart 1 shall be construed—*

5 *“(1) to prohibit a local educational agency from*
6 *servicing limited English proficient children and youth*
7 *simultaneously with students with similar edu-*
8 *cational needs, in the same educational settings where*
9 *appropriate;*

10 *“(2) to require a State or a local educational*
11 *agency to establish, continue, or eliminate any par-*
12 *ticular type of instructional program for limited*
13 *English proficient children; or*

14 *“(3) to limit the preservation or use of Native*
15 *American languages as defined in the Native Amer-*
16 *ican Languages Act of 1990.*

17 **“SEC. 3133. LIMITATION ON FEDERAL REGULATIONS.**

18 *“The Secretary shall issue regulations under this part*
19 *only to the extent that such regulations are necessary to*
20 *ensure compliance with the specific requirements of this*
21 *part.*

22 **“SEC. 3134. LEGAL AUTHORITY UNDER STATE LAW.**

23 *“Nothing in this part shall be construed to negate or*
24 *supersede State law, or the legal authority under State law*
25 *of any State agency, State entity, or State public official,*

1 *over programs that are under the jurisdiction of the State*
2 *agency, entity, or official.*

3 **“SEC. 3135. CIVIL RIGHTS.**

4 *“Nothing in this part shall be construed in a manner*
5 *inconsistent with any Federal law guaranteeing a civil*
6 *right.*

7 **“SEC. 3136. PROGRAMS FOR NATIVE AMERICANS AND PUER-**
8 **TO RICO.**

9 *“Programs authorized under subpart 1 that serve Na-*
10 *tive American children, Native Pacific Island children, and*
11 *children in the Commonwealth of Puerto Rico, notwith-*
12 *standing any other provision of subpart 1, may include*
13 *programs of instruction, teacher training, curriculum devel-*
14 *opment, evaluation, and testing designed for Native Amer-*
15 *ican children learning and studying Native American lan-*
16 *guages and children of limited Spanish proficiency, except*
17 *that a primary outcome of programs serving such children*
18 *shall be increased English proficiency among such chil-*
19 *dren.”.*

20 **SEC. 302. CONFORMING AMENDMENT TO DEPARTMENT OF**
21 **EDUCATION ORGANIZATION ACT.**

22 *(a) IN GENERAL.—*

23 *(1) RENAMING OF OFFICE.—The Department of*
24 *Education Organization Act is amended by striking*
25 *“Office of Bilingual Education and Minority Lan-*

1 *guages Affairs” each place such term appears in the*
 2 *text and inserting “Office of Educational Services for*
 3 *Limited English Proficient Children”.*

4 (2) *CONFORMING AMENDMENT.—Section 209 of*
 5 *the Department of Education Organization Act is*
 6 *amended by striking “Director of Bilingual Edu-*
 7 *cation and Minority Languages Affairs,” and insert-*
 8 *ing “Director of Educational Services for Limited*
 9 *English Proficient Children,”.*

10 (b) *CLERICAL AMENDMENTS.—*

11 (1) *SECTION 209.—The section heading for sec-*
 12 *tion 209 of the Department of Education Organiza-*
 13 *tion Act is amended to read as follows:*

14 *“OFFICE OF EDUCATIONAL SERVICES FOR LIMITED*
 15 *ENGLISH PROFICIENT CHILDREN”.*

16 (2) *SECTION 216.—The section heading for sec-*
 17 *tion 216 of the Department of Education Organiza-*
 18 *tion Act is amended to read as follows:*

19 ***“SEC. 216. OFFICE OF EDUCATIONAL SERVICES FOR LIM-***
 20 ***ITED ENGLISH PROFICIENT CHILDREN.”.***

21 (3) *TABLE OF CONTENTS.—*

22 (A) *SECTION 209.—The table of contents of*
 23 *the Department of Education Organization Act*
 24 *is amended by amending the item relating to sec-*
 25 *tion 209 to read as follows:*

“Sec. 209. Office of Educational Services for Limited English Proficient Children.”.

1 (B) SECTION 216.—*The table of contents of*
 2 *the Department of Education Organization Act*
 3 *is amended by amending the item relating to sec-*
 4 *tion 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, internation-*
 22 *ally competitive academic content standards and*
 23 *student academic achievement standards and*

1 *build on Indian culture and the Indian commu-*
2 *nity;*

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 initial
11 *Indian Education Act in 1972, the level of involve-*
12 *ment of Indian parents in the planning, development,*
13 *and implementation of educational programs that af-*
14 *fect such parents and their children has increased sig-*
15 *nificantly, and schools should continue to foster such*
16 *involvement;*

17 “(3) although the number of Indian teachers, ad-
18 ministrators, and university professors has increased
19 since 1972, teacher training programs are not recruit-
20 ing, training, or retraining a sufficient number of In-
21 dian individuals as educators to meet the needs of a
22 growing Indian student population in elementary,
23 secondary, vocational, adult, and higher education;

24 “(4) the dropout rate for Indian students is un-
25 acceptably high; 9 percent of Indian students who

1 *were eighth graders in 1988 had dropped out of school*
2 *by 1990;*

3 *“(5) during the period from 1980 to 1990, the*
4 *percentage of Indian individuals living at or below*
5 *the poverty level increased from 24 percent to 31 per-*
6 *cent, and the readiness of Indian children to learn is*
7 *hampered by the high incidence of poverty, unemploy-*
8 *ment, and health problems among Indian children*
9 *and their families; and*

10 *“(6) research related specifically to the education*
11 *of Indian children and adults is very limited, and*
12 *much of the research is of poor quality or is focused*
13 *on limited local or regional issues.*

14 **“SEC. 3202. PURPOSE.**

15 *“(a) PURPOSE.—It is the purpose of this subpart to*
16 *support the efforts of local educational agencies, Indian*
17 *tribes and organizations, postsecondary institutions, and*
18 *other entities to meet the unique educational and culturally*
19 *related academic needs of American Indians and Alaska*
20 *Natives, so that such students can achieve to the same chal-*
21 *lenging State academic achievement standards expected of*
22 *all other students.*

23 *“(b) PROGRAMS.—this subpart carries out the purpose*
24 *described in subsection (a) by authorizing programs of di-*
25 *rect assistance for—*

1 “(1) meeting the unique educational and cul-
2 turally related academic needs of American Indians
3 and Alaska Natives;

4 “(2) the education of Indian children and adults;

5 “(3) the training of Indian persons as educators
6 and counselors, and in other professions serving In-
7 dian people; and

8 “(4) research, evaluation, data collection, and
9 technical assistance.

10 **“CHAPTER 1—FORMULA GRANTS TO**
11 **LOCAL EDUCATIONAL AGENCIES**

12 **“SEC. 3211. PURPOSE.**

13 *“It is the purpose of this chapter to support local edu-*
14 *cational agencies in their efforts to reform elementary and*
15 *secondary school programs that serve Indian students in*
16 *order to ensure that such programs—*

17 “(1) are based on challenging State academic
18 content standards and State student academic
19 achievement standards that are used for all students;
20 and

21 “(2) are designed to assist Indian students in
22 meeting those standards and assist the Nation in
23 reaching the National Education Goals.

24 **“SEC. 3212. GRANTS TO LOCAL EDUCATIONAL AGENCIES.**

25 “(a) *IN GENERAL.—*

1 “(1) *ENROLLMENT REQUIREMENTS.*—A local
2 *educational agency shall be eligible for a grant under*
3 *this chapter for any fiscal year if the number of In-*
4 *Indian children eligible under section 3217 and who*
5 *were enrolled in the schools of the agency, and to*
6 *whom the agency provided free public education, dur-*
7 *ing the preceding fiscal year—*

8 “(A) *was at least 10; or*

9 “(B) *constituted not less than 25 percent of*
10 *the total number of individuals enrolled in the*
11 *schools of such agency.*

12 “(2) *EXCLUSION.*—*The requirement of para-*
13 *graph (1) shall not apply in Alaska, California, or*
14 *Oklahoma, or with respect to any local educational*
15 *agency located on, or in proximity to, a reservation.*

16 “(b) *INDIAN TRIBES.*—

17 “(1) *IN GENERAL.*—*If a local educational agency*
18 *that is eligible for a grant under this chapter does not*
19 *establish a parent committee under section 3214(c)(4)*
20 *for such grant, an Indian tribe that represents not*
21 *less than one-half of the eligible Indian children who*
22 *are served by such local educational agency may*
23 *apply for such grant.*

24 “(2) *SPECIAL RULE.*—*The Secretary shall treat*
25 *each Indian tribe applying for a grant pursuant to*

1 *paragraph (1) as if such Indian tribe were a local*
2 *educational agency for purposes of this chapter, ex-*
3 *cept that any such tribe is not subject to section*
4 *3214(c)(4), section 3218(c), or section 3219.*

5 **“SEC. 3213. AMOUNT OF GRANTS.**

6 **“(a) AMOUNT OF GRANT AWARDS.—**

7 **“(1) IN GENERAL.—***Except as provided in sub-*
8 *section (b) and paragraph (2), the Secretary shall al-*
9 *locate to each local educational agency which has an*
10 *approved application under this chapter an amount*
11 *equal to the product of—*

12 **“(A) the number of Indian children who are**
13 *eligible under section 3217 and served by such*
14 *agency; and*

15 **“(B) the greater of—**

16 **“(i) the average per pupil expenditure**
17 *of the State in which such agency is located;*
18 *or*

19 **“(ii) 80 percent of the average per**
20 *pupil expenditure in the United States.*

21 **“(2) REDUCTION.—***The Secretary shall reduce*
22 *the amount of each allocation determined under para-*
23 *graph (1) in accordance with subsection (e).*

24 **“(b) MINIMUM GRANT.—**

1 “(1) *IN GENERAL.*—Notwithstanding subsection
2 *(e)*, a local educational agency or an Indian tribe (as
3 authorized under section 3212(b)) that is eligible for
4 a grant under section 3212, and a school that is oper-
5 ated or supported by the Bureau of Indian Affairs
6 that is eligible for a grant under subsection (d), that
7 submits an application that is approved by the Sec-
8 retary, shall, subject to appropriations, receive a
9 grant under this chapter in an amount that is not
10 less than \$3,000.

11 “(2) *CONSORTIA.*—Local educational agencies
12 may form a consortium for the purpose of obtaining
13 grants under this chapter.

14 “(3) *INCREASE.*—The Secretary may increase
15 the minimum grant under paragraph (1) to not more
16 than \$4,000 for all grantees if the Secretary deter-
17 mines such increase is necessary to ensure the quality
18 of the programs provided.

19 “(c) *DEFINITION.*—For the purpose of this section, the
20 term ‘average per pupil expenditure of a State’ means an
21 amount equal to—

22 “(1) the sum of the aggregate current expendi-
23 tures of all the local educational agencies in the State,
24 plus any direct current expenditures by the State for
25 the operation of such agencies, without regard to the

1 *sources of funds from which such local or State ex-*
2 *penditures were made, during the second fiscal year*
3 *preceding the fiscal year for which the computation is*
4 *made; divided by*

5 *“(2) the aggregate number of children who were*
6 *included in average daily attendance for whom such*
7 *agencies provided free public education during such*
8 *preceding fiscal year.*

9 *“(d) SCHOOLS OPERATED OR SUPPORTED BY THE BU-*
10 *REAU OF INDIAN AFFAIRS.—(1) Subject to subsection (e),*
11 *in addition to the grants awarded under subsection (a), the*
12 *Secretary shall allocate to the Secretary of the Interior an*
13 *amount equal to the product of—*

14 *“(A) the total number of Indian children en-*
15 *rolled in schools that are operated by—*

16 *“(i) the Bureau of Indian Affairs; or*

17 *“(ii) an Indian tribe, or an organization*
18 *controlled or sanctioned by an Indian tribal gov-*
19 *ernment, for the children of that tribe under a*
20 *contract with, or grant from, the Department of*
21 *the Interior under the Indian Self-Determination*
22 *Act or the Tribally Controlled Schools Act of*
23 *1988; and*

24 *“(B) the greater of—*

1 “(i) the average per pupil expenditure of the
2 State in which the school is located; or

3 “(ii) 80 percent of the average per pupil ex-
4 penditure in the United States.

5 “(2) Any school described in paragraph (1)(A) that
6 wishes to receive an allocation under this chapter shall sub-
7 mit an application in accordance with section 3214, and
8 shall otherwise be treated as a local educational agency for
9 the purpose of this chapter, except that such school shall
10 not be subject to section 3214(c)(4), section 3218(c), or sec-
11 tion 3219.

12 “(e) *RATABLE REDUCTIONS.*—If the sums appro-
13 priated for any fiscal year under section 3252(a) are insuf-
14 ficient to pay in full the amounts determined for local edu-
15 cational agencies under subsection (a)(1) and for the Sec-
16 retary of the Interior under subsection (d), each of those
17 amounts shall be ratably reduced.

18 **“SEC. 3214. APPLICATIONS.**

19 “(a) *APPLICATION REQUIRED.*—Each local edu-
20 cational agency that desires to receive a grant under this
21 chapter shall submit an application to the Secretary at such
22 time, in such manner, and containing such information as
23 the Secretary may reasonably require.

24 “(b) *COMPREHENSIVE PROGRAM REQUIRED.*—Each
25 application submitted under subsection (a) shall include a

1 *comprehensive program for meeting the needs of Indian*
2 *children served by the local educational agency, including*
3 *the language and cultural needs of the children, that—*

4 “(1) *provides programs and activities to meet the*
5 *culturally related academic needs of American Indian*
6 *and Alaska Native students;*

7 “(2)(A) *is consistent with State and local plans*
8 *under other provisions of this Act; and*

9 “(B) *includes academic content and student per-*
10 *formance goals for such children, and benchmarks for*
11 *attaining such goals, that are based on the chal-*
12 *lenging State standards under title I;*

13 “(3) *explains how Federal, State, and local pro-*
14 *grams, especially under title I, will meet the needs of*
15 *such students;*

16 “(4) *demonstrates how funds made available*
17 *under this chapter will be used for activities described*
18 *in section 3215;*

19 “(5) *describes the professional development op-*
20 *portunities that will be provided, as needed, to ensure*
21 *that—*

22 “(A) *teachers and other school professionals*
23 *who are new to the Indian community are pre-*
24 *pared to work with Indian children; and*

1 “(B) all teachers who will be involved in
2 programs assisted under this chapter have been
3 properly trained to carry out such programs;
4 and

5 “(6) describes how the local educational agen-
6 cy—

7 “(A) will periodically assess the progress of
8 all Indian children enrolled in the schools of the
9 local educational agency, including Indian chil-
10 dren who do not participate in programs as-
11 sisted under this chapter, in meeting the goals
12 described in paragraph (2);

13 “(B) will provide the results of each assess-
14 ment referred to in subparagraph (A) to—

15 “(i) the committee of parents described
16 in subsection (c)(4); and

17 “(ii) the community served by the local
18 educational agency; and

19 “(C) is responding to findings of any pre-
20 vious assessments that are similar to the assess-
21 ments described in subparagraph (A).

22 “(c) ASSURANCES.—Each application submitted
23 under subsection (a) shall include assurances that—

24 “(1) the local educational agency will use funds
25 received under this chapter only to supplement the

1 *level of funds that, in the absence of the Federal funds*
2 *made available under this chapter, such agency would*
3 *make available for the education of Indian children,*
4 *and not to supplant such funds;*

5 *“(2) the local educational agency will submit*
6 *such reports to the Secretary, in such form and con-*
7 *taining such information, as the Secretary may re-*
8 *quire to—*

9 *“(A) carry out the functions of the Sec-*
10 *retary under this chapter; and*

11 *“(B) determine the extent to which funds*
12 *provided to the local educational agency under*
13 *this chapter are effective in improving the edu-*
14 *cational achievement of Indian students served*
15 *by such agency;*

16 *“(3) the program for which assistance is*
17 *sought—*

18 *“(A) is based on a comprehensive local as-*
19 *essment and prioritization of the unique edu-*
20 *cational and culturally related academic needs of*
21 *the American Indian and Alaska Native students*
22 *to whom the local educational agency is pro-*
23 *viding an education;*

1 “(B) will use the best available talents and
2 resources, including individuals from the Indian
3 community; and

4 “(C) was developed by such agency in open
5 consultation with parents of Indian children and
6 teachers, and, if appropriate, Indian students
7 from secondary schools, including public hear-
8 ings held by such agency to provide the individ-
9 uals described in this subparagraph a full oppor-
10 tunity to understand the program and to offer
11 recommendations regarding the program; and

12 “(4) the local educational agency developed the
13 program with the participation and written approval
14 of a committee—

15 “(A) that is composed of, and selected by—

16 “(i) parents of Indian children in the
17 local educational agency’s schools and
18 teachers; and

19 “(ii) if appropriate, Indian students
20 attending secondary schools;

21 “(B) a majority of whose members are par-
22 ents of Indian children;

23 “(C) that sets forth such policies and proce-
24 dures, including policies and procedures relating
25 to the hiring of personnel, as will ensure that the

1 *program for which assistance is sought will be*
2 *operated and evaluated in consultation with, and*
3 *with the involvement of, parents of the children,*
4 *and representatives of the area, to be served;*

5 “(D) *with respect to an application describ-*
6 *ing a schoolwide program in accordance with*
7 *section 3215(c), that has—*

8 “(i) *reviewed in a timely fashion the*
9 *program; and*

10 “(ii) *determined that the program will*
11 *not diminish the availability of culturally*
12 *related activities for American Indian and*
13 *Alaskan Native students; and*

14 “(E) *that has adopted reasonable bylaws for*
15 *the conduct of the activities of the committee and*
16 *abides by such bylaws.*

17 **“SEC. 3215. AUTHORIZED SERVICES AND ACTIVITIES.**

18 “(a) *GENERAL REQUIREMENTS.—Each local edu-*
19 *cational agency that receives a grant under this chapter*
20 *shall use the grant funds, in a manner consistent with the*
21 *purpose specified in section 3211, for services and activities*
22 *that—*

23 “(1) *are designed to carry out the comprehensive*
24 *program of the local educational agency for Indian*
25 *students, and described in the application of the local*

1 *educational agency submitted to the Secretary under*
2 *section 3214(b);*

3 *“(2) are designed with special regard for the lan-*
4 *guage and cultural needs of the Indian students; and*

5 *“(3) supplement and enrich the regular school*
6 *program of such agency.*

7 *“(b) PARTICULAR ACTIVITIES.—The services and ac-*
8 *tivities referred to in subsection (a) may include—*

9 *“(1) culturally related activities that support the*
10 *program described in the application submitted by*
11 *the local educational agency;*

12 *“(2) early childhood and family programs that*
13 *emphasize school readiness;*

14 *“(3) enrichment programs that focus on problem*
15 *solving and cognitive skills development and directly*
16 *support the attainment of challenging State academic*
17 *content standards and State student academic*
18 *achievement standards;*

19 *“(4) integrated educational services in combina-*
20 *tion with other programs that meet the needs of In-*
21 *dian children and their families;*

22 *“(5) career preparation activities to enable In-*
23 *dian students to participate in programs such as the*
24 *programs supported by the Carl D. Perkins Voca-*
25 *tional and Technical Education Act of 1998, includ-*

1 *ing programs for tech-prep, mentoring, and appren-*
2 *ticeship;*

3 *“(6) activities to educate individuals concerning*
4 *substance abuse and to prevent substance abuse;*

5 *“(7) the acquisition of equipment, but only if the*
6 *acquisition of the equipment is essential to meet the*
7 *purposes described in section 3211; and*

8 *“(8) family literacy services.*

9 *“(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any*
10 *other provision of law, a local educational agency may use*
11 *funds made available to such agency under this chapter to*
12 *support a schoolwide program under section 1114 if—*

13 *“(1) the committee composed of parents estab-*
14 *lished pursuant to section 3214(c)(4) approves the use*
15 *of the funds for the schoolwide program; and*

16 *“(2) the schoolwide program is consistent with*
17 *the purposes described in section 3211.*

18 *“(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not*
19 *more than 5 percent of the funds provided to a grantee*
20 *under this chapter for any fiscal year may be used for ad-*
21 *ministrative purposes.*

22 **“SEC. 3216. INTEGRATION OF SERVICES AUTHORIZED.**

23 *“(a) PLAN.—An entity receiving funds under this*
24 *chapter may submit a plan to the Secretary for the integra-*

1 *tion of education and related services provided to Indian*
2 *students.*

3 “(b) *COORDINATION OF PROGRAMS.*—*Upon the receipt*
4 *of an acceptable plan, the Secretary, in cooperation with*
5 *each Federal agency providing grants for the provision of*
6 *education and related services to the applicant, shall au-*
7 *thorize the applicant to coordinate, in accordance with such*
8 *plan, its federally funded education and related services*
9 *programs, or portions thereof, serving Indian students in*
10 *a manner that integrates the program services involved into*
11 *a single, coordinated, comprehensive program and reduces*
12 *administrative costs by consolidating administrative func-*
13 *tions.*

14 “(c) *PROGRAMS AFFECTED.*—*The funds that may be*
15 *consolidated in a demonstration project under any such*
16 *plan referred to in subsection (b) shall include funds for*
17 *any Federal program exclusively serving Indian children*
18 *or the funds reserved under any program to exclusively*
19 *serve Indian children under which the applicant is eligible*
20 *for receipt of funds under a statutory or administrative for-*
21 *mula for the purposes of providing education and related*
22 *services which would be used to serve Indian students.*

23 “(d) *PLAN REQUIREMENTS.*—*For a plan to be accept-*
24 *able pursuant to subsection (b), it shall—*

1 “(1) identify the programs or funding sources to
2 be consolidated;

3 “(2) be consistent with the purposes of this sec-
4 tion authorizing the services to be integrated in a
5 demonstration project;

6 “(3) describe a comprehensive strategy which
7 identifies the full range of potential educational op-
8 portunities and related services to be provided to as-
9 sist Indian students to achieve the goals set forth in
10 this chapter;

11 “(4) describe the way in which services are to be
12 integrated and delivered and the results expected from
13 the plan;

14 “(5) identify the projected expenditures under
15 the plan in a single budget;

16 “(6) identify the local, State, or tribal agency or
17 agencies to be involved in the delivery of the services
18 integrated under the plan;

19 “(7) identify any statutory provisions, regula-
20 tions, policies, or procedures that the applicant be-
21 lieves need to be waived in order to implement its
22 plan;

23 “(8) set forth measures of student achievement
24 and performance goals designed to be met within a
25 specified period of time; and

1 “(9) be approved by a parent committee formed
2 in accordance with section 3214(c)(4), if such a com-
3 mittee exists.

4 “(e) *PLAN REVIEW.*—Upon receipt of the plan from
5 an eligible entity, the Secretary shall consult with the Sec-
6 retary of each Federal department providing funds to be
7 used to implement the plan, and with the entity submitting
8 the plan. The parties so consulting shall identify any waiv-
9 ers of statutory requirements or of Federal departmental
10 regulations, policies, or procedures necessary to enable the
11 applicant to implement its plan. Notwithstanding any
12 other provision of law, the Secretary of the affected depart-
13 ment or departments shall have the authority to waive any
14 regulation, policy, or procedure promulgated by that de-
15 partment that has been so identified by the applicant or
16 department, unless the Secretary of the affected department
17 determines that such a waiver is inconsistent with the in-
18 tent of this chapter or those provisions of the statute from
19 which the program involved derives its authority which are
20 specifically applicable to Indian students.

21 “(f) *PLAN APPROVAL.*—Within 90 days after the re-
22 ceipt of an applicant’s plan by the Secretary, the Secretary
23 shall inform the applicant, in writing, of the Secretary’s
24 approval or disapproval of the plan. If the plan is dis-
25 approved, the applicant shall be informed, in writing, of

1 *the reasons for the disapproval and shall be given an oppor-*
2 *tunity to amend its plan or to petition the Secretary to*
3 *reconsider such disapproval.*

4 “(g) *RESPONSIBILITIES OF DEPARTMENT OF EDU-*
5 *CATION.—Not later than 180 days after the date of the en-*
6 *actment of the No Child Left Behind Act of 2001, the Sec-*
7 *retary of Education, the Secretary of the Interior, and the*
8 *head of any other Federal department or agency identified*
9 *by the Secretary of Education, shall enter into an inter-*
10 *departmental memorandum of agreement providing for the*
11 *implementation of the demonstration projects authorized*
12 *under this section. The lead agency head for a demonstra-*
13 *tion program under this section shall be—*

14 “(1) *the Secretary of the Interior, in the case of*
15 *applicant meeting the definition of contract or grant*
16 *school under title XI of the Education Amendments of*
17 *1978; or*

18 “(2) *the Secretary of Education, in the case of*
19 *any other applicant.*

20 “(h) *RESPONSIBILITIES OF LEAD AGENCY.—The re-*
21 *sponsibilities of the lead agency shall include—*

22 “(1) *the use of a single report format related to*
23 *the plan for the individual project which shall be used*
24 *by an eligible entity to report on the activities under-*
25 *taken under the project;*

1 “(2) the use of a single report format related to
2 the projected expenditures for the individual project
3 which shall be used by an eligible entity to report on
4 all project expenditures;

5 “(3) the development of a single system of Fed-
6 eral oversight for the project, which shall be imple-
7 mented by the lead agency; and

8 “(4) the provision of technical assistance to an
9 eligible entity appropriate to the project, except that
10 an eligible entity shall have the authority to accept or
11 reject the plan for providing such technical assistance
12 and the technical assistance provider.

13 “(i) *REPORT REQUIREMENTS.*—A single report format
14 shall be developed by the Secretary, consistent with the re-
15 quirements of this section. Such report format, together with
16 records maintained on the consolidated program at the local
17 level, shall contain such information as will allow a deter-
18 mination that the eligible entity has complied with the re-
19 quirements incorporated in its approved plan, including
20 the demonstration of student achievement, and will provide
21 assurances to each Secretary that the eligible entity has
22 complied with all directly applicable statutory requirements
23 and with those directly applicable regulatory requirements
24 which have not been waived.

1 “(j) *NO REDUCTION IN AMOUNTS.*—*In no case shall*
2 *the amount of Federal funds available to an eligible entity*
3 *involved in any demonstration project be reduced as a re-*
4 *sult of the enactment of this section.*

5 “(k) *INTERAGENCY FUND TRANSFERS AUTHORIZED.*—
6 *The Secretary is authorized to take such action as may be*
7 *necessary to provide for an interagency transfer of funds*
8 *otherwise available to an eligible entity in order to further*
9 *the purposes of this section.*

10 “(l) *ADMINISTRATION OF FUNDS.*—

11 “(1) *IN GENERAL.*—*Program funds shall be ad-*
12 *ministered in such a manner as to allow for a deter-*
13 *mination that funds from specific a program or pro-*
14 *grams are spent on allowable activities authorized*
15 *under such program, except that the eligible entity*
16 *shall determine the proportion of the funds granted*
17 *which shall be allocated to such program.*

18 “(2) *SEPARATE RECORDS NOT REQUIRED.*—
19 *Nothing in this section shall be construed as requiring*
20 *the eligible entity to maintain separate records trac-*
21 *ing any services or activities conducted under its ap-*
22 *proved plan to the individual programs under which*
23 *funds were authorized, nor shall the eligible entity be*
24 *required to allocate expenditures among such indi-*
25 *vidual programs.*

1 “(m) *OVERAGE*.—All administrative costs may be
2 commingled and participating entities shall be entitled to
3 the full amount of such costs (under each program or de-
4 partment’s regulations), and no overage shall be counted for
5 Federal audit purposes, provided that the overage is used
6 for the purposes provided for under this section.

7 “(n) *FISCAL ACCOUNTABILITY*.—Nothing in this sub-
8 part shall be construed so as to interfere with the ability
9 of the Secretary or the lead agency to fulfill the responsibil-
10 ities for the safeguarding of Federal funds pursuant to the
11 Single Audit Act of 1984.

12 “(o) *REPORT ON STATUTORY OBSTACLES TO PROGRAM*
13 *INTEGRATION*.—

14 “(1) *PRELIMINARY REPORT*.—Not later than 2
15 years after the date of the enactment of the No Child
16 Left Behind Act of 2001, the Secretary of Education
17 shall submit a preliminary report to the Committee
18 on Health, Education, Labor, and Pensions of the
19 Senate and the Committee on Education and the
20 Workforce of the House of Representatives on the sta-
21 tus of the implementation of the demonstration pro-
22 gram authorized under this section.

23 “(2) *FINAL REPORT*.—Not later than 5 years
24 after the date of the enactment of the No Child Left
25 Behind Act of 2001, the Secretary of Education shall

1 submit a report to the Committee on Health, Edu-
2 cation, Labor, and Pensions of the Senate and the
3 Committee on Education and the Workforce of the
4 House of Representatives on the results of the imple-
5 mentation of the demonstration program authorized
6 under this section. Such report shall identify statu-
7 tory barriers to the ability of participants to inte-
8 grate more effectively their education and related
9 services to Indian students in a manner consistent
10 with the purposes of this section.

11 “(p) *DEFINITIONS.*—For the purposes of this section,
12 the term ‘Secretary’ means—

13 “(1) the Secretary of the Interior, in the case of
14 applicant meeting the definition of contract or grant
15 school under title XI of the Education Amendments of
16 1978; or

17 “(2) the Secretary of Education, in the case of
18 any other applicant.

19 **“SEC. 3217. STUDENT ELIGIBILITY FORMS.**

20 “(a) *IN GENERAL.*—The Secretary shall require that,
21 as part of an application for a grant under this chapter,
22 each applicant shall maintain a file, with respect to each
23 Indian child for whom the local educational agency pro-
24 vides a free public education, that contains a form that sets
25 forth information establishing the status of the child as an

1 *Indian child eligible for assistance under this chapter and*
2 *that otherwise meets the requirements of subsection (b).*

3 “(b) *FORMS.*—

4 “(1) *IN GENERAL.*—*The form described in sub-*
5 *section (a) shall include—*

6 “(A) *either—*

7 “(i)(I) *the name of the tribe or band of*
8 *Indians (as described in section 3251(3))*
9 *with respect to which the child claims mem-*
10 *bership;*

11 “(II) *the enrollment number estab-*
12 *lishing the membership of the child (if read-*
13 *ily available); and*

14 “(III) *the name and address of the or-*
15 *ganization that maintains updated and ac-*
16 *curate membership data for such tribe or*
17 *band of Indians; or*

18 “(ii) *if the child is not a member of a*
19 *tribe or band of Indians, the name, the en-*
20 *rollment number (if readily available), and*
21 *the organization (and address thereof) re-*
22 *sponsible for maintaining updated and ac-*
23 *curate membership rolls of the tribe of any*
24 *parent or grandparent of the child from*
25 *whom the child claims eligibility;*

1 “(B) a statement of whether the tribe or
2 band of Indians with respect to which the child,
3 parent, or grandparent of the child claims mem-
4 bership is federally recognized;

5 “(C) the name and address of the parent or
6 legal guardian of the child;

7 “(D) a signature of the parent or legal
8 guardian of the child that verifies the accuracy
9 of the information supplied; and

10 “(E) any other information that the Sec-
11 retary considers necessary to provide an accurate
12 program profile.

13 “(2) *MINIMUM INFORMATION.*—In order for a
14 child to be eligible to be counted for the purpose of
15 computing the amount of a grant award made under
16 section 3213, an eligibility form prepared pursuant to
17 this section for a child shall include—

18 “(A) the name of the child;

19 “(B) the name of the tribe or band of Indi-
20 ans (as described in section 3251(3)) with re-
21 spect to which the child claims eligibility; and

22 “(C) the dated signature of the parent or
23 guardian of the child.

24 “(3) *FAILURE.*—The failure of an applicant to
25 furnish any information described in this subsection

1 *other than the information described in paragraph*
2 *(2) with respect to any child shall have no bearing on*
3 *the determination of whether the child is an eligible*
4 *Indian child for the purposes of determining the*
5 *amount of a grant award made under section 3213.*

6 *“(c) STATUTORY CONSTRUCTION.—Nothing in this sec-*
7 *tion shall be construed to affect a definition contained in*
8 *section 3251.*

9 *“(d) FORMS AND STANDARDS OF PROOF.—The forms*
10 *and the standards of proof (including the standard of good*
11 *faith compliance) that were in use during the 1985–1986*
12 *academic year to establish the eligibility of a child for enti-*
13 *tlement under the Indian Elementary and Secondary*
14 *School Assistance Act shall be the forms and standards of*
15 *proof used—*

16 *“(1) to establish such eligibility; and*

17 *“(2) to meet the requirements of subsection (a).*

18 *“(e) DOCUMENTATION.—For purposes of determining*
19 *whether a child is eligible to be counted for the purpose of*
20 *computing the amount of a grant under section 3213, the*
21 *membership of the child, or any parent or grandparent of*
22 *the child, in a tribe or band of Indians may be established*
23 *by proof other than an enrollment number, notwithstanding*
24 *the availability of an enrollment number for a member of*

1 *such tribe or band. Nothing in subsection (b) shall be con-*
2 *strued to require the furnishing of an enrollment number.*

3 *“(f) MONITORING AND EVALUATION REVIEW.—*

4 *“(1) IN GENERAL.—(A) For each fiscal year, in*
5 *order to provide such information as is necessary to*
6 *carry out the responsibility of the Secretary to pro-*
7 *vide technical assistance under this chapter, the Sec-*
8 *retary shall conduct a monitoring and evaluation re-*
9 *view of a sampling of the recipients of grants under*
10 *this chapter. The sampling conducted under this sub-*
11 *paragraph shall take into account the size of the local*
12 *educational agency and the geographic location of*
13 *such agency.*

14 *“(B) A local educational agency may not be held*
15 *liable to the United States or be subject to any pen-*
16 *alty, by reason of the findings of an audit that relates*
17 *to the date of completion, or the date of submission,*
18 *of any forms used to establish, before April 28, 1988,*
19 *the eligibility of a child for entitlement under the In-*
20 *Indian Elementary and Secondary School Assistance*
21 *Act.*

22 *“(2) FALSE INFORMATION.—Any local edu-*
23 *cational agency that provides false information in an*
24 *application for a grant under this chapter shall—*

1 “(A) be ineligible to apply for any other
2 grant under this subpart; and

3 “(B) be liable to the United States for any
4 funds that have not been expended.

5 “(3) *EXCLUDED CHILDREN*.—A student who pro-
6 vides false information for the form required under
7 subsection (a) shall not be counted for the purpose of
8 computing the amount of a grant under section 3213.

9 “(g) *TRIBAL GRANT AND CONTRACT SCHOOLS*.—Not-
10 withstanding any other provision of this section, in award-
11 ing funds under this chapter to a tribal school that receives
12 a grant or contract from the Bureau of Indian Affairs, the
13 Secretary shall use only one of the following, as selected by
14 the school:

15 “(1) A count of the number of students in those
16 schools certified by the Bureau.

17 “(2) A count of the number of students for whom
18 the school has eligibility forms that comply with this
19 section.

20 “(h) *TIMING OF CHILD COUNTS*.—For purposes of de-
21 termining the number of children to be counted in calcu-
22 lating the amount of a local educational agency’s grant
23 under this chapter (other than in the case described in sub-
24 section (g)(1)), the local educational agency shall—

1 “(1) establish a date on, or a period not longer
2 than 31 consecutive days during which, the agency
3 counts those children, so long as that date or period
4 occurs before the deadline established by the Secretary
5 for submitting an application under section 3214;
6 and

7 “(2) determine that each such child was enrolled,
8 and receiving a free public education, in a school of
9 the agency on that date or during that period, as the
10 case may be.

11 **“SEC. 3218. PAYMENTS.**

12 “(a) *IN GENERAL.*—Subject to subsections (b) and (c),
13 the Secretary shall pay to each local educational agency
14 that submits an application that is approved by the Sec-
15 retary under this chapter the amount determined under sec-
16 tion 3213. The Secretary shall notify the local educational
17 agency of the amount of the payment not later than June
18 1 of the year for which the Secretary makes the payment.

19 “(b) *PAYMENTS TAKEN INTO ACCOUNT BY THE*
20 *STATE.*—The Secretary may not make a grant under this
21 chapter to a local educational agency for a fiscal year if,
22 for such fiscal year, the State in which the local educational
23 agency is located takes into consideration payments made
24 under this chapter in determining the eligibility of the local
25 educational agency for State aid, or the amount of the State

1 *aid, with respect to the free public education of children*
2 *during such fiscal year or the preceding fiscal year.*

3 “(c) *REDUCTION OF PAYMENT FOR FAILURE TO MAIN-*
4 *TAIN FISCAL EFFORT.*—

5 “(1) *IN GENERAL.*—*The Secretary may not pay*
6 *a local educational agency the full amount of a grant*
7 *award determined under section 3213 for any fiscal*
8 *year unless the State educational agency notifies the*
9 *Secretary, and the Secretary determines that, with re-*
10 *spect to the provision of free public education by the*
11 *local educational agency for the preceding fiscal year,*
12 *the combined fiscal effort of the local educational*
13 *agency and the State, computed on either a per stu-*
14 *dent or aggregate expenditure basis, was not less than*
15 *90 percent of the amount of the combined fiscal effort,*
16 *computed on the same basis, for the second preceding*
17 *fiscal year.*

18 “(2) *FAILURE TO MAINTAIN EFFORT.*—*If, for any*
19 *fiscal year, the Secretary determines that a local edu-*
20 *cational agency failed to maintain the fiscal effort of*
21 *such agency at the level specified in paragraph (1),*
22 *the Secretary shall—*

23 “(A) *reduce the amount of the grant that*
24 *would otherwise be made to such agency under*
25 *this chapter in the exact proportion of such*

1 *agency's failure to maintain its fiscal effort at*
2 *such level; and*

3 “(B) *not use the reduced amount of the*
4 *agency's expenditures for the preceding year to*
5 *determine compliance with paragraph (1) for*
6 *any succeeding fiscal year, but shall use the*
7 *amount of expenditures that would have been re-*
8 *quired to comply with paragraph (1).*

9 “(3) *WAIVER.—(A) The Secretary may waive the*
10 *requirement of paragraph (1), for not more than 1*
11 *year at a time, if the Secretary determines that the*
12 *failure to comply with such requirement is due to ex-*
13 *ceptional or uncontrollable circumstances, such as a*
14 *natural disaster or a precipitous and unforeseen de-*
15 *cline in the agency's financial resources.*

16 “(B) *The Secretary shall not use the reduced*
17 *amount of such agency's expenditures for the fiscal*
18 *year preceding the fiscal year for which a waiver is*
19 *granted to determine compliance with paragraph (1)*
20 *for any succeeding fiscal year, but shall use the*
21 *amount of expenditures that would have been required*
22 *to comply with paragraph (1) in the absence of the*
23 *waiver.*

1 “(d) *REALLOCATIONS.*—*The Secretary may reallocate,*
 2 *in a manner that the Secretary determines will best carry*
 3 *out the purpose of this chapter, any amounts that—*

4 “(1) *based on estimates made by local edu-*
 5 *cational agencies or other information, the Secretary*
 6 *determines will not be needed by such agencies to*
 7 *carry out approved programs under this chapter; or*

8 “(2) *otherwise become available for reallocation*
 9 *under this chapter.*

10 **“SEC. 3219. STATE EDUCATIONAL AGENCY REVIEW.**

11 “*Before submitting an application to the Secretary*
 12 *under section 3214, a local educational agency shall submit*
 13 *the application to the State educational agency, which may*
 14 *comment on such application. If the State educational*
 15 *agency comments on the application, it shall comment on*
 16 *all applications submitted by local educational agencies in*
 17 *the State and shall provide those comments to the respective*
 18 *local educational agencies, with an opportunity to respond.*

19 **“CHAPTER 2—SPECIAL PROGRAMS AND**
 20 ***PROJECTS TO IMPROVE EDUCATIONAL***
 21 ***OPPORTUNITIES FOR INDIAN CHIL-***
 22 ***DREN***

23 **“SEC. 3221. IMPROVEMENT OF EDUCATIONAL OPPORTUNI-**
 24 ***TIES FOR INDIAN CHILDREN.***

25 “(a) *PURPOSE.*—

1 “(1) *IN GENERAL.*—*It is the purpose of this sec-*
2 *tion to support projects to develop, test, and dem-*
3 *onstrate the effectiveness of services and programs to*
4 *improve educational opportunities and achievement of*
5 *Indian children.*

6 “(2) *COORDINATION.*—*The Secretary shall take*
7 *such actions as are necessary to achieve the coordina-*
8 *tion of activities assisted under this chapter with—*

9 “(A) *other programs funded under this Act;*
10 *and*

11 “(B) *other Federal programs operated for*
12 *the benefit of American Indian and Alaska Na-*
13 *tive children.*

14 “(b) *ELIGIBLE ENTITIES.*—*For the purpose of this sec-*
15 *tion, the term ‘eligible entity’ means a State educational*
16 *agency, local educational agency, Indian tribe, Indian or-*
17 *ganization, federally supported elementary and secondary*
18 *school for Indian students, Indian institution, including an*
19 *Indian institution of higher education, or a consortium of*
20 *such institutions.*

21 “(c) *GRANTS AUTHORIZED.*—

22 “(1) *IN GENERAL.*—*The Secretary shall award*
23 *grants to eligible entities to enable such entities to*
24 *carry out activities that meet the purpose specified in*
25 *subsection (a)(1), including—*

1 “(A) innovative programs related to the
2 educational needs of educationally disadvantaged
3 children;

4 “(B) educational services that are not avail-
5 able to such children in sufficient quantity or
6 quality, including remedial instruction, to raise
7 the achievement of Indian children in one or
8 more of the core academic subjects of English,
9 mathematics, science, foreign languages, art, his-
10 tory, and geography;

11 “(C) bilingual and bicultural programs and
12 projects;

13 “(D) special health and nutrition services,
14 and other related activities, that address the
15 unique health, social, and psychological problems
16 of Indian children;

17 “(E) special compensatory and other pro-
18 grams and projects designed to assist and en-
19 courage Indian children to enter, remain in, or
20 reenter school, and to increase the rate of sec-
21 ondary school graduation;

22 “(F) comprehensive guidance, counseling,
23 and testing services;

24 “(G) early childhood and kindergarten pro-
25 grams, including family-based preschool pro-

1 grams that emphasize school readiness and pa-
2 rental skills, and the provision of services to In-
3 dian children with disabilities;

4 “(H) partnership projects between local edu-
5 cational agencies and institutions of higher edu-
6 cation that allow secondary school students to
7 enroll in courses at the postsecondary level to aid
8 such students in the transition from secondary
9 school to postsecondary education;

10 “(I) partnership projects between schools
11 and local businesses for career preparation pro-
12 grams designed to provide Indian youth with the
13 knowledge and skills such youth need to make an
14 effective transition from school to a high-skill,
15 high-wage career;

16 “(J) programs designed to encourage and
17 assist Indian students to work toward, and gain
18 entrance into, an institution of higher education;

19 “(K) family literacy services; or

20 “(L) other services that meet the purpose de-
21 scribed in subsection (a)(1).

22 “(2) *PROFESSIONAL DEVELOPMENT.*—Profes-
23 sional development of teaching professionals and
24 paraprofessional may be a part of any program as-
25 sisted under this section.

1 “(d) *GRANT REQUIREMENTS AND APPLICATIONS.*—

2 “(1) *GRANT REQUIREMENTS.*—(A) *The Secretary*
3 *may make multiyear grants under this section for the*
4 *planning, development, pilot operation, or demonstra-*
5 *tion of any activity described in subsection (c) for a*
6 *period not to exceed 5 years.*

7 “(B) *In making multiyear grants under this sec-*
8 *tion, the Secretary shall give priority to applications*
9 *that present a plan for combining two or more of the*
10 *activities described in subsection (c) over a period of*
11 *more than 1 year.*

12 “(C) *The Secretary shall make a grant payment*
13 *to an eligible entity after the initial year of the*
14 *multiyear grant only if the Secretary determines that*
15 *the eligible entity has made substantial progress in*
16 *carrying out the activities assisted under the grant in*
17 *accordance with the application submitted under*
18 *paragraph (2) and any subsequent modifications to*
19 *such application.*

20 “(D)(i) *In addition to awarding the multiyear*
21 *grants described in subparagraph (A), the Secretary*
22 *may award grants to eligible entities for the dissemi-*
23 *nation of exemplary materials or programs assisted*
24 *under this section.*

1 “(ii) *The Secretary may award a dissemination*
2 *grant under this subparagraph if, prior to awarding*
3 *the grant, the Secretary determines that the material*
4 *or program to be disseminated has been adequately*
5 *reviewed and has demonstrated—*

6 “(I) *educational merit; and*

7 “(II) *the ability to be replicated.*

8 “(2) *APPLICATION.—(A) Any eligible entity that*
9 *desires to receive a grant under this section shall sub-*
10 *mit an application to the Secretary at such time and*
11 *in such manner as the Secretary may require.*

12 “(B) *Each application submitted to the Sec-*
13 *retary under subparagraph (A), other than an appli-*
14 *cation for a dissemination grant under paragraph*
15 *(1)(D), shall contain—*

16 “(i) *a description of how parents of Indian*
17 *children and representatives of Indian tribes*
18 *have been, and will be, involved in developing*
19 *and implementing the activities for which assist-*
20 *ance is sought;*

21 “(ii) *assurances that the applicant will par-*
22 *ticipate, at the request of the Secretary, in any*
23 *national evaluation of activities assisted under*
24 *this section;*

1 “(iii) information demonstrating that the
2 proposed program is either a research-based pro-
3 gram (which may be a research-based program
4 that has been modified to be culturally appro-
5 priate for the students who will be served);

6 “(iv) a description of how the applicant
7 will incorporate the proposed services into the
8 ongoing school program once the grant period is
9 over; and

10 “(v) such other assurances and information
11 as the Secretary may reasonably require.

12 “(e) *ADMINISTRATIVE COSTS.*—Not more than 5 per-
13 cent of the funds provided to a grantee under this chapter
14 for any fiscal year may be used for administrative pur-
15 poses.

16 **“SEC. 3222. PROFESSIONAL DEVELOPMENT FOR TEACHERS**
17 **AND EDUCATION PROFESSIONALS.**

18 “(a) *PURPOSES.*—The purposes of this section are—

19 “(1) to increase the number of qualified Indian
20 individuals in teaching or other education professions
21 that serve Indian people;

22 “(2) to provide training to qualified Indian in-
23 dividuals to enable such individuals to become teach-
24 ers, administrators, teacher aides, social workers, and
25 ancillary educational personnel; and

1 “(3) to improve the skills of qualified Indian in-
2 dividuals who serve in the capacities described in
3 paragraph (2).

4 “(b) *ELIGIBLE ENTITIES*.—For the purpose of this sec-
5 tion, the term ‘eligible entity’ means—

6 “(1) an institution of higher education, includ-
7 ing an Indian institution of higher education;

8 “(2) a State or local educational agency, in con-
9 sortium with an institution of higher education; and

10 “(3) an Indian tribe or organization, in consor-
11 tium with an institution of higher education.

12 “(c) *PROGRAM AUTHORIZED*.—The Secretary is au-
13 thorized to award grants to eligible entities having applica-
14 tions approved under this section to enable such entities to
15 carry out the activities described in subsection (d).

16 “(d) *AUTHORIZED ACTIVITIES*.—

17 “(1) *IN GENERAL*.—Grant funds under this sec-
18 tion shall be used to provide support and training for
19 Indian individuals in a manner consistent with the
20 purposes of this section. Such activities may include
21 but are not limited to, continuing programs,
22 symposia, workshops, conferences, and direct finan-
23 cial support.

24 “(2) *SPECIAL RULES*.—(A) For education per-
25 sonnel, the training received pursuant to a grant

1 *under this section may be inservice or preservice*
2 *training.*

3 *“(B) For individuals who are being trained to*
4 *enter any field other than teaching, the training re-*
5 *ceived pursuant to a grant under this section shall be*
6 *in a program that results in a graduate degree.*

7 *“(e) APPLICATION.—Each eligible entity desiring a*
8 *grant under this section shall submit an application to the*
9 *Secretary at such time, in such manner and accompanied*
10 *by such information, as the Secretary may reasonably re-*
11 *quire.*

12 *“(f) SPECIAL RULE.—In making grants under this*
13 *section, the Secretary—*

14 *“(1) shall consider the prior performance of the*
15 *eligible entity; and*

16 *“(2) may not limit eligibility to receive a grant*
17 *under this section on the basis of—*

18 *“(A) the number of previous grants the Sec-*
19 *retary has awarded such entity; or*

20 *“(B) the length of any period during which*
21 *such entity received such grants.*

22 *“(g) GRANT PERIOD.—Each grant under this section*
23 *shall be awarded for a period of not more than 5 years.*

24 *“(h) SERVICE OBLIGATION.—*

1 “(1) *IN GENERAL.*—*The Secretary shall require,*
2 *by regulation, that an individual who receives train-*
3 *ing pursuant to a grant made under this section—*

4 “(A) *perform work—*

5 “(i) *related to the training received*
6 *under this section; and*

7 “(ii) *that benefits Indian people; or*

8 “(B) *repay all or a prorated part of the as-*
9 *sistance received.*

10 “(2) *REPORTING.*—*The Secretary shall establish,*
11 *by regulation, a reporting procedure under which a*
12 *grant recipient under this section shall, not later than*
13 *12 months after the date of completion of the train-*
14 *ing, and periodically thereafter, provide information*
15 *concerning the compliance of such recipient with the*
16 *work requirement under paragraph (1).*

17 **“CHAPTER 3—NATIONAL RESEARCH**
18 **ACTIVITIES**

19 **“SEC. 3231. NATIONAL ACTIVITIES.**

20 “(a) *AUTHORIZED ACTIVITIES.*—*The Secretary may*
21 *use funds made available under section 3252(b) for each*
22 *fiscal year to—*

23 “(1) *conduct research related to effective ap-*
24 *proaches for the education of Indian children and*
25 *adults;*

1 “(2) evaluate federally assisted education pro-
2 grams from which Indian children and adults may
3 benefit;

4 “(3) collect and analyze data on the educational
5 status and needs of Indians; and

6 “(4) carry out other activities that are consistent
7 with the purpose of this subpart.

8 “(b) *ELIGIBILITY.*—The Secretary may carry out any
9 of the activities described in subsection (a) directly or
10 through grants to, or contracts or cooperative agreements
11 with Indian tribes, Indian organizations, State educational
12 agencies, local educational agencies, institutions of higher
13 education, including Indian institutions of higher edu-
14 cation, and other public and private agencies and
15 institutions.

16 “(c) *COORDINATION.*—Research activities supported
17 under this section—

18 “(1) shall be carried out in consultation with the
19 Office of Educational Research and Improvement to
20 assure that such activities are coordinated with and
21 enhance the research and development activities sup-
22 ported by the Office; and

23 “(2) may include collaborative research activities
24 which are jointly funded and carried out by the Office

1 *of Indian Education Programs and the Office of Edu-*
2 *catational Research and Improvement.*

3 **“CHAPTER 4—FEDERAL ADMINISTRATION**

4 **“SEC. 3241. NATIONAL ADVISORY COUNCIL ON INDIAN EDU-**
5 **CATION.**

6 “(a) *MEMBERSHIP.—There is established a National*
7 *Advisory Council on Indian Education (hereafter in this*
8 *section referred to as the ‘Council’), which shall—*

9 “(1) *consist of 15 Indian members, who shall be*
10 *appointed by the President from lists of nominees fur-*
11 *nished, from time-to-time, by Indian tribes and orga-*
12 *nizations; and*

13 “(2) *represent different geographic areas of the*
14 *United States.*

15 “(b) *DUTIES.—The Council shall—*

16 “(1) *advise the Secretary concerning the funding*
17 *and administration (including the development of*
18 *regulations and administrative policies and practices)*
19 *of any program, including any program established*
20 *under this subpart—*

21 “(A) *with respect to which the Secretary has*
22 *jurisdiction; and*

23 “(B)(i) *that includes Indian children or*
24 *adults as participants; or*

1 “(i) that may benefit Indian children or
2 adults;

3 “(2) make recommendations to the Secretary for
4 filling the position of Director of Indian Education
5 whenever a vacancy occurs; and

6 “(3) submit to the Congress, not later than June
7 30 of each year, a report on the activities of the Coun-
8 cil, including—

9 “(A) any recommendations that the Council
10 considers appropriate for the improvement of
11 Federal education programs that include Indian
12 children or adults as participants, or that may
13 benefit Indian children or adults; and

14 “(B) recommendations concerning the fund-
15 ing of any program described in subparagraph
16 (A).

17 **“SEC. 3242. PEER REVIEW.**

18 “The Secretary may use a peer review process to re-
19 view applications submitted to the Secretary under chapter
20 2 or 3.

21 **“SEC. 3243. PREFERENCE FOR INDIAN APPLICANTS.**

22 “In making grants under chapter 2 or 3, the Secretary
23 shall give a preference to Indian tribes, organizations, and
24 institutions of higher education under any program with

1 *respect to which Indian tribes, organizations, and institu-*
 2 *tions are eligible to apply for grants.*

3 **“SEC. 3244. MINIMUM GRANT CRITERIA.**

4 *“The Secretary may not approve an application for*
 5 *a grant under subpart 2 unless the application is for a*
 6 *grant that is—*

7 *“(1) of sufficient size, scope, and quality to*
 8 *achieve the purpose or objectives of such grant; and*

9 *“(2) based on relevant research findings.*

10 **“CHAPTER 5—DEFINITIONS;**
 11 **AUTHORIZATIONS OF APPROPRIATIONS**

12 **“SEC. 3251. DEFINITIONS.**

13 *“For the purposes of this subpart:*

14 *“(1) ADULT.—The term ‘adult’ means an indi-*
 15 *vidual who—*

16 *“(A) has attained the age of 16 years; or*

17 *“(B) has attained an age that is greater*
 18 *than the age of compulsory school attendance*
 19 *under an applicable State law.*

20 *“(2) FREE PUBLIC EDUCATION.—The term ‘free*
 21 *public education’ means education that is—*

22 *“(A) provided at public expense, under pub-*
 23 *lic supervision and direction, and without tui-*
 24 *tion charge; and*

1 “(B) provided as elementary or secondary
2 education in the applicable State or to preschool
3 children.

4 “(3) INDIAN.—The term ‘Indian’ means an indi-
5 vidual who is—

6 “(A) a member of an Indian tribe or band,
7 as membership is defined by the tribe or band,
8 including—

9 “(i) any tribe or band terminated since
10 1940; and

11 “(ii) any tribe or band recognized by
12 the State in which the tribe or band resides;

13 “(B) a descendant, in the first or second de-
14 gree, of an individual described in subparagraph
15 (A);

16 “(C) considered by the Secretary of the Inte-
17 rior to be an Indian for any purpose;

18 “(D) an Eskimo, Aleut, or other Alaska Na-
19 tive; or

20 “(E) a member of an organized Indian
21 group that received a grant under the Indian
22 Education Act of 1988 as it was in effect the day
23 preceding the date of the enactment of the Im-
24 proving America’s Schools Act of 1994.

1 **“SEC. 3252. AUTHORIZATIONS OF APPROPRIATIONS.**

2 “(a) *CHAPTER 1.*—For the purpose of carrying out
3 *chapter 1 of this subpart, there are authorized to be appro-*
4 *priated \$100,000,000 for fiscal year 2002, and such sums*
5 *as may be necessary for each of fiscal years 2003 through*
6 *2006.*

7 “(b) *CHAPTERS 2 AND 3.*—For the purpose of carrying
8 *out chapters 2 and 3 of this subpart, there are authorized*
9 *to be appropriated \$25,000,000 for fiscal year 2002, and*
10 *such sums as may be necessary for each of the fiscal years*
11 *2003 through 2006.”.*

12 (b) *SAVINGS PROVISION.*—Funds appropriated for
13 *part A of title IX of the Elementary and Secondary Edu-*
14 *cation Act of 1965 (as in effect on the day before the date*
15 *of the enactment of this Act) shall be available for use under*
16 *subpart 1 of part B of title III of such Act, as added by*
17 *this section.*

18 **SEC. 312. ALASKA NATIVE EDUCATION.**

19 (a) *IN GENERAL.*—Part B of title III (as added by
20 *section 311 of this Act) is further amended by adding at*
21 *the end the following new subpart:*

22 **“Subpart 2—Alaska Native Education**

23 **“SEC. 3301. SHORT TITLE.**

24 “*This subpart may be cited as the ‘Alaska Native Edu-*
25 *cational Equity, Support, and Assistance Act’.*

1 **“SEC. 3302. FINDINGS.**

2 *“The Congress finds and declares:*

3 *“(1) The attainment of educational success is*
4 *critical to the betterment of the conditions, long-term*
5 *well-being and preservation of the culture of Alaska*
6 *Natives.*

7 *“(2) It is the policy of the Federal Government*
8 *to encourage the maximum participation by Alaska*
9 *Natives in the planning and the management of Alas-*
10 *ka Native education programs.*

11 *“(3) Alaska Native children enter and exit school*
12 *with serious educational handicaps.*

13 *“(4) The educational achievement of Alaska Na-*
14 *tive children is far below national norms. In addition*
15 *to low Native performance on standardized tests, Na-*
16 *tive student dropout rates are high, and Natives are*
17 *significantly underrepresented among holders of bac-*
18 *calaureate degrees in the State of Alaska. As a result,*
19 *Native students are being denied their opportunity to*
20 *become full participants in society by grade school*
21 *and high school educations that are condemning an*
22 *entire generation to an underclass status and a life*
23 *of limited choices.*

24 *“(5) The programs authorized herein, combined*
25 *with expanded Head Start, infant learning and early*
26 *childhood education programs, and parent education*

1 *programs are essential if educational handicaps are*
2 *to be overcome.*

3 *“(6) The sheer magnitude of the geographic bar-*
4 *riers to be overcome in delivering educational services*
5 *in rural and village Alaska should be addressed*
6 *through the development and implementation of inno-*
7 *vative, model programs in a variety of areas.*

8 *“(7) Congress finds that Native children should*
9 *be afforded the opportunity to begin their formal edu-*
10 *cation on a par with their non-Native peers. The Fed-*
11 *eral Government should lend support to efforts devel-*
12 *oped by and undertaken within the Alaska Native*
13 *community to improve educational opportunity for*
14 *all students.*

15 **“SEC. 3303. PURPOSE.**

16 *“It is the purpose of this subpart to—*

17 *“(1) recognize the unique educational needs of*
18 *Alaska Natives;*

19 *“(2) authorize the development of supplemental*
20 *educational programs to benefit Alaska Natives;*

21 *“(3) supplement existing programs and authori-*
22 *ties in the area of education to further the purposes*
23 *of this subpart; and*

24 *“(4) provide direction and guidance to appro-*
25 *priate Federal, State and local agencies to focus re-*

1 *sources, including resources made available under this*
2 *subpart, on meeting the educational needs of Alaska*
3 *Natives.*

4 **“SEC. 3304. PROGRAM AUTHORIZED.**

5 *“(a) GENERAL AUTHORITY.—*

6 *“(1) PROGRAM AUTHORIZED.—The Secretary is*
7 *authorized to make grants to, or enter into contracts*
8 *with, Alaska Native organizations, educational enti-*
9 *ties with experience in developing or operating Alaska*
10 *Native programs or programs of instruction con-*
11 *ducted in Alaska Native languages, and consortia of*
12 *such organizations and entities to carry out programs*
13 *that meet the purpose of this subpart.*

14 *“(2) PERMISSIBLE ACTIVITIES.—Programs under*
15 *this subpart may include—*

16 *“(A) the development and implementation*
17 *of plans, methods, and strategies to improve the*
18 *education of Alaska Natives;*

19 *“(B) the development of curricula and edu-*
20 *cational programs that address the educational*
21 *needs of Alaska Native students, including—*

22 *“(i) curriculum materials that reflect*
23 *the cultural diversity or the contributions of*
24 *Alaska Natives;*

1 “(ii) instructional programs that make
2 use of Native Alaskan languages; and

3 “(iii) networks that introduce success-
4 ful programs, materials, and techniques to
5 urban and rural schools;

6 “(C) professional development activities for
7 educators, including—

8 “(i) programs to prepare teachers to
9 address the cultural diversity and unique
10 needs of Alaska Native students;

11 “(ii) in-service programs to improve
12 the ability of teachers to meet the unique
13 needs of Alaska Native students; and

14 “(iii) recruiting and preparing teach-
15 ers who are Alaska Natives, reside in com-
16 munities with high concentrations of Alaska
17 Native students, or are likely to succeed as
18 teachers in isolated, rural communities and
19 engage in cross-cultural instruction;

20 “(D) the development and operation of home
21 instruction programs for Alaska Native preschool
22 children, the purpose of which is to ensure the
23 active involvement of parents in their children’s
24 education from the earliest ages;

25 “(E) family literacy services;

1 “(F) the development and operation of stu-
2 dent enrichment programs in science and mathe-
3 matics that—

4 “(i) are designed to prepare Alaska
5 Native students from rural areas, who are
6 preparing to enter high school, to excel in
7 science and math; and

8 “(ii) provide appropriate support serv-
9 ices to the families of such students that are
10 needed to enable such students to benefit
11 from the program;

12 “(G) research and data collection activities
13 to determine the educational status and needs of
14 Alaska Native children and adults;

15 “(H) other research and evaluation activi-
16 ties related to programs under this subpart; and

17 “(I) other activities, consistent with the
18 purposes of this subpart, to meet the educational
19 needs of Alaska Native children and adults.

20 “(3) HOME INSTRUCTION PROGRAMS.—Home in-
21 struction programs for Alaska Native preschool chil-
22 dren under paragraph (2)(D) may include—

23 “(A) programs for parents and their in-
24 fants, from prenatal through age three;

25 “(B) preschool programs; and

1 “(C) *training, education, and support for*
2 *parents in such areas as reading readiness, ob-*
3 *servaion, 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 are*
9 *authorized to be appropriated \$15,000,000 for fiscal year*
10 *2002, and such sums as may be necessary for each of the*
11 *fiscal years 2003 through 2006 to carry out this subpart.*

12 **“SEC. 3305. ADMINISTRATIVE PROVISIONS.**

13 “(a) *APPLICATION REQUIRED.—No grant may be*
14 *made under this subpart, nor any contract be entered into*
15 *under this subpart, unless an application is submitted to*
16 *the Secretary in such form, in such manner, and containing*
17 *such information as the Secretary may determine necessary*
18 *to carry out the provisions of this subpart.*

19 “(b) *APPLICATIONS.—State and local educational*
20 *agencies may apply for an award under this subpart only*
21 *as subpart of a consortium involving an Alaska Native or-*
22 *ganization. This consortium may include other eligible ap-*
23 *plicants.*

1 “(c) *CONSULTATION REQUIRED.*—Each applicant for
2 funding shall provide for ongoing advice from and consulta-
3 tion with representatives of the Alaska Native community.

4 “(d) *LOCAL EDUCATIONAL AGENCY COORDINATION.*—
5 Each applicant for an award under this subpart shall in-
6 form each local educational agency serving students who
7 would participate in the project about its application.

8 “**SEC. 3306. DEFINITIONS.**

9 “For purposes of this subpart—

10 “(1) the term ‘Alaska Native’ has the same
11 meaning as the term ‘Native’ has in section 3(b) of
12 the Alaska Native Claims Settlement Act; and

13 “(2) the term ‘Alaska Native organization’
14 means a federally recognized tribe, consortium of
15 tribes, regional nonprofit Native association, and
16 other Alaska Native organizations that—

17 “(A) has or commits to acquire expertise in
18 the education of Alaska Natives; and

19 “(B) has Alaska Natives in substantive and
20 policy-making positions within the organiza-
21 tion.”.

22 “(b) *SAVINGS PROVISION.*—Funds appropriated for
23 part C of title IX of the Elementary and Secondary Edu-
24 cation Act of 1965 (as in effect on the day before the date
25 of the enactment of this Act) shall be available for use under

1 *subpart 2 of part B of title III of such Act, as added by*
2 *this section.*

3 **SEC. 313. AMENDMENTS TO THE EDUCATION AMENDMENTS**
4 **OF 1978.**

5 *Part B of title XI of the Education Amendments of*
6 *1978 (25 U.S.C. 2001 et seq.) is amended to read as follows:*

7 **“PART B—BUREAU OF INDIAN AFFAIRS**
8 **PROGRAMS**

9 **“SEC. 1120. FINDING AND POLICY.**

10 *“(a) FINDING.—Congress finds and recognizes that the*
11 *Federal Government has the sole responsibility for the oper-*
12 *ation and financial support of the Bureau of Indian Affairs*
13 *funded school system that it has established on or near In-*
14 *dian reservations and Indian trust lands throughout the*
15 *Nation for Indian children.*

16 *“(b) POLICY.—It is the policy of the United States to*
17 *work in full cooperation with Indian tribes toward the goal*
18 *of assuring that the programs of the Bureau of Indian Af-*
19 *fairs funded school system are of the highest quality and*
20 *meet the unique educational and cultural needs of Indian*
21 *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 students*
6 *being served by a school funded by the Bureau of Indian*
7 *Affairs the same opportunities as all other students in the*
8 *United States to achieve the same challenging State aca-*
9 *demic achievement 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 other*
16 *existing studies, surveys, and plans, shall carry out by con-*
17 *tract with an Indian organization, studies and surveys to*
18 *establish and revise standards for the basic education of In-*
19 *dian children attending Bureau funded schools. Such stud-*
20 *ies and surveys shall take into account factors such as aca-*
21 *demic needs, local cultural differences, type and level of lan-*
22 *guage skills, geographic isolation, and appropriate teacher-*
23 *student ratios for such children, and shall be directed to-*
24 *ward the attainment of equal educational opportunity for*
25 *such children.*

26 “(c) *REVISION OF MINIMUM ACADEMIC STANDARDS.*—

1 “(1) *IN GENERAL.*—Not later than 2 years after
2 *the date of the enactment of the No Child Left Behind*
3 *Act of 2001, the Secretary shall—*

4 “(A) *propose revisions to the minimum aca-*
5 *demie standards published in the Federal Reg-*
6 *ister on September 9, 1995 (50 Fed. Reg. 174)*
7 *for the basic education of Indian children at-*
8 *tending Bureau funded schools in accordance*
9 *with the purpose described in subsection (a) and*
10 *the findings of the studies and surveys conducted*
11 *under subsection (b);*

12 “(B) *publish such proposed revisions to such*
13 *standards in the Federal Register for the purpose*
14 *of receiving comments from the tribes, tribal*
15 *school boards, Bureau funded schools, and other*
16 *interested parties; and*

17 “(C) *consistent with the provisions of this*
18 *section and section 1131, take such actions as*
19 *are necessary to coordinate standards imple-*
20 *mented under this section with the Comprehen-*
21 *sive School Reform Plan developed by the Bu-*
22 *reau and—*

23 “(i) *with the standards of the improve-*
24 *ment plans for the States in which any*

1 *school operated by the Bureau of Indian Af-*
2 *fairs is located; or*

3 “(ii) *in the case where schools operated*
4 *by the Bureau are within the boundaries of*
5 *reservation land of one tribe but within the*
6 *boundaries of more than one State, with the*
7 *standards of the State improvement plan of*
8 *one such State selected by the tribe.*

9 “(2) *FURTHER REVISIONS.—Not later than 6*
10 *months after the close of the comment period, the Sec-*
11 *retary shall establish final standards, distribute such*
12 *standards to all tribes and publish such final stand-*
13 *ards in the Federal Register. The Secretary shall re-*
14 *visе such standards periodically as necessary. Prior to*
15 *any revision of such final standards, the Secretary*
16 *shall distribute such proposed revision to all the*
17 *tribes, and publish such proposed revision in the Fed-*
18 *eral Register, for the purpose of receiving comments*
19 *from the tribes and other interested parties.*

20 “(3) *APPLICABILITY OF STANDARDS.—Except as*
21 *provided in subsection (e), the final standards pub-*
22 *lished under paragraph (2) shall apply to all Bureau*
23 *funded schools not accredited under subsection (f),*
24 *and may also serve as a model for educational pro-*
25 *grams for Indian children in public schools.*

1 “(4) *CONSIDERATIONS WHEN ESTABLISHING AND*
2 *REVISING STANDARDS.—In establishing and revising*
3 *such standards, the Secretary shall take into account*
4 *the unique needs of Indian students and support and*
5 *reinforcement of the specific cultural heritage of each*
6 *tribe.*

7 “(d) *ALTERNATIVE OR MODIFIED STANDARDS.—The*
8 *Secretary shall provide alternative or modified standards*
9 *in lieu of the standards established under subsection (c),*
10 *where necessary, so that the programs of each school are*
11 *in compliance with the minimum accreditation standards*
12 *required for schools in the State or region where the school*
13 *is located.*

14 “(e) *WAIVER OF STANDARDS; ALTERNATIVE STAND-*
15 *ARDS.—A tribal governing body, or the local school board*
16 *so designated by the tribal governing body, shall have the*
17 *local authority to waive, in part or in whole, the standards*
18 *established under subsections (c) and (d) if such standards*
19 *are deemed by such body to be inappropriate. The tribal*
20 *governing body or designated school board shall, not later*
21 *than 60 days after a waiver under this subsection, submit*
22 *to the Secretary a proposal for alternative standards that*
23 *take into account the specific needs of the tribe’s children.*
24 *Such alternative standards shall be established by the Sec-*
25 *retary unless specifically rejected by the Secretary for good*

1 *cause and in writing to the affected tribes or local school*
2 *board, which rejection shall be final and not subject to re-*
3 *view.*

4 “(f) *ACCREDITATION AND IMPLEMENTATION OF*
5 *STANDARDS.—*

6 “(1) *DEADLINE FOR MEETING STANDARDS.—Not*
7 *later the second academic year after publication of the*
8 *standards, to the extent necessary funding is pro-*
9 *vided, all Bureau funded schools shall meet the stand-*
10 *ards established under subsections (c) and (d) or shall*
11 *be accredited—*

12 “(A) *by a tribal accrediting body, if the ac-*
13 *creditation standards of the tribal accrediting*
14 *body have been accepted by formal action of the*
15 *tribal governing body and are equal to or exceed*
16 *the accreditation standards of the State or region*
17 *in which the school is located;*

18 “(B) *by a regional accreditation agency; or*

19 “(C) *by State accreditation standards for*
20 *the State in which it is located.*

21 “(2) *DETERMINATION OF STANDARDS TO BE AP-*
22 *PLIED.—The accreditation type or standards applied*
23 *for each school shall be determined by the school board*
24 *of the school, in consultation with the Administrator*
25 *of the school, provided that in the case where the*

1 *School Board and the Administrator fail to agree on*
2 *the type of accreditation and standards to apply, the*
3 *decision of the school board with the approval of the*
4 *tribal governing body shall be final.*

5 *“(3) ASSISTANCE TO SCHOOL BOARDS.—The Sec-*
6 *retary, through contracts and grants, shall assist*
7 *school boards of contract or grant schools in imple-*
8 *mentation of the standards established under sub-*
9 *sections (c) and (d), if the school boards request that*
10 *such standards, in part or in whole, be implemented.*

11 *“(4) FISCAL CONTROL AND FUND ACCOUNTING*
12 *STANDARDS.—The Bureau shall, either directly or*
13 *through contract with an Indian organization, estab-*
14 *lish a consistent system of reporting standards for fis-*
15 *cal control and fund accounting for all contract and*
16 *grant schools. Such standards shall provide data com-*
17 *parable to those used by Bureau operated schools.*

18 *“(g) ANNUAL PLAN FOR MEETING OF STANDARDS.—*
19 *Except as provided in subsections (e) and (f), the Secretary*
20 *shall begin to implement the standards established under*
21 *this section immediately upon the date of their establish-*
22 *ment. On an annual basis, the Secretary shall submit to*
23 *the appropriate committees of Congress, all Bureau funded*
24 *schools, and the tribal governing bodies of such schools a*
25 *detailed plan to bring all Bureau schools and contract or*

1 *grant schools up to the level required by the applicable*
2 *standards established under this section. Such plan shall*
3 *include detailed information on the status of each school's*
4 *educational program in relation to the applicable standards*
5 *established under this section, specific cost estimates for*
6 *meeting such standards at each school and specific timelines*
7 *for bringing each school up to the level required by such*
8 *standards.*

9 “(h) *CLOSURE OR CONSOLIDATION OF SCHOOLS.—*

10 “(1) *IN GENERAL.—Except as specifically re-*
11 *quired by statute, no school or peripheral dormitory*
12 *operated by the Bureau on or after January 1, 1992,*
13 *may be closed or consolidated or have its program*
14 *substantially curtailed unless done according to the*
15 *requirements of this subsection.*

16 “(2) *EXCEPTIONS.—This subsection shall not*
17 *apply—*

18 “(A) *in those cases where the tribal gov-*
19 *erning body, or the local school board concerned*
20 *(if so designated by the tribal governing body),*
21 *requests closure or consolidation; or*

22 “(B) *when a temporary closure, consolida-*
23 *tion, or substantial curtailment is required by*
24 *plant conditions which constitute an immediate*
25 *hazard to health and safety.*

1 “(3) *REGULATIONS.*—*The Secretary shall, by*
2 *regulation, promulgate standards and procedures for*
3 *the closure, transfer to another authority, consolida-*
4 *tion, or substantial curtailment of Bureau schools, in*
5 *accordance with the requirements of this subsection.*

6 “(4) *NOTICE.*—*Whenever closure, transfer to an-*
7 *other authority, consolidation, or substantial curtail-*
8 *ment of a school is under active consideration or re-*
9 *view by any division of the Bureau or the Depart-*
10 *ment of the Interior, the affected tribe, tribal gov-*
11 *erning body, and designated local school board, will*
12 *be notified immediately, kept fully and currently in-*
13 *formed, and afforded an opportunity to comment with*
14 *respect to such consideration or review. When a for-*
15 *mal decision is made to close, transfer to another au-*
16 *thority, consolidate, or substantially curtail a school,*
17 *the affected tribe, tribal governing body, and des-*
18 *ignated school board shall be notified at least 6*
19 *months prior to the end of the school year preceding*
20 *the proposed closure date. Copies of any such notices*
21 *and information shall be transmitted promptly to the*
22 *appropriate committees of Congress and published in*
23 *the Federal Register.*

24 “(5) *REPORT.*—*The Secretary shall make a re-*
25 *port to the appropriate committees of Congress, the*

1 *affected tribe, and the designated school board describ-*
2 *ing the process of the active consideration or review*
3 *referred to in paragraph (4). The report shall include*
4 *a study of the impact of such action on the student*
5 *population, identify those students with particular*
6 *educational and social needs, and ensure that alter-*
7 *native services are available to such students. Such*
8 *report shall include the description of the consultation*
9 *conducted between the potential service provider, cur-*
10 *rent service provider, parents, tribal representatives*
11 *and the tribe or tribes involved, and the Director of*
12 *the Office of Indian Education Programs within the*
13 *Bureau regarding such students.*

14 *“(6) LIMITATION ON CERTAIN ACTIONS.—No ir-*
15 *revocable action may be taken in furtherance of any*
16 *such proposed school closure, transfer to another au-*
17 *thority, consolidation, or substantial curtailment (in-*
18 *cluding any action which would prejudice the per-*
19 *sonnel or programs of such school) prior to the end*
20 *of the first full academic year after such report is*
21 *made.*

22 *“(7) TRIBAL GOVERNING BODY APPROVAL RE-*
23 *QUIRED FOR CERTAIN ACTIONS.—The Secretary may*
24 *terminate, contract, transfer to any other authority,*

1 *consolidate, or substantially curtail the operation or*
 2 *facilities of—*

3 “(A) *any Bureau funded school that is oper-*
 4 *ated on or after of January 1, 1999;*

5 “(B) *any program of such a school that is*
 6 *operated on or after January 1, 1999; or*

7 “(C) *any school board of a school operated*
 8 *under a grant under the Tribally Controlled*
 9 *Schools Act of 1988,*
 10 *only if the tribal governing body approves such ac-*
 11 *tion.*

12 “(i) *APPLICATION FOR CONTRACTS OR GRANTS FOR*
 13 *NON-BUREAU FUNDED SCHOOLS OR EXPANSION OF BU-*
 14 *REAU FUNDED SCHOOLS.—*

15 “(1) *IN GENERAL.—(A)(i) The Secretary shall*
 16 *only consider the factors described in subparagraph*
 17 *(B) in reviewing—*

18 “(I) *applications from any tribe for the*
 19 *awarding of a contract or grant for a school that*
 20 *is not a Bureau funded school; and*

21 “(II) *applications from any tribe or school*
 22 *board of any Bureau funded school for—*

23 “(aa) *a school which is not a Bureau*
 24 *funded school; or*

1 “(bb) the expansion of a Bureau fund-
2 ed school which would increase the amount
3 of funds received by the Indian tribe or
4 school board under section 1127.

5 “(ii) With respect to applications described in
6 this subparagraph, the Secretary shall give consider-
7 ation to all the factors described in subparagraph (B),
8 but no such application shall be denied based pri-
9 marily upon the geographic proximity of comparable
10 public education.

11 “(B) With respect to applications described in
12 subparagraph (A) the Secretary shall consider the fol-
13 lowing factors relating to the program and services
14 that are the subject of the application:

15 “(i) The adequacy of the facilities or the po-
16 tential to obtain or provide adequate facilities.

17 “(ii) Geographic and demographic factors
18 in the affected areas.

19 “(iii) The adequacy of the applicant’s pro-
20 gram plans or, in the case of a Bureau funded
21 school, of projected needs analysis done either by
22 the tribe or the Bureau.

23 “(iv) Geographic proximity of comparable
24 public education.

1 “(v) *The stated needs of all affected parties,*
2 *including students, families, tribal governments*
3 *at both the central and local levels, and school*
4 *organizations.*

5 “(vi) *Adequacy and comparability of pro-*
6 *grams already available.*

7 “(vii) *Consistency of available programs*
8 *with tribal educational codes or tribal legislation*
9 *on education.*

10 “(viii) *The history and success of these serv-*
11 *ices for the proposed population to be served, as*
12 *determined from all factors, including but not*
13 *limited to standardized examination perform-*
14 *ance.*

15 “(2) *DETERMINATION ON APPLICATION.—(A) The*
16 *Secretary shall make a determination of whether to*
17 *approve any application described in paragraph*
18 *(1)(A) not later than 180 days after such application*
19 *is submitted to the Secretary.*

20 “(B) *If the Secretary fails to make the deter-*
21 *mination with respect to an application by the date*
22 *described in subparagraph (A), the application shall*
23 *be treated as having been approved by the Secretary.*

24 “(3) *REQUIREMENTS FOR APPLICATIONS.—(A)*
25 *Notwithstanding paragraph (2)(B), an application*

1 *described in paragraph (1)(A) may be approved by*
2 *the Secretary only if—*

3 “(i) *the application has been approved by*
4 *the tribal governing body of the students served*
5 *by (or to be served by) the school or program*
6 *that is the subject of the application; and*

7 “(ii) *written evidence of such approval is*
8 *submitted with the application.*

9 “(B) *Each application described in paragraph*
10 *(1)(A) shall provide information concerning each of*
11 *the factors described in paragraph (1)(B).*

12 “(4) *DENIAL OF APPLICATIONS.—Whenever the*
13 *Secretary makes a determination to deny approval of*
14 *any application described in paragraph (1)(A), the*
15 *Secretary shall—*

16 “(A) *state the objections in writing to the*
17 *applicant not later 180 days after the applica-*
18 *tion is submitted to the Secretary;*

19 “(B) *provide assistance to the applicant to*
20 *overcome stated objections; and*

21 “(C) *provide the applicant a hearing, under*
22 *the same rules and regulations pertaining to the*
23 *Indian Self-Determination and Education As-*
24 *sistance Act and an opportunity to appeal the*
25 *objections raised by the Secretary.*

1 “(5) *EFFECTIVE DATE OF A SUBJECT APPLICA-*
2 *TION.—(A) Except as otherwise provided in this*
3 *paragraph, the action which is the subject of any ap-*
4 *plication described in paragraph (1)(A) that is ap-*
5 *proved by the Secretary shall become effective at the*
6 *beginning of the academic year following the fiscal*
7 *year in which the application is approved, or at an*
8 *earlier date determined by the Secretary.*

9 “(B) *If an application is treated as having been*
10 *approved by the Secretary under paragraph (2)(B),*
11 *the action that is the subject of the application shall*
12 *become effective on the date that is 18 months after*
13 *the date on which the application is submitted to the*
14 *Secretary, or at an earlier date determined by the*
15 *Secretary.*

16 “(6) *STATUTORY CONSTRUCTION.—Nothing in*
17 *this section shall be read so as to preclude the expan-*
18 *sion of grades and related facilities at a Bureau fund-*
19 *ed school where such expansion and the maintenance*
20 *of such expansion is occasioned or paid for with non-*
21 *Bureau funds.*

22 “(j) *GENERAL USE OF FUNDS.—Funds received by*
23 *Bureau funded schools from the Bureau of Indian Affairs*
24 *and under any program from the Department of Education*
25 *or any other Federal agency for the purpose of providing*

1 *education or related services may be used for schoolwide*
2 *projects to improve the educational program for all Indian*
3 *students.*

4 “(k) *STUDY ON ADEQUACY OF FUNDS AND FOR-*
5 *MULAS.—The Comptroller General shall conduct a study,*
6 *in consultation with Indian tribes and local school boards,*
7 *to determine the adequacy of funding, and formulas used*
8 *by the Bureau to determine funding, for programs operated*
9 *by Bureau funded schools, taking into account unique cir-*
10 *cumstances applicable to Bureau funded schools, as well as*
11 *expenditures for comparable purposes in public schools na-*
12 *tionally. Upon completion of the study, the Secretary of the*
13 *Interior shall take such action as necessary to ensure dis-*
14 *tribution of the findings of the study to all affected Indian*
15 *tribes, local school boards, and associations of local school*
16 *boards.*

17 **“SEC. 1122. NATIONAL CRITERIA FOR HOME-LIVING SITUA-**
18 **TIONS.**

19 “(a) *IN GENERAL.—The Secretary, in consultation*
20 *with the Secretary of Education, Indian organizations and*
21 *tribes, and Bureau funded schools, shall revise the national*
22 *standards for home-living (dormitory) situations to include*
23 *such factors as heating, lighting, cooling, adult-child ratios,*
24 *needs for counselors (including special needs related to off-*
25 *reservation home-living (dormitory) situations), thera-*

1 peutic programs, space, and privacy. Such standards shall
2 be implemented in Bureau operated schools, and shall serve
3 as minimum standards for contract or grant schools. Once
4 established, any revisions of such standards shall be devel-
5 oped according to the requirements established under section
6 1138A.

7 “(b) *IMPLEMENTATION.*—The Secretary shall imple-
8 ment the revised standards established under this section
9 immediately upon their completion.

10 “(c) *PLAN.*—At the time of each annual budget submis-
11 sion for Bureau educational services is presented, the Sec-
12 retary shall submit to the appropriate committees of Con-
13 gress, the tribes, and the affected schools, and publish in
14 the *Federal Register*, a detailed plan to bring all Bureau
15 funded schools that provide home-living (dormitory) situa-
16 tions up to the standards established under this section.
17 Such plan shall include a statement of the relative needs
18 of each Bureau funded home-living (dormitory) school, pro-
19 jected future needs of each Bureau funded home-living (dor-
20 mitory) school, detailed information on the status of each
21 school in relation to the standards established under this
22 section, specific cost estimates for meeting each standard for
23 each such school, aggregate cost estimates for bringing all
24 such schools into compliance with the criteria established

1 *under this section, and specific timelines for bringing each*
2 *school into compliance with such standards.*

3 “(d) *WAIVER.—The criteria established under this sec-*
4 *tion may be waived in the same manner as the standards*
5 *provided under section 1121(c) may be waived.*

6 “(e) *CLOSURE FOR FAILURE TO MEET STANDARDS*
7 *PROHIBITED.—No school in operation on or before January*
8 *1, 1987 (regardless of compliance or noncompliance with*
9 *the criteria established under this section), may be closed,*
10 *transferred to another authority, consolidated, or have its*
11 *program substantially curtailed for failure to meet the cri-*
12 *teria.*

13 **“SEC. 1123. CODIFICATION OF REGULATIONS.**

14 “(a) *PART 32 OF TITLE 25 OF CODE OF FEDERAL*
15 *REGULATIONS.—The provisions of part 32 of title 25 of the*
16 *Code of Federal Regulations, as in effect on January 1,*
17 *1987, are incorporated into this Act and shall be treated*
18 *as though such provisions are set forth in this subsection.*
19 *Such provisions may be altered only by means of an Act*
20 *of Congress. To the extent that such provisions of part 32*
21 *do not conform with this Act or any statutory provision*
22 *of law enacted before November 1, 1978, the provisions of*
23 *this Act and the provisions of such other statutory law shall*
24 *govern.*

1 “(b) *REGULATION DEFINED.*—For purposes of this
2 part, the term ‘regulation’ means any rules, regulations,
3 guidelines, interpretations, orders, or requirements of gen-
4 eral applicability prescribed by any officer or employee of
5 the executive branch.

6 “**SEC. 1124. SCHOOL BOUNDARIES.**

7 “(a) *ESTABLISHMENT BY SECRETARY.*—The Secretary
8 shall establish, by regulation, separate geographical attend-
9 ance areas for each Bureau funded school.

10 “(b) *ESTABLISHMENT BY TRIBAL BODY.*—In any case
11 where there is more than one Bureau funded school located
12 on an Indian reservation, at the direction of the tribal gov-
13 erning body, the relevant school boards of the Bureau fund-
14 ed schools on the reservation may, by mutual consent, estab-
15 lish the relevant attendance areas for such schools, subject
16 to the approval of the tribal governing body. Any such
17 boundaries so established shall be accepted by the Secretary.

18 “(c) *BOUNDARY REVISIONS.*—

19 “(1) *IN GENERAL.*—On or after July 1, 2001, no
20 geographical attendance area shall be revised or estab-
21 lished with respect to any Bureau funded school un-
22 less the tribal governing body or the local school board
23 concerned (if so designated by the tribal governing
24 body) has been afforded—

1 “(A) at least 6 months notice of the inten-
2 tion of the Bureau to revise or establish such at-
3 tendance area; and

4 “(B) the opportunity to propose alternative
5 boundaries.

6 Any tribe may petition the Secretary for revision of
7 existing attendance area boundaries. The Secretary
8 shall accept such proposed alternative or revised
9 boundaries unless the Secretary finds, after consulta-
10 tion with the affected tribe or tribes, that such revised
11 boundaries do not reflect the needs of the Indian stu-
12 dents to be served or do not provide adequate stability
13 to all of the affected programs. The Secretary shall
14 cause such revisions to be published in the Federal
15 Register.

16 “(2) TRIBAL RESOLUTION DETERMINATION.—
17 Nothing in this section shall be interpreted as denying
18 a tribal governing body the authority, on a con-
19 tinuing basis, to adopt a tribal resolution allowing
20 parents the choice of the Bureau funded school their
21 children may attend, regardless of the attendance
22 boundaries established under this section.

23 “(d) FUNDING RESTRICTIONS.—The Secretary shall
24 not deny funding to a Bureau funded school for any eligible
25 Indian student attending the school solely because that stu-

1 *dent's home or domicile is outside of the geographical at-*
2 *tendance area established for that school under this section.*
3 *No funding shall be made available without tribal author-*
4 *ization to enable a school to provide transportation for any*
5 *student to or from the school and a location outside the ap-*
6 *proved attendance area of the school.*

7 “(e) *RESERVATION AS BOUNDARY.*—*In any case where*
8 *there is only one Bureau funded program located on an In-*
9 *dian reservation, the attendance area for the program shall*
10 *be the boundaries (established by treaty, agreement, legisla-*
11 *tion, court decisions, or executive decisions and as accepted*
12 *by the tribe) of the reservation served, and those students*
13 *residing near the reservation shall also receive services from*
14 *such program.*

15 “(f) *OFF-RESERVATION HOME-LIVING (DORMITORY)*
16 *SCHOOLS.*—*Notwithstanding any geographical attendance*
17 *areas, attendance at off-reservation home-living (dormitory)*
18 *schools shall include students requiring special emphasis*
19 *programs to be implemented at each off-reservation home-*
20 *living (dormitory) school. Such attendance shall be coordi-*
21 *nated between education line officers, the family, and the*
22 *referring and receiving programs.*

23 **“SEC. 1125. FACILITIES CONSTRUCTION.**

24 “(a) *COMPLIANCE WITH HEALTH AND SAFETY STAND-*
25 *ARDS.*—*The Secretary shall immediately begin to bring all*

1 *schools, dormitories, and other Indian education-related fa-*
2 *ilities operated by the Bureau or under contract or grant*
3 *with the Bureau into compliance with all applicable tribal,*
4 *Federal, or State health and safety standards, whichever*
5 *provides greater protection (except that the tribal standards*
6 *to be applied shall be no greater than any otherwise appli-*
7 *cable Federal or State standards), with section 504 of the*
8 *Rehabilitation Act of 1973, and with the Americans with*
9 *Disabilities Act of 1990. Nothing in this section shall re-*
10 *quire termination of the operations of any facility which*
11 *does not comply with such provisions and which is in use*
12 *on the date of the enactment of the No Child Left Behind*
13 *Act of 2001.*

14 “(b) *COMPLIANCE PLAN.—At the time that the annual*
15 *budget request for Bureau educational services is presented,*
16 *the Secretary shall submit to the appropriate committees*
17 *of Congress a detailed plan to bring all facilities covered*
18 *under subsection (a) of this section into compliance with*
19 *the standards referred to in subsection (a). Such plan shall*
20 *include detailed information on the status of each facility’s*
21 *compliance with such standards, specific cost estimates for*
22 *meeting such standards at each school, and specific*
23 *timelines for bringing each school into compliance with*
24 *such standards.*

25 “(c) *CONSTRUCTION PRIORITIES.—*

1 “(1) *SYSTEM TO ESTABLISH PRIORITIES.*—On
2 *an annual basis the Secretary shall submit to the ap-*
3 *propriate committees of Congress and cause to be pub-*
4 *lished in the Federal Register, the system used to es-*
5 *tablish priorities for replacement and construction*
6 *projects for Bureau funded schools and home-living*
7 *schools, including boarding schools and dormitories.*
8 *At the time any budget request for education is pre-*
9 *sented, the Secretary shall publish in the Federal Reg-*
10 *ister and submit with the budget request the current*
11 *list of all Bureau funded school construction prior-*
12 *ities.*

13 “(2) *LONG-TERM CONSTRUCTION AND REPLACE-*
14 *MENT LIST.*—*In addition to the plan submitted under*
15 *subsection (b), the Secretary shall—*

16 “(A) *not later than 18 months after the date*
17 *of the enactment of the No Child Left Behind Act*
18 *of 2001, establish a long-term construction and*
19 *replacement list for all Bureau funded schools;*

20 “(B) *using the list prepared under subpara-*
21 *graph (A), propose a list for the orderly replace-*
22 *ment of all Bureau funded education-related fa-*
23 *ilities over a period of 40 years to enable plan-*
24 *ning and scheduling of budget requests;*

1 “(C) cause the list prepared under sub-
2 section (B) to be published in the *Federal Reg-*
3 *ister* and allow a period of not less than 120
4 days for public comment;

5 “(D) make such revisions to the list pre-
6 pared under subparagraph (B) as are appro-
7 priate based on the comments received; and

8 “(E) cause the final list to be published in
9 the *Federal Register*.

10 “(3) *EFFECT ON OTHER LIST.*—Nothing in this
11 section shall be construed as interfering with or
12 changing in any way the construction priority list as
13 it exists on the date of the enactment of the *No Child*
14 *Left Behind Act of 2001*.

15 “(d) *HAZARDOUS CONDITION AT BUREAU SCHOOL.*—

16 “(1) *CLOSURE OR CONSOLIDATION.*—A Bureau
17 funded school may be closed or consolidated, and the
18 programs of a Bureau funded school may be substan-
19 tially curtailed by reason of plant conditions that
20 constitute an immediate hazard to health and safety
21 only if a health and safety officer of the Bureau deter-
22 mines that such conditions exist at the Bureau funded
23 school.

24 “(2) *INSPECTION.*—(A) After making a deter-
25 mination described in paragraph (1), the Bureau

1 *health and safety officer shall conduct an inspection*
2 *of the condition of such plant accompanied by an ap-*
3 *propriate tribal, county, municipal, or State health*
4 *and safety officer in order to determine whether con-*
5 *ditions at such plant constitute an immediate hazard*
6 *to health and safety. Such inspection shall be com-*
7 *pleted by not later than the date that is 30 days after*
8 *the date on which the action described in paragraph*
9 *(1) is taken. No further negative action may be taken*
10 *unless the findings are concurred in by the second,*
11 *non-Bureau of Indian Affairs inspector.*

12 *“(B) If the health and safety officer conducting*
13 *the inspection of a plant required under subpara-*
14 *graph (A) determines that conditions at the plant do*
15 *not constitute an immediate hazard to health and*
16 *safety, any consolidation or curtailment that was*
17 *made under paragraph (1) shall immediately cease*
18 *and any school closed by reason of conditions at the*
19 *plant shall be reopened immediately.*

20 *“(C) If a Bureau funded school is temporarily*
21 *closed or consolidated or the programs of a Bureau*
22 *funded school are substantially curtailed under this*
23 *subsection and the Secretary determines that the clo-*
24 *sure, consolidation, or curtailment will exceed 1 year,*
25 *the Secretary shall submit to the Congress, by not*

1 *later than 6 months after the date on which the clo-*
2 *sure, consolidation, or curtailment was initiated, a*
3 *report which sets forth the reasons for such temporary*
4 *actions, the actions the Secretary is taking to elimi-*
5 *nate the conditions that constitute the hazard, and an*
6 *estimated date by which such actions will be con-*
7 *cluded.*

8 “(e) *FUNDING REQUIREMENT.*—

9 “(1) *DISTRIBUTION OF FUNDS.*—*Beginning with*
10 *the fiscal year following the year of the date of the en-*
11 *actment of the No Child Left Behind Act of 2001, all*
12 *funds appropriated for the operations and mainte-*
13 *nance of Bureau funded schools shall be distributed by*
14 *formula to the schools. No funds from this account*
15 *may be retained or segregated by the Bureau to pay*
16 *for administrative or other costs of any facilities*
17 *branch or office, at any level of the Bureau.*

18 “(2) *REQUIREMENTS FOR CERTAIN USES.*—*No*
19 *funds shall be withheld from the distribution to the*
20 *budget of any school operated under contract or grant*
21 *by the Bureau for maintenance or any other facilities*
22 *or road related purpose, unless such school has con-*
23 *sentied, as a modification to the contract or in writing*
24 *for grants schools, to the withholding of such funds,*
25 *including the amount thereof, the purpose for which*

1 *Director of the Office of Indian Education Programs shall*
2 *direct and supervise the operations of all personnel directly*
3 *and substantially involved in the provision of education*
4 *services by the Bureau, including school or institution cus-*
5 *todial or maintenance personnel, facilities management,*
6 *contracting, procurement, and finance personnel. The As-*
7 *sistant Secretary for Indian Affairs shall coordinate the*
8 *transfer of functions relating to procurement, contracts, op-*
9 *eration, and maintenance of schools and other support func-*
10 *tions to the Director.*

11 “(c) *EVALUATION OF PROGRAMS; SERVICES AND SUP-*
12 *PORT FUNCTIONS; TECHNICAL AND COORDINATING ASSIST-*
13 *ANCE.—Education personnel who are under the direction*
14 *and supervision of the Director of the Office of Indian Edu-*
15 *cation Programs in accordance with the first sentence of*
16 *subsection (b) shall—*

17 “(1) *monitor and evaluate Bureau education*
18 *programs;*

19 “(2) *provide all services and support functions*
20 *for education programs with respect to personnel mat-*
21 *ters involving staffing actions and functions; and*

22 “(3) *provide technical and coordinating assist-*
23 *ance in areas such as procurement, contracting, budg-*
24 *eting, personnel, curriculum, and operation and*
25 *maintenance of school facilities.*

1 “(d) *CONSTRUCTION, IMPROVEMENT, OPERATION, AND*
2 *MAINTENANCE OF FACILITIES.*—

3 “(1) *PLAN FOR CONSTRUCTION.*—*The Assistant*
4 *Secretary shall submit in the annual budget a plan—*

5 “(A) *for school facilities to be constructed*
6 *under section 1125(c);*

7 “(B) *for establishing priorities among*
8 *projects and for the improvement and repair of*
9 *educational facilities, which together shall form*
10 *the basis for the distribution of appropriated*
11 *funds; and*

12 “(C) *for capital improvements to be made*
13 *over the five succeeding years.*

14 “(2) *PROGRAM FOR OPERATION AND MAINTENANCE.*—

15 “(A) *ESTABLISHMENT.*—*The Assistant Sec-*
16 *retary shall establish a program, including the*
17 *distribution of appropriated funds, for the oper-*
18 *ation and maintenance of education facilities.*
19 *Such program shall include—*

20 “(i) *a method of computing the*
21 *amount necessary for each educational facil-*
22 *ity;*

23 “(ii) *similar treatment of all Bureau*
24 *funded schools;*
25

1 “(iii) a notice of an allocation of ap-
2 propriated funds from the Director of the
3 Office of Indian Education Programs di-
4 rectly to the education line officers and ap-
5 propriate school officials;

6 “(iv) a method for determining the
7 need for, and priority of, facilities repair
8 and maintenance projects, both major and
9 minor. In making such determination, the
10 Assistant Secretary shall cause to be con-
11 ducted a series of meetings at the agency
12 and area level with representatives of the
13 Bureau funded schools in those areas and
14 agencies to receive comment on the lists and
15 prioritization of such projects; and

16 “(v) a system for the conduct of routine
17 preventive maintenance.

18 “(B) LOCAL SUPERVISORS.—The appro-
19 priate education line officers shall make arrange-
20 ments for the maintenance of education facilities
21 with the local supervisors of the Bureau mainte-
22 nance personnel. The local supervisors of Bureau
23 maintenance personnel shall take appropriate
24 action to implement the decisions made by the
25 appropriate education line officers, except that

1 *no funds under this chapter may be authorized*
2 *for expenditure unless such appropriate edu-*
3 *cation line officer is assured that the necessary*
4 *maintenance has been, or will be, provided in a*
5 *reasonable manner.*

6 “(3) *IMPLEMENTATION.*—*The requirements of*
7 *this subsection shall be implemented as soon as prac-*
8 *ticable after the date of the enactment of the No Child*
9 *Left Behind Act of 2001.*

10 “(e) *ACCEPTANCE OF GIFTS AND BEQUESTS.*—*Not-*
11 *withstanding any other provision of law, the Director shall*
12 *promulgate guidelines for the establishment of mechanisms*
13 *for the acceptance of gifts and bequests for the use and ben-*
14 *efit of particular schools or designated Bureau operated*
15 *education programs, including, where appropriate, the es-*
16 *tablishment and administration of trust funds. When a Bu-*
17 *reau operated program is the beneficiary of such a gift or*
18 *bequest, the Director shall make provisions for monitoring*
19 *its use and shall report to the appropriate committees of*
20 *Congress the amount and terms of such gift or bequest, the*
21 *manner in which such gift or bequest shall be used, and*
22 *any results achieved by such action.*

23 “(f) *FUNCTIONS CLARIFIED.*—*For the purpose of this*
24 *section, the term ‘functions’ includes powers and duties.*

1 **“SEC. 1127. ALLOTMENT FORMULA.**

2 “(a) *FACTORS CONSIDERED; REVISION TO REFLECT*
3 *STANDARDS.—*

4 “(1) *FORMULA.—The Secretary shall establish,*
5 *by regulation adopted in accordance with section*
6 *1138A, a formula for determining the minimum an-*
7 *ual amount of funds necessary to sustain each Bu-*
8 *reau funded school. In establishing such formula, the*
9 *Secretary shall consider—*

10 “(A) *the number of eligible Indian students*
11 *served and total student population of the school;*

12 “(B) *special cost factors, such as—*

13 “(i) *the isolation of the school;*

14 “(ii) *the need for special staffing,*
15 *transportation, or educational programs;*

16 “(iii) *food and housing costs;*

17 “(iv) *maintenance and repair costs as-*
18 *sociated with the physical condition of the*
19 *educational facilities;*

20 “(v) *special transportation and other*
21 *costs of isolated and small schools;*

22 “(vi) *the costs of home-living (dor-*
23 *mitory) arrangements, where determined*
24 *necessary by a tribal governing body or des-*
25 *ignated school board;*

1 “(vii) costs associated with greater
2 lengths of service by education personnel;

3 “(viii) the costs of therapeutic pro-
4 grams for students requiring such programs;
5 and

6 “(ix) special costs for gifted and tal-
7 ented students;

8 “(C) the cost of providing academic services
9 which are at least equivalent to those provided
10 by public schools in the State in which the school
11 is located; and

12 “(D) such other relevant factors as the Sec-
13 retary determines are appropriate.

14 “(2) REVISION OF FORMULA.—Upon the estab-
15 lishment of the standards required in sections 1121
16 and 1122, the Secretary shall revise the formula es-
17 tablished under this subsection to reflect the cost of
18 funding such standards. Not later than January 1,
19 2003, the Secretary shall review the formula estab-
20 lished under this section and shall take such steps as
21 are necessary to increase the availability of coun-
22 seling and therapeutic programs for students in off-
23 reservation home-living (dormitory) schools and other
24 Bureau operated residential facilities. Concurrent
25 with such action, the Secretary shall review the stand-

1 *ards established under section 1122 to be certain that*
2 *adequate provision is made for parental notification*
3 *regarding, and consent for, such counseling and*
4 *therapeutic programs.*

5 *“(b) PRO RATA ALLOTMENT.—Notwithstanding any*
6 *other provision of law, Federal funds appropriated for the*
7 *general local operation of Bureau funded schools shall be*
8 *allotted pro rata in accordance with the formula established*
9 *under subsection (a).*

10 *“(c) ANNUAL ADJUSTMENT; RESERVATION OF AMOUNT*
11 *FOR SCHOOL BOARD ACTIVITIES.—*

12 *“(1) ANNUAL ADJUSTMENT.—For fiscal year*
13 *2003, and for each subsequent fiscal year, the Sec-*
14 *retary shall adjust the formula established under sub-*
15 *section (a) to ensure that the formula does the fol-*
16 *lowing:*

17 *“(A) Uses a weighted unit of 1.2 for each el-*
18 *igible Indian student enrolled in the seventh and*
19 *eighth grades of the school in considering the*
20 *number of eligible Indian students served by the*
21 *school.*

22 *“(B) Considers a school with an enrollment*
23 *of less than 50 eligible Indian students as having*
24 *an average daily attendance of 50 eligible Indian*

1 *students for purposes of implementing the adjust-*
2 *ment factor for small schools.*

3 “(C) Takes into account the provision of
4 *residential services on less than a 9-month basis*
5 *at a school when the school board and supervisor*
6 *of the school determine that a less than 9-month*
7 *basis will be implemented for the school year in-*
8 *volved.*

9 “(D) Uses a weighted unit of 2.0 for each
10 *eligible Indian student that—*

11 “(i) *is gifted and talented; and*

12 “(ii) *is enrolled in the school on a full-*
13 *time basis,*

14 *in considering the number of eligible Indian stu-*
15 *dents served by the school.*

16 “(E) Uses a weighted unit of 0.25 for each
17 *eligible Indian student who is enrolled in a year-*
18 *long credit course in an Indian or Native lan-*
19 *guage as part of the regular curriculum of a*
20 *school, in considering the number of eligible In-*
21 *dian students served by such school. The adjust-*
22 *ment required under this subparagraph shall be*
23 *used for such school after—*

24 “(i) *the certification of the Indian or*
25 *Native language curriculum by the school*

1 *board of such school to the Secretary, to-*
2 *gether with an estimate of the number of*
3 *full-time students expected to be enrolled in*
4 *the curriculum in the second school year for*
5 *which the certification is made; and*

6 *(ii) the funds appropriated for allot-*
7 *ment under this section are designated by*
8 *the appropriations Act appropriating such*
9 *funds as the amount necessary to implement*
10 *such adjustment at such school without re-*
11 *ducing allotments made under this section*
12 *to any school by virtue of such adjustment.*

13 “(2) *RESERVATION OF AMOUNT.*—

14 “(A) *IN GENERAL.*—*From the funds allotted*
15 *in accordance with the formula established under*
16 *subsection (a) for each Bureau school, the local*
17 *school board of such school may reserve an*
18 *amount which does not exceed the 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, includ-*
25 *ing (notwithstanding any other provision of law)*

1 *meeting expenses and the cost of membership in,*
2 *and support of, organizations engaged in activi-*
3 *ties on behalf of Indian education.*

4 “(B) *TRAINING.*—*Each school board shall*
5 *see that each new member of the school board re-*
6 *ceives, within 12 months of the individual’s as-*
7 *suming a position on the school board, 40 hours*
8 *of training relevant to that individual’s service*
9 *on the board. Such training may include legal*
10 *issues pertaining to schools funded by the Bu-*
11 *reau, legal issues pertaining to school boards,*
12 *ethics, and other topics deemed appropriate by*
13 *the school board.*

14 “(d) *RESERVATION OF AMOUNT FOR EMERGENCIES.*—
15 *The Secretary shall reserve from the funds available for dis-*
16 *tribution for each fiscal year under this section an amount*
17 *which, in the aggregate, shall equal 1 percent of the funds*
18 *available for such purpose for that fiscal year. Such funds*
19 *shall be used, at the discretion of the Director of the Office*
20 *of Indian Education Programs, to meet emergencies and*
21 *unforeseen contingencies affecting the education programs*
22 *funded under this section. Funds reserved under this sub-*
23 *section may only be expended for education services or pro-*
24 *grams, including emergency repairs of educational facili-*
25 *ties, at a schoolsite (as defined by section 5204(c)(2) of the*

1 *Tribally Controlled Schools Act of 1988). Funds reserved*
2 *under this subsection shall remain available without fiscal*
3 *year limitation until expended. However, the aggregate*
4 *amount available from all fiscal years may not exceed 1*
5 *percent of the current year funds. Whenever, the Secretary*
6 *makes funds available under this subsection, the Secretary*
7 *shall report such action to the appropriate committees of*
8 *Congress within the annual budget submission.*

9 “(e) *SUPPLEMENTAL APPROPRIATIONS.—Supple-*
10 *mental appropriations enacted to meet increased pay costs*
11 *attributable to school level personnel shall be distributed*
12 *under this section.*

13 “(f) *ELIGIBLE INDIAN STUDENT DEFINED.—For the*
14 *purpose of this section, the term ‘eligible Indian student’*
15 *means a student who—*

16 “(1) *is a member of or is at least one-fourth de-*
17 *gree Indian blood descendant of a member of an In-*
18 *dian tribe which is eligible for the special programs*
19 *and services provided by the United States through*
20 *the Bureau because of their status as Indians; and*

21 “(2) *resides on or near an Indian reservation or*
22 *meets the criteria for attendance at a Bureau off-res-*
23 *ervation home-living (dormitory) school.*

24 “(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 at-*
4 *tending a Bureau school under paragraph (2)(C) may*
5 *not be charged tuition for attendance at such a school.*

6 “(2) *ATTENDANCE OF NON-INDIAN STUDENTS AT*
7 *BUREAU SCHOOLS.*—*The Secretary may permit the*
8 *attendance at a Bureau school of a student who is not*
9 *an eligible Indian student if—*

10 “(A) *the Secretary determines that the stu-*
11 *dent’s attendance will not adversely affect the*
12 *school’s program for eligible Indian students be-*
13 *cause of cost, overcrowding, or violation of stand-*
14 *ards or accreditation;*

15 “(B) *the school board consents;*

16 “(C) *the student is a dependent of a Bu-*
17 *reau, Indian Health Service, or tribal govern-*
18 *ment employee who lives on or near the*
19 *schoolsite; or*

20 “(D) *a tuition is paid for the student that*
21 *is not more than that charged by the nearest*
22 *public school district for out-of-district students,*
23 *and shall be in addition to the school’s allocation*
24 *under this section.*

1 “(3) *ATTENDANCE OF NON-INDIAN STUDENTS AT*
2 *CONTRACT AND GRANT SCHOOLS.*—*The school board of*
3 *a contract or grant school may permit students who*
4 *are not eligible Indian students under this subsection*
5 *to attend its contract school or grant school and any*
6 *tuition collected for those students shall be in addition*
7 *to funding received under this section.*

8 “(h) *FUNDS AVAILABLE WITHOUT FISCAL YEAR LIM-*
9 *TATION.*—*Notwithstanding any other provision of law, at*
10 *the election of the school board of a Bureau school made*
11 *at any time during the fiscal year, a portion equal to not*
12 *more than 15 percent of the funds allocated with respect*
13 *to a school under this section for any fiscal year shall re-*
14 *main available to the school for expenditure without fiscal*
15 *year limitation. The Assistant Secretary shall take steps as*
16 *may be necessary to implement this provision.*

17 “(i) *STUDENTS AT RICHFIELD DORMITORY, RICH-*
18 *FIELD, UTAH.*—*Tuition for out-of-State Indian students in*
19 *home-living (dormitory) arrangements at the Richfield dor-*
20 *mitory in Richfield, Utah, who attend Sevier County high*
21 *schools in Richfield, Utah, shall be paid from the Indian*
22 *school equalization program funds authorized in this sec-*
23 *tion and section 1130 at a rate not to exceed the amounts*
24 *per weighted student unit for that year for the instruction*

1 *of such students. No additional administrative cost funds*
2 *shall be added to the grant.*

3 **“SEC. 1128. ADMINISTRATIVE COST GRANTS.**

4 “(a) GRANTS; EFFECT UPON APPROPRIATED
5 AMOUNTS.—

6 “(1) GRANTS.—Subject to the availability of ap-
7 propriated funds, the Secretary shall provide grants
8 to each tribe or tribal organization operating a con-
9 tract school or grant school in the amount determined
10 under this section with respect to the tribe or tribal
11 organization for the purpose of paying the adminis-
12 trative and indirect costs incurred in operating con-
13 tract or grant schools, provided that no school oper-
14 ated as a stand-alone institution shall receive less
15 than \$200,000 per year for these purposes, in order
16 to—

17 “(A) enable tribes and tribal organizations
18 operating such schools, without reducing direct
19 program services to the beneficiaries of the pro-
20 gram, to provide all related administrative over-
21 head services and operations necessary to meet
22 the requirements of law and prudent manage-
23 ment practice; and

24 “(B) carry out other necessary support
25 functions which would otherwise be provided by

1 *the Secretary or other Federal officers or employ-*
2 *ees, from resources other than direct program*
3 *funds, in support of comparable Bureau operated*
4 *programs.*

5 “(2) *EFFECT UPON APPROPRIATED AMOUNTS.—*
6 *Amounts appropriated to fund the grants provided*
7 *under this section shall be in addition to, and shall*
8 *not reduce, the amounts appropriated for the program*
9 *being administered by the contract or grant school.*

10 “(b) *DETERMINATION OF GRANT AMOUNT.—*

11 “(1) *IN GENERAL.—The amount of the grant*
12 *provided to each tribe or tribal organization under*
13 *this section for each fiscal year shall be determined by*
14 *applying the administrative cost percentage rate of*
15 *the tribe or tribal organization to the aggregate of the*
16 *Bureau elementary and secondary functions operated*
17 *by the tribe or tribal organization for which funds are*
18 *received from or through the Bureau. The administra-*
19 *tive cost percentage rate determined under subsection*
20 *(c) does not apply to other programs operated by the*
21 *tribe or tribal organization.*

22 “(2) *DIRECT COST BASE FUNDS.—The Secretary*
23 *shall—*

24 “(A) *reduce the amount of the grant deter-*
25 *mined under paragraph (1) to the extent that*

1 *payments for administrative costs are actually*
2 *received by an Indian tribe or tribal organiza-*
3 *tion under any Federal education program in-*
4 *cluded in the direct cost base of the tribe or trib-*
5 *al organization; and*

6 “(B) *take such actions as may be necessary*
7 *to be reimbursed by any other department or*
8 *agency of the Federal Government for the portion*
9 *of grants made under this section for the costs of*
10 *administering any program for Indians that is*
11 *funded by appropriations made to such other de-*
12 *partment or agency.*

13 “(c) *ADMINISTRATIVE COST PERCENTAGE RATE.—*

14 “(1) *IN GENERAL.—For purposes of this section,*
15 *the administrative cost percentage rate for a contract*
16 *or grant school for a fiscal year is equal to the per-*
17 *centage determined by dividing—*

18 “(A) *the sum of—*

19 “(i) *the amount equal to—*

20 “(I) *the direct cost base of the*
21 *tribe or tribal organization for the fis-*
22 *cal year, multiplied by*

23 “(II) *the minimum base rate; plus*

24 “(ii) *the amount equal to—*

1 “(I) the standard direct cost base;
2 multiplied by

3 “(II) the maximum base rate; by
4 “(B) the sum of—

5 “(i) the direct cost base of the tribe or
6 tribal organization for the fiscal year; plus

7 “(ii) the standard direct cost base.

8 “(2) ROUNDING.—The administrative cost per-
9 centage rate shall be determined to the $\frac{1}{100}$ of a dec-
10 imal point.

11 “(d) COMBINING FUNDS.—

12 “(1) IN GENERAL.—Funds received by a tribe or
13 contract or grant school as grants under this section
14 for tribal elementary or secondary educational pro-
15 grams may be combined by the tribe or contract or
16 grant school into a single administrative cost account
17 without the necessity of maintaining separate funding
18 source accounting.

19 “(2) INDIRECT COST FUNDS.—Indirect cost funds
20 for programs at the school which share common ad-
21 ministrative services with tribal elementary or sec-
22 ondary educational programs may be included in the
23 administrative cost account described in paragraph
24 (1).

1 “(e) *AVAILABILITY OF FUNDS.*—*Funds received as*
2 *grants under this section with respect to tribal elementary*
3 *or secondary education programs shall remain available to*
4 *the contract or grant school without fiscal year limitation*
5 *and without diminishing the amount of any grants other-*
6 *wise payable to the school under this section for any fiscal*
7 *year beginning after the fiscal year for which the grant is*
8 *provided.*

9 “(f) *TREATMENT OF FUNDS.*—*Funds received as*
10 *grants under this section for Bureau funded programs oper-*
11 *ated by a tribe or tribal organization under a contract or*
12 *agreement shall not be taken into consideration for purposes*
13 *of indirect cost underrecovery and overrecovery determina-*
14 *tions by any Federal agency for any other funds, from*
15 *whatever source derived.*

16 “(g) *TREATMENT OF ENTITY OPERATING OTHER PRO-*
17 *GRAMS.*—*In applying this section and section 105 of the*
18 *Indian Self-Determination and Education Assistance Act*
19 *with respect to an Indian tribe or tribal organization*
20 *that—*

21 “(1) *receives funds under this section for admin-*
22 *istrative costs incurred in operating a contract or*
23 *grant school or a school operated under the Tribally*
24 *Controlled Schools Act of 1988; and*

1 “(2) operates one or more other programs under
2 a contract or grant provided under the Indian Self-
3 Determination and Education Assistance Act,
4 the Secretary shall ensure that the Indian tribe or tribal
5 organization is provided with the full amount of the admin-
6 istrative costs that are associated with operating the con-
7 tract or grant school, and of the indirect costs, that are asso-
8 ciated with all of such other programs, provided that funds
9 appropriated for implementation of this section shall be
10 used only to supply the amount of the grant required to
11 be provided by this section.

12 “(h) DEFINITIONS.—For purposes of this section:

13 “(1) ADMINISTRATIVE COST.—(A) The term ‘ad-
14 ministrative cost’ means the costs of necessary admin-
15 istrative functions which—

16 “(i) the tribe or tribal organization incurs
17 as a result of operating a tribal elementary or
18 secondary educational program;

19 “(ii) are not customarily paid by com-
20 parable Bureau operated programs out of direct
21 program funds; and

22 “(iii) are either—

23 “(I) normally provided for comparable
24 Bureau programs by Federal officials using

1 *resources other than Bureau direct program*
2 *funds; or*

3 *“(II) are otherwise required of tribal*
4 *self-determination program operators by*
5 *law or prudent management practice.*

6 *“(B) The term ‘administrative cost’ may in-*
7 *clude—*

8 *“(i) contract or grant (or other agreement)*
9 *administration;*

10 *“(ii) executive, policy, and corporate leader-*
11 *ship and decisionmaking;*

12 *“(iii) program planning, development, and*
13 *management;*

14 *“(iv) fiscal, personnel, property, and pro-*
15 *curement management;*

16 *“(v) related office services and record keep-*
17 *ing; and*

18 *“(vi) costs of necessary insurance, auditing,*
19 *legal, safety and security services.*

20 *“(2) BUREAU ELEMENTARY AND SECONDARY*
21 *FUNCTIONS.—The term ‘Bureau elementary and sec-*
22 *ondary functions’ means—*

23 *“(A) all functions funded at Bureau schools*
24 *by the Office;*

25 *“(B) all programs—*

1 “(i) funds for which are appropriated
2 to other agencies of the Federal Government;
3 and

4 “(ii) which are administered for the
5 benefit of Indians through Bureau schools;
6 and

7 “(C) all operation, maintenance, and repair
8 funds for facilities and government quarters used
9 in the operation or support of elementary and
10 secondary education functions for the benefit of
11 Indians, from whatever source derived.

12 “(3) DIRECT COST BASE.—(A) Except as other-
13 wise provided in subparagraph (B), the direct cost
14 base of a tribe or tribal organization for the fiscal
15 year is the aggregate direct cost program funding for
16 all tribal elementary or secondary educational pro-
17 grams operated by the tribe or tribal organization
18 during—

19 “(i) the second fiscal year preceding such
20 fiscal year; or

21 “(ii) if such programs have not been oper-
22 ated by the tribe or tribal organization during
23 the two preceding fiscal years, the first fiscal
24 year preceding such fiscal year.

1 “(B) *In the case of Bureau elementary or sec-*
2 *ondary education functions which have not previously*
3 *been operated by a tribe or tribal organization under*
4 *contract, grant, or agreement with the Bureau, the di-*
5 *rect cost base for the initial year shall be the projected*
6 *aggregate direct cost program funding for all Bureau*
7 *elementary and secondary functions to be operated by*
8 *the tribe or tribal organization during that fiscal*
9 *year.*

10 “(4) *MAXIMUM BASE RATE.—The term ‘max-*
11 *imum base rate’ means 50 percent.*

12 “(5) *MINIMUM BASE RATE.—The term ‘min-*
13 *imum base rate’ means 11 percent.*

14 “(6) *STANDARD DIRECT COST BASE.—The term*
15 *‘standard direct cost base’ means \$600,000.*

16 “(7) *TRIBAL ELEMENTARY OR SECONDARY EDU-*
17 *CATIONAL PROGRAMS.—The term ‘tribal elementary*
18 *or secondary educational programs’ means all Bureau*
19 *elementary and secondary functions, together with*
20 *any other Bureau programs or portions of programs*
21 *(excluding funds for social services that are appro-*
22 *priated to agencies other than the Bureau and are ex-*
23 *pended through the Bureau, funds for major sub-*
24 *contracts, construction, and other major capital ex-*
25 *penditures, and unexpended funds carried over from*

1 *prior years) which share common administrative cost*
2 *functions, that are operated directly by a tribe or*
3 *tribal organization under a contract, grant, or agree-*
4 *ment with the Bureau.*

5 *“(i) STUDIES FOR DETERMINATION OF FACTORS AF-*
6 *FECTING COSTS; BASE RATES LIMITS; STANDARD DIRECT*
7 *COST BASE; REPORT TO CONGRESS.—*

8 *“(1) STUDIES.—Not later than 120 days after*
9 *the date of the enactment of the No Child Left Behind*
10 *Act of 2001, the Director of the Office of Indian Edu-*
11 *cation Programs shall—*

12 *“(A) conduct such studies as may be needed*
13 *to establish an empirical basis for determining*
14 *relevant factors substantially affecting required*
15 *administrative costs of tribal elementary and*
16 *secondary education programs, using the for-*
17 *mula set forth in subsection (c); and*

18 *“(B) conduct a study to determine—*

19 *“(i) a maximum base rate which ensures*
20 *that the amount of the grants provided under*
21 *this section will provide adequate (but not exces-*
22 *sive) funding of the administrative costs of the*
23 *smallest tribal elementary or secondary edu-*
24 *cational programs;*

1 “(ii) a minimum base rate which ensures
2 that the amount of the grants provided under
3 this section will provide adequate (but not exces-
4 sive) funding of the administrative costs of the
5 largest tribal elementary or secondary edu-
6 cational programs; and

7 “(iii) a standard direct cost base which is
8 the aggregate direct cost funding level for which
9 the percentage determined under subsection (c)
10 will—

11 “(I) be equal to the median between the
12 maximum base rate and the minimum base
13 rate; and

14 “(II) ensure that the amount of the
15 grants provided under this section will pro-
16 vide adequate (but not excessive) funding of
17 the administrative costs of tribal elementary
18 or secondary educational programs closest
19 to the size of the program.

20 “(2) *GUIDELINES.*—The studies required under
21 paragraph (1) shall—

22 “(A) be conducted in full consultation (in
23 accordance with section 1131) with—

1 “(i) the tribes and tribal organizations
2 that are affected by the application of the
3 formula set forth in subsection (c); and

4 “(ii) all national and regional Indian
5 organizations of which such tribes and trib-
6 al organizations are typically members;

7 “(B) be conducted onsite with a representa-
8 tive statistical sample of the tribal elementary or
9 secondary educational programs under a con-
10 tract entered into with a nationally reputable
11 public accounting and business consulting firm;

12 “(C) take into account the availability of
13 skilled labor; commodities, business and auto-
14 matic data processing services, related Indian
15 preference and Indian control of education re-
16 quirements, and any other market factors found
17 substantially to affect the administrative costs
18 and efficiency of each such tribal elementary or
19 secondary educational program studied in order
20 to assure that all required administrative activi-
21 ties can reasonably be delivered in a cost effective
22 manner for each such program, given an admin-
23 istrative cost allowance generated by the values,
24 percentages, or other factors found in the studies
25 to be relevant in such formula;

1 “(D) identify, and quantify in terms of per-
2 centages of direct program costs, any general fac-
3 tors arising from geographic isolation, or num-
4 bers of programs administered, independent of
5 program size factors used to compute a base ad-
6 ministrative cost percentage in such formula;
7 and

8 “(E) identify any other incremental cost
9 factors substantially affecting the costs of re-
10 quired administrative cost functions at any of
11 the tribal elementary or secondary educational
12 programs studied and determine whether the fac-
13 tors are of general applicability to other such
14 programs, and (if so) how the factors may effec-
15 tively be incorporated into such formula.

16 “(3) CONSULTATION WITH INSPECTOR GEN-
17 ERAL.—In carrying out the studies required under
18 this subsection, the Director shall obtain the input of,
19 and afford an opportunity to participate to, the In-
20 spector General of the Department of the Interior.

21 “(4) CONSIDERATION OF DELIVERY OF ADMINIS-
22 TRATIVE SERVICES.—Determinations described in
23 paragraph (2)(C) shall be based on what is prac-
24 ticable at each location studied, given prudent man-
25 agement practice, irrespective of whether required ad-

1 *ministrative services were actually or fully delivered*
2 *at these sites, or whether other services were delivered*
3 *instead, during the period of the study.*

4 “(5) *REPORT.*—*Upon completion of the studies*
5 *conducted under paragraph (1), the Director shall*
6 *submit to Congress a report on the findings of the*
7 *studies, together with determinations based upon such*
8 *studies that would affect the definitions set forth*
9 *under subsection (e) that are used in the formula set*
10 *forth in subsection (c).*

11 “(6) *PROJECTION OF COSTS.*—*The Secretary*
12 *shall include in the Bureau’s justification for each*
13 *appropriations request beginning in the first fiscal*
14 *year after the completion of the studies conducted*
15 *under paragraph (1), a projection of the overall costs*
16 *associated with the formula set forth in subsection (c)*
17 *for all tribal elementary or secondary education pro-*
18 *grams which the Secretary expects to be funded in the*
19 *fiscal year for which the appropriations are sought.*

20 “(7) *DETERMINATION OF PROGRAM SIZE.*—*For*
21 *purposes of this subsection, the size of tribal elemen-*
22 *tary or secondary educational programs is determined*
23 *by the aggregate direct cost program funding level for*
24 *all Bureau funded programs which share common ad-*
25 *ministrative cost functions.*

1 “(j) *AUTHORIZATION OF APPROPRIATIONS.*—

2 “(1) *IN GENERAL.*—*There are authorized to be*
3 *appropriated such sums as necessary to carry out this*
4 *section.*

5 “(2) *REDUCTIONS.*—*If the total amount of funds*
6 *necessary to provide grants to tribes and tribal orga-*
7 *nizations in the amounts determined under subsection*
8 *(b) for a fiscal year exceeds the amount of funds ap-*
9 *propriated to carry out this section for such fiscal*
10 *year, the Secretary shall reduce the amount of each*
11 *grant determined under subsection (b) for such fiscal*
12 *year by an amount that bears the same relationship*
13 *to such excess as the amount of such grants deter-*
14 *mined under subsection (b) bears to the total of all*
15 *grants determined under subsection (b) section for all*
16 *tribes and tribal organizations for such fiscal year.*

17 “(k) *APPLICABILITY TO SCHOOLS OPERATING UNDER*
18 *TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.*—*The pro-*
19 *visions of this section shall also apply to those schools oper-*
20 *ating under the Tribally Controlled Schools Act of 1988.*

21 “**SEC. 1129. DIVISION OF BUDGET ANALYSIS.**

22 “(a) *ESTABLISHMENT.*—*Not later than 12 months*
23 *after the date of the enactment of the No Child Left Behind*
24 *Act of 2001, the Secretary shall establish within the Office*
25 *of Indian Education Programs a Division of Budget Anal-*

1 *ysis (hereinafter referred to as the 'Division'). Such Divi-*
2 *sion shall be under the direct supervision and control of*
3 *the Director of the Office.*

4 “(b) *FUNCTIONS.*—*In consultation with the tribal gov-*
5 *erning bodies and tribal school boards, the Director of the*
6 *Office, through the Division, shall conduct studies, surveys,*
7 *or other activities to gather demographic information on*
8 *Bureau funded schools and project the amount necessary to*
9 *provide Indian students in such schools the educational pro-*
10 *gram set forth in this part.*

11 “(c) *ANNUAL REPORTS.*—*Not later than the date that*
12 *the Assistant Secretary for Indian Affairs makes the annual*
13 *budget submission, for each fiscal year after the date of the*
14 *enactment of the No Child Left Behind Act of 2001, the Di-*
15 *rector of the Office shall submit to the appropriate commit-*
16 *tees of Congress (including the Appropriations committees),*
17 *all Bureau funded schools, and the tribal governing bodies*
18 *of such schools, a report which shall contain—*

19 “(1) *projections, based upon the information*
20 *gathered pursuant to subparagraph (b) and any other*
21 *relevant information, of amounts necessary to provide*
22 *Indian students in Bureau funded schools the edu-*
23 *cational program set forth in this part;*

1 “(2) a description of the methods and formulas
2 used to calculate the amounts projected pursuant to
3 paragraph (1); and

4 “(3) such other information as the Director of
5 the Office considers appropriate.

6 “(d) *USE OF REPORTS.*—The Director of the Office
7 and the Assistant Secretary for Indian Affairs shall use the
8 annual report required by subsection (c) when preparing
9 their annual budget submissions.

10 **“SEC. 1130. UNIFORM DIRECT FUNDING AND SUPPORT.**

11 “(a) *ESTABLISHMENT OF SYSTEM AND FORWARD*
12 *FUNDING.*—

13 “(1) *IN GENERAL.*—The Secretary shall establish,
14 by regulation adopted in accordance with section
15 1138, a system for the direct funding and support of
16 all Bureau funded schools. Such system shall allot
17 funds in accordance with section 1127. All amounts
18 appropriated for distribution under this section may
19 be made available under paragraph (2).

20 “(2) *TIMING FOR USE OF FUNDS.*—(A) For the
21 purposes of affording adequate notice of funding
22 available pursuant to the allotments made under sec-
23 tion 1127, amounts appropriated in an appropria-
24 tions Act for any fiscal year shall become available
25 for obligation by the affected schools on July 1 of the

1 *fiscal year in which such amounts are appropriated*
2 *without further action by the Secretary, and shall re-*
3 *main available for obligation through the succeeding*
4 *fiscal year.*

5 “(B) *The Secretary shall, on the basis of the*
6 *amount appropriated in accordance with this para-*
7 *graph—*

8 “(i) *publish, not later than July 1 of the*
9 *fiscal year for which the funds are appropriated,*
10 *allotments to each affected school made under*
11 *section 1127 of 85 percent of such appropriation;*
12 *and*

13 “(ii) *publish, not later than September 30*
14 *of such fiscal year, the allotments to be made*
15 *under section 1127 of the remaining 15 percent*
16 *of such appropriation, adjusted to reflect the ac-*
17 *tual student attendance.*

18 “(3) *LIMITATION.—(A) Notwithstanding any*
19 *other provision of law or regulation, the supervisor of*
20 *a Bureau funded school may expend an aggregate of*
21 *not more than \$50,000 of the amount allotted the*
22 *school under section 1127 to acquire materials, sup-*
23 *plies, equipment, services, operation, and mainte-*
24 *nance for the school without competitive bidding if—*

1 “(i) the cost for any single item purchased
2 does not exceed \$15,000;

3 “(ii) the school board approves the procure-
4 ment;

5 “(iii) the supervisor certifies that the cost is
6 fair and reasonable;

7 “(iv) the documents relating to the procure-
8 ment executed by the supervisor or other school
9 staff cite this paragraph as authority for the
10 procurement; and

11 “(v) the transaction is documented in a
12 journal maintained at the school clearly identi-
13 fying when the transaction occurred, what was
14 acquired and from whom, the price paid, the
15 quantities acquired, and any other information
16 the supervisor or school board considers relevant.

17 “(B) Not later than 6 months after the date of
18 the enactment of the No Child Left Behind Act of
19 2001, the Secretary shall cause to be sent to each su-
20 pervisor of a Bureau operated program and school
21 board chairperson, the education line officer or offi-
22 cers of each agency and area, and the Bureau Divi-
23 sion in charge of procurement, at both the local and
24 national levels, notice of this paragraph.

1 “(C) *The Director shall be responsible for deter-*
2 *mining the application of this paragraph, including*
3 *the authorization of specific individuals to carry out*
4 *this paragraph, and shall be responsible for the provi-*
5 *sion of guidelines on the use of this paragraph and*
6 *adequate training on such guidelines.*

7 “(4) *EFFECT OF SEQUESTRATION ORDER.—If a*
8 *sequestration order issued under the Balanced Budget*
9 *and Emergency Deficit Control Act of 1985 reduces*
10 *the amount of funds available for allotment under sec-*
11 *tion 1127 for any fiscal year by more than 7 percent*
12 *of the amount of funds available for allotment under*
13 *such section during the preceding fiscal year—*

14 “(A) *to fund allotments under section 1127,*
15 *the Secretary, notwithstanding any other law,*
16 *may use—*

17 “(i) *funds appropriated for the oper-*
18 *ation of any Bureau school that is closed or*
19 *consolidated; and*

20 “(ii) *funds appropriated for any pro-*
21 *gram that has been curtailed at any Bureau*
22 *school; and*

23 “(B) *the Secretary may waive the applica-*
24 *tion of the provisions of section 1121(h) with re-*
25 *spect to the closure or consolidation of a school,*

1 *or the curtailment of a program at a school, dur-*
2 *ing such fiscal year if the funds described in*
3 *clauses (i) and (ii) of subparagraph (A) with re-*
4 *spect to such school are used to fund allotments*
5 *made under section 1127 for such fiscal year.*

6 “(b) *LOCAL FINANCIAL PLANS FOR EXPENDITURE OF*
7 *FUNDS.—*

8 “(1) *PLAN REQUIRED.—In the case of all Bureau*
9 *operated schools, allotted funds shall be expended on*
10 *the basis of local financial plans which ensure meet-*
11 *ing the accreditation requirements or standards for*
12 *the school established pursuant to section 1121 and*
13 *which shall be prepared by the local school supervisor*
14 *in active consultation with the local school board for*
15 *each school. The local school board for each school*
16 *shall have the authority to ratify, reject, or amend*
17 *such financial plan, and expenditures thereunder,*
18 *and, on its own determination or in response to the*
19 *supervisor of the school, to revise such financial plan*
20 *to meet needs not foreseen at the time of preparation*
21 *of the financial plan.*

22 “(2) *The supervisor—*

23 “(A) *shall put into effect the decisions of the*
24 *school board;*

1 “(B) shall provide the appropriate local
2 union representative of the education employees
3 with copies of proposed draft financial plans
4 and all amendments or modifications thereto, at
5 the same time such copies are submitted to the
6 local school board; and

7 “(C) may appeal any such action of the
8 local school board to the appropriate education
9 line officer of the Bureau agency by filing a
10 written statement describing the action and the
11 reasons the supervisor believes such action should
12 be overturned. A copy of such statement shall be
13 submitted to the local school board and such
14 board shall be afforded an opportunity to re-
15 spond, in writing, to such appeal. After review-
16 ing such written appeal and response, the appro-
17 priate education line officer may, for good cause,
18 overturn the action of the local school board. The
19 appropriate education line officer shall transmit
20 the determination of such appeal in the form of
21 a written opinion to such board and to such su-
22 pervisor identifying the reasons for overturning
23 such action.

24 “(c) USE OF SELF-DETERMINATION GRANTS
25 FUNDS.—Funds for self-determination grants under section

1 103(a)(2) of the Indian Self-Determination and Education
2 Assistance Act shall not be used for providing technical as-
3 sistance and training in the field of education by the Bu-
4 reau unless such services are provided in accordance with
5 a plan, agreed to by the tribe or tribes affected and the Bu-
6 reau, under which control of education programs is in-
7 tended to be transferred to such tribe or tribes within a spe-
8 cific period of time negotiated under such agreement. The
9 Secretary may approve applications for funding tribal di-
10 visions of education and development of tribal codes of edu-
11 cation from funds appropriated pursuant to section 104(a)
12 of such Act.

13 “(d) *TECHNICAL ASSISTANCE AND TRAINING.*—In the
14 exercise of its authority under this section, a local school
15 board may request technical assistance and training from
16 the Secretary, and the Secretary shall, to the greatest extent
17 possible, provide such services, and make appropriate provi-
18 sions in the budget of the Office for such services.

19 “(e) *SUMMER PROGRAM OF ACADEMIC AND SUPPORT*
20 *SERVICES.*—

21 “(1) *IN GENERAL.*—A financial plan under sub-
22 section (b) for a school may include, at the discretion
23 of the local administrator and the school board of
24 such school, a provision for a summer program of
25 academic and support services for students of the

1 *school. Any such program may include activities re-*
2 *lated to the prevention of alcohol and substance abuse.*
3 *The Assistant Secretary for Indian Affairs shall pro-*
4 *vide for the utilization of any such school facility*
5 *during any summer in which such utilization is re-*
6 *quested.*

7 “(2) *USE OF OTHER FUNDS.—Notwithstanding*
8 *any other provision of law, funds authorized under*
9 *the Act of April 16, 1934, and this Act may be used*
10 *to augment the services provided in each summer pro-*
11 *gram at the option, and under the control, of the tribe*
12 *or Indian controlled school receiving such funds.*

13 “(3) *TECHNICAL ASSISTANCE AND PROGRAM CO-*
14 *ORDINATION.—The Assistant Secretary for Indian Af-*
15 *airs, acting through the Director of the Office, shall*
16 *provide technical assistance and coordination for any*
17 *program described in paragraph (1) and shall, to the*
18 *extent possible, encourage the coordination of such*
19 *programs with any other summer programs that*
20 *might benefit Indian youth, regardless of the funding*
21 *source or administrative entity of any such program.*

22 “(f) *COOPERATIVE AGREEMENTS.—*

23 “(1) *IN GENERAL.—From funds allotted to a Bu-*
24 *reau school under section 1127, the Secretary shall, if*
25 *specifically requested by the tribal governing body (as*

1 *defined in section 1141), implement any cooperative*
2 *agreement entered into between the tribe, the Bureau*
3 *school board, and the local public school district*
4 *which meets the requirements of paragraph (2) and*
5 *involves the school. The tribe, the Bureau school*
6 *board, and the local public school district shall deter-*
7 *mine the terms of the agreement. Such agreement may*
8 *encompass coordination of all or any part of the fol-*
9 *lowing:*

10 *“(A) Academic program and curriculum,*
11 *unless the Bureau school is currently accredited*
12 *by a State or regional accrediting entity and*
13 *would not continue to be so accredited.*

14 *“(B) Support services, including procure-*
15 *ment and facilities maintenance.*

16 *“(C) Transportation.*

17 *“(2) EQUAL BENEFIT AND BURDEN.—Each*
18 *agreement entered into pursuant to the authority pro-*
19 *vided in paragraph (1) shall confer a benefit upon the*
20 *Bureau school commensurate with the burden as-*
21 *sumed, though this requirement shall not be construed*
22 *so as to require equal expenditures or an exchange of*
23 *similar services.*

24 *“(g) PRODUCT OR RESULT OF STUDENT PROJECTS.—*
25 *Notwithstanding any other provision of law, where there*

1 *is agreement on action between the superintendent and the*
2 *school board of a Bureau funded school, the product or re-*
3 *sult of a project conducted in whole or in major part by*
4 *a student may be given to that student upon the completion*
5 *of such project.*

6 “(h) *NOT CONSIDERED FEDERAL FUNDS FOR MATCH-*
7 *ING REQUIREMENTS.—Notwithstanding any other provi-*
8 *sion of law, funds received by a Bureau funded school under*
9 *this part shall not be considered Federal funds for the pur-*
10 *poses of meeting a matching funds requirement for any Fed-*
11 *eral program.*

12 **“SEC. 1131. POLICY FOR INDIAN CONTROL OF INDIAN EDU-**
13 **CATION.**

14 “(a) *FACILITATION OF INDIAN CONTROL.—It shall be*
15 *the policy of the Secretary and the Bureau, in carrying out*
16 *the functions of the Bureau, to facilitate tribal control of*
17 *Indian affairs in all matters relating to education.*

18 “(b) *CONSULTATION WITH TRIBES.—*

19 “(1) *IN GENERAL.—All actions under this Act*
20 *shall be done with active consultation with tribes.*

21 “(2) *REQUIREMENTS.—The consultation re-*
22 *quired under paragraph (1) means a process involv-*
23 *ing the open discussion and joint deliberation of all*
24 *options with respect to potential issues or changes be-*
25 *tween the Bureau and all interested parties. During*

1 *such discussions and joint deliberations, interested*
2 *parties (including tribes and school officials) shall be*
3 *given an opportunity to present issues including pro-*
4 *posals regarding changes in current practices or pro-*
5 *grams which will be considered for future action by*
6 *the Bureau. All interested parties shall be given an*
7 *opportunity to participate and discuss the options*
8 *presented or to present alternatives, with the views*
9 *and concerns of the interested parties given effect un-*
10 *less the Secretary determines, from information avail-*
11 *able from or presented by the interested parties dur-*
12 *ing one or more of the discussions and deliberations,*
13 *that there is a substantial reason for another course*
14 *of action. The Secretary shall submit to any Member*
15 *of Congress, within 18 days of the receipt of a written*
16 *request by such Member, a written explanation of any*
17 *decision made by the Secretary which is not con-*
18 *sistent with the views of the interested parties.*

19 **“SEC. 1132. INDIAN EDUCATION PERSONNEL.**

20 *“(a) IN GENERAL.—Chapter 51, subchapter III of*
21 *chapter 53, and chapter 63 of title 5, United States Code,*
22 *relating to classification, pay and leave, respectively, and*
23 *the sections of such title relating to the appointment, pro-*
24 *motion, hours of work, and removal of civil service employ-*

1 *ees, shall not apply to educators or to education positions*
2 *(as defined in subsection (p)).*

3 “(b) *REGULATIONS.—Not later than 60 days after the*
4 *date of the enactment of the No Child Left Behind Act of*
5 *2001, the Secretary shall prescribe regulations to carry out*
6 *this section. Such regulations shall include—*

7 “(1) *the establishment of education positions;*

8 “(2) *the establishment of qualifications for edu-*
9 *cators and education personnel;*

10 “(3) *the fixing of basic compensation for edu-*
11 *cators and education positions;*

12 “(4) *the appointment of educators;*

13 “(5) *the discharge of educators;*

14 “(6) *the entitlement of educators to compensa-*
15 *tion;*

16 “(7) *the payment of compensation to educators;*

17 “(8) *the conditions of employment of educators;*

18 “(9) *the leave system for educators;*

19 “(10) *the annual leave and sick leave for edu-*
20 *cators; and*

21 “(11) *such matters as may be appropriate.*

22 “(c) *QUALIFICATIONS OF EDUCATORS.—*

23 “(1) *REQUIREMENTS.—In prescribing regula-*
24 *tions to govern the qualifications of educators, the*
25 *Secretary shall require—*

1 “(A)(i) that lists of qualified and inter-
2 viewed applicants for education positions be
3 maintained in each agency and area office of the
4 Bureau from among individuals who have ap-
5 plied at the agency or area level for an education
6 position or who have applied at the national
7 level and have indicated in such application an
8 interest in working in certain areas or agencies;
9 and

10 “(ii) that a list of qualified and interviewed
11 applicants for education positions be maintained
12 in the Office from among individuals who have
13 applied at the national level for an education
14 position and who have expressed interest in
15 working in an education position anywhere in
16 the United States;

17 “(B) that a local school board shall have the
18 authority to waive on a case-by-case basis, any
19 formal education or degree qualifications estab-
20 lished by regulation pursuant to subsection
21 (b)(2), in order for a tribal member to be hired
22 in an education position to teach courses on trib-
23 al culture and language and that subject to sub-
24 section (e)(2), a determination by a school board

1 *that such a person be hired shall be instituted*
2 *supervisor; and*

3 “(C) *that it shall not be a prerequisite to*
4 *the employment of an individual in an edu-*
5 *cation position at the local level that such indi-*
6 *vidual’s name appear on the national list main-*
7 *tained pursuant to subparagraph (A)(ii) or that*
8 *such individual has applied at the national level*
9 *for an education position.*

10 “(2) *EXCEPTION FOR CERTAIN TEMPORARY EM-*
11 *PLOYMENT.—The Secretary may authorize the tem-*
12 *porary employment in an education position of an*
13 *individual who has not met the certification stand-*
14 *ards established pursuant to regulations, if the Sec-*
15 *retary determines that failure to do so would result*
16 *in that position remaining vacant.*

17 “(d) *HIRING OF EDUCATORS.—*

18 “(1) *REQUIREMENTS.—In prescribing regula-*
19 *tions to govern the appointment of educators, the Sec-*
20 *retary shall require—*

21 “(A)(i) *that educators employed in a Bu-*
22 *reau operated school (other than the supervisor of*
23 *the school) shall be hired by the supervisor of the*
24 *school. In cases where there are no qualified ap-*
25 *plicants available, such supervisor may consult*

1 *the national list maintained pursuant to sub-*
2 *section (c)(1)(A)(ii);*

3 “(ii) each school supervisor shall be hired by
4 *the education line officer of the agency office of*
5 *the Bureau in which the school is located;*

6 “(iii) educators employed in an agency of-
7 *fice of the Bureau shall be hired by the super-*
8 *intendent for education of the agency office; and*

9 “(iv) each education line officer and edu-
10 *cators employed in the Office of the Director of*
11 *Indian Education Programs shall be hired by*
12 *the Director;*

13 “(B) that before an individual is employed
14 *in an education position in a school by the su-*
15 *pervisor of a school (or with respect to the posi-*
16 *tion of supervisor, by the appropriate agency*
17 *education line officer), the local school board for*
18 *the school shall be consulted. A determination by*
19 *such school board that such individual should or*
20 *should not be so employed shall be instituted by*
21 *the supervisor (or with respect to the position of*
22 *supervisor, by the agency superintendent for edu-*
23 *cation);*

24 “(C) that before an individual may be em-
25 *ployed in an education position at the agency*

1 *level, the appropriate agency school board shall*
2 *be consulted, and that a determination by such*
3 *school board that such individual should or*
4 *should not be employed shall be instituted by the*
5 *agency superintendent for education; and*

6 *“(D) that before an individual may be em-*
7 *ployed in an education position in the Office of*
8 *the Director (other than the position of Director),*
9 *the national school boards representing all Bu-*
10 *reau schools shall be consulted.*

11 *“(2) INFORMATION REGARDING APPLICATION AT*
12 *NATIONAL LEVEL.—Any individual who applies at the*
13 *local level for an education position shall state on*
14 *such individual’s application whether or not such in-*
15 *dividual has applied at the national level for an edu-*
16 *cation position in the Bureau. If such individual is*
17 *employed at the local level, such individual’s name*
18 *shall be immediately forwarded to the Secretary, who*
19 *shall, as soon as practicable but in no event in more*
20 *than 30 days, ascertain the accuracy of the statement*
21 *made by such individual pursuant to the first sen-*
22 *tence of this paragraph. Notwithstanding subsection*
23 *(e), if the individual’s statement is found to have been*
24 *false, such individual, at the Secretary’s discretion,*
25 *may be disciplined or discharged. If the individual*

1 *has applied at the national level for an education po-*
2 *sition in the Bureau, the appointment of such indi-*
3 *vidual at the local level shall be conditional for a pe-*
4 *riod of 90 days, during which period the Secretary*
5 *may appoint a more qualified individual (as deter-*
6 *mined by the Secretary) from the list maintained at*
7 *the national level pursuant to subsection (c)(1)(A)(ii)*
8 *to the position to which such individual was ap-*
9 *pointed.*

10 “(3) *STATUTORY CONSTRUCTION.—Except as ex-*
11 *pressly provided, nothing in this section shall be con-*
12 *strued as conferring upon local school boards author-*
13 *ity over, or control of, educators at Bureau funded*
14 *schools or the authority to issue management deci-*
15 *sions.*

16 “(e) *DISCHARGE AND CONDITIONS OF EMPLOYMENT*
17 *OF EDUCATORS.—*

18 “(1) *REGULATIONS.—In prescribing regulations*
19 *to govern the discharge and conditions of employment*
20 *of educators, the Secretary shall require—*

21 “(A) *that procedures be established for the*
22 *rapid and equitable resolution of grievances of*
23 *educators;*

24 “(B) *that no educator may be discharged*
25 *without notice of the reasons therefore and op-*

1 *portunity for a hearing under procedures that*
2 *comport with the requirements of due process;*
3 *and*

4 *“(C) that educators employed in Bureau*
5 *schools be notified 30 days prior to the end of the*
6 *school year whether their employment contract*
7 *will be renewed for the following year.*

8 *“(2) PROCEDURES FOR DISCHARGE.—The super-*
9 *visor of a Bureau school may discharge (subject to*
10 *procedures established under paragraph (1)(B)) for*
11 *cause (as determined under regulations prescribed by*
12 *the Secretary) any educator employed in such school.*
13 *Upon giving notice of proposed discharge to an educa-*
14 *tor, the supervisor involved shall immediately notify*
15 *the local school board for the school of such action. A*
16 *determination by the local school board that such edu-*
17 *cator shall not be discharged shall be followed by the*
18 *supervisor. The supervisor shall have the right to ap-*
19 *peal such action to the education line officer of the*
20 *appropriate agency office of the Bureau. Upon such*
21 *an appeal, the agency education line officer may, for*
22 *good cause and in writing to the local school board,*
23 *overturn the determination of the local school board*
24 *with respect to the employment of such individual.*

1 “(3) *RECOMMENDATIONS OF SCHOOL BOARDS*
2 *FOR DISCHARGE.*—*Each local school board for a Bu-*
3 *reau school shall have the right—*

4 “(A) *to recommend to the supervisor of such*
5 *school that an educator employed in the school be*
6 *discharged; and*

7 “(B) *to recommend to the education line of-*
8 *ficer of the appropriate agency office of the Bu-*
9 *reau and to the Director of the Office, that the*
10 *supervisor of the school be discharged.*

11 “(f) *APPLICABILITY OF INDIAN PREFERENCE LAWS.*—

12 “(1) *IN GENERAL.*—*Notwithstanding any provi-*
13 *sion of the Indian preference laws, such laws shall not*
14 *apply in the case of any personnel action under this*
15 *section respecting an applicant or employee not enti-*
16 *tled to Indian preference if each tribal organization*
17 *concerned grants a written waiver of the application*
18 *of such laws with respect to such personnel action and*
19 *states that such waiver is necessary. This paragraph*
20 *shall not relieve the Bureau’s responsibility to issue*
21 *timely and adequate announcements and advertise-*
22 *ments concerning any such personnel action if such*
23 *action is intended to fill a vacancy (no matter how*
24 *such vacancy is created).*

1 “(2) *TRIBAL ORGANIZATION DEFINED.*—*For pur-*
2 *poses of this subsection, the term ‘tribal organization’*
3 *means—*

4 “(A) *the recognized governing body of any*
5 *Indian tribe, band, nation, pueblo, or other orga-*
6 *nized community, including a Native village (as*
7 *defined in section 3(c) of the Alaska Native*
8 *Claims Settlement Act); or*

9 “(B) *in connection with any personnel ac-*
10 *tion referred to in this subsection, any local*
11 *school board as defined in section 1141 which*
12 *has been delegated by such governing body the*
13 *authority to grant a waiver under this sub-*
14 *section with respect to personnel action.*

15 “(3) *INDIAN PREFERENCE LAW DEFINED.*—*The*
16 *term ‘Indian preference laws’ means section 12 of the*
17 *Act of June 18, 1934, or any other provision of law*
18 *granting a preference to Indians in promotions and*
19 *other personnel actions. Such term shall not include*
20 *section 7(b) of the Indian Self-Determination and*
21 *Education Assistance Act.*

22 “(g) *COMPENSATION OR ANNUAL SALARY.*—

23 “(1) *IN GENERAL.*—(A) *Except as otherwise pro-*
24 *vided in this section, the Secretary shall fix the basic*
25 *compensation for educators and education positions*

1 *at rates in effect under the General Schedule for indi-*
2 *viduals with comparable qualifications, and holding*
3 *comparable positions, to whom chapter 51 of title 5,*
4 *United States Code, is applicable or on the basis of*
5 *the Federal Wage System schedule in effect for the lo-*
6 *cality, and for the comparable positions, the rates of*
7 *compensation in effect for the senior executive service.*

8 *“(B) The Secretary shall establish the rate of*
9 *basic compensation, or annual salary rates, for the*
10 *positions of teachers and counselors (including dor-*
11 *mitory counselors and home-living counselors) at the*
12 *rates of basic compensation applicable (on the date of*
13 *the enactment of the No Child Left Behind Act of*
14 *2001 and thereafter) to comparable positions in the*
15 *overseas schools under the Defense Department Over-*
16 *seas Teachers Pay Act. The Secretary shall allow the*
17 *local school boards authority to implement only the*
18 *aspects of the Defense Department Overseas Teacher*
19 *pay provisions that are considered essential for re-*
20 *ruitment and retention. Implementation of such pro-*
21 *visions shall not be construed to require the imple-*
22 *mentation of the Act in its entirety.*

23 *“(C)(i) Beginning with the fiscal year following*
24 *the date of the enactment of the No Child Left Behind*
25 *Act of 2001, each school board may set the rate of*

1 *compensation or annual salary rate for teachers and*
2 *counselors (including academic counselors) who are*
3 *new hires at the school and who have not worked at*
4 *the school on the date of implementation of this provi-*
5 *sion, at rates consistent with the rates paid for indi-*
6 *viduals in the same positions, with the same tenure*
7 *and training, in any other school within whose*
8 *boundaries the Bureau school lies. In instances where*
9 *the adoption of such rates cause a reduction in the*
10 *payment of compensation from that which was in ef-*
11 *fect for the fiscal year following the date of the enact-*
12 *ment of the No Child Left Behind Act of 2001, the*
13 *new rate may be applied to the compensation of em-*
14 *ployees of the school who worked at the school on of*
15 *the date of the enactment of that Act by applying*
16 *those rates to each contract renewal such that the re-*
17 *duction takes effect in three equal installments. Where*
18 *adoption of such rates lead to an increase in the pay-*
19 *ment of compensation from that which was in effect*
20 *for the fiscal year following the date of the enactment*
21 *of the No Child Left Behind Act of 2001, the school*
22 *board may make such rates applicable at the next*
23 *contract renewal such that either—*

24 “(I) the increase occurs in its entirety; or

1 “(II) the increase is applied in three equal
2 installments.

3 “(i) The establishment of rates of basic com-
4 pensation and annual salary rates under subpara-
5 graphs (B) and (C) shall not preclude the use of regu-
6 lations and procedures used by the Bureau prior to
7 April 28, 1988, in making determinations regarding
8 promotions and advancements through levels of pay
9 that are based on the merit, education, experience, or
10 tenure of the educator.

11 “(D) The establishment of rates of basic com-
12 pensation and annual salary rates under subpara-
13 graphs (B) and (C) shall not affect the continued em-
14 ployment or compensation of an educator who was
15 employed in an education position on October 31,
16 1979, and who did not make an election under sub-
17 section (p) is in effect on January 1, 1990.

18 “(2) POST-DIFFERENTIAL RATES.—(A) The Sec-
19 retary may pay a post-differential rate not to exceed
20 25 percent of the rate of basic compensation, on the
21 basis of conditions of environment or work which
22 warrant additional pay as a recruitment and reten-
23 tion incentive.

24 “(B)(i) Upon the request of the supervisor and
25 the local school board of a Bureau school, the Sec-

1 *retary shall grant the supervisor of the school author-*
2 *ization to provide one or more post-differentials under*
3 *subparagraph (A) unless the Secretary determines for*
4 *clear and convincing reasons (and advises the board*
5 *in writing of those reasons) that certain of the re-*
6 *quested post-differentials should be disapproved or de-*
7 *creased because there is no disparity of compensation*
8 *for the involved employees or positions in the Bureau*
9 *school, as compared with the nearest public school,*
10 *that is either—*

11 *“(I) at least 5 percent; or*

12 *“(II) less than 5 percent and affects the re-*
13 *ruitment or retention of employees at the school.*

14 *“(ii) A request under clause (i) shall be deemed*
15 *granted at the end of the 60th day after the request*
16 *is received in the Central Office of the Bureau unless*
17 *before that time the request is approved, approved*
18 *with modification, or disapproved by the Secretary.*

19 *“(iii) The Secretary or the supervisor of a Bu-*
20 *reau school may discontinue or decrease a post-dif-*
21 *ferential authorized under this subparagraph at the*
22 *beginning of a school year if—*

23 *“(I) the local school board requests that such*
24 *differential be discontinued or decreased; or*

1 “(II) the Secretary or the supervisor deter-
2 mines for clear and convincing reasons (and ad-
3 vises the board in writing of those reasons) that
4 there is no disparity of compensation that would
5 affect the recruitment or retention of employees
6 at the school after the differential is discontinued
7 or decreased.

8 “(iv) On or before February 1 of each year, the
9 Secretary shall submit to Congress a report describing
10 the requests and grants of authority under this sub-
11 paragraph during the previous year and listing the
12 positions contracted under those grants of authority.

13 “(h) *LIQUIDATION OF REMAINING LEAVE UPON TER-*
14 *MINATION.*—Upon termination of employment with the Bu-
15 *reau, any annual leave remaining to the credit of an indi-*
16 *vidual within the purview of this section shall be liquidated*
17 *in accordance with sections 5551(a) and 6306 of title 5,*
18 *United States Code, except that leave earned or accrued*
19 *under regulations prescribed pursuant to subsection (b)(10)*
20 *of this section shall not be so liquidated.*

21 “(i) *TRANSFER OF REMAINING SICK LEAVE UPON*
22 *TRANSFER, PROMOTION, OR REEMPLOYMENT.*—In the case
23 *of any educator who is transferred, promoted, or re-*
24 *appointed, without break in service, to a position in the*
25 *Federal Government under a different leave system, any re-*

1 *maintaining leave to the credit of such person earned or credited*
2 *under the regulations prescribed pursuant to subsection*
3 *(b)(10) shall be transferred to such person's credit in the*
4 *employing agency on an adjusted basis in accordance with*
5 *regulations which shall be prescribed by the Office of Per-*
6 *sonnel Management.*

7 “(j) *INELIGIBILITY FOR EMPLOYMENT OF VOLUN-*
8 *TARILY TERMINATED EDUCATORS.—An educator who vol-*
9 *untarily terminates employment with the Bureau before the*
10 *expiration of the existing employment contract between such*
11 *educator and the Bureau shall not be eligible to be employed*
12 *in another education position in the Bureau during the re-*
13 *mainder of the term of such contract.*

14 “(k) *DUAL COMPENSATION.—In the case of any educa-*
15 *tor employed in an education position described in sub-*
16 *section (l)(1)(A) who—*

17 “(1) *is employed at the close of a school year;*

18 “(2) *agrees in writing to serve in such position*
19 *for the next school year; and*

20 “(3) *is employed in another position during the*
21 *recess period immediately preceding such next school*
22 *year, or during such recess period receives additional*
23 *compensation referred to in section 5533 of title 5,*
24 *United States Code, relating to dual compensation,*

1 *shall not apply to such educator by reason of any such em-*
2 *ployment during a recess period for any receipt of addi-*
3 *tional compensation.*

4 “(l) *VOLUNTARY SERVICES.*—*Notwithstanding section*
5 *1342 of title 31, United States Code, the Secretary may,*
6 *subject to the approval of the local school board concerned,*
7 *accept voluntary services on behalf of Bureau schools. Noth-*
8 *ing in this part shall be construed to require Federal em-*
9 *ployees to work without compensation or to allow the use*
10 *of volunteer services to displace or replace Federal employ-*
11 *ees. An individual providing volunteer services under this*
12 *section is a Federal employee only for purposes of chapter*
13 *81 of title 5, United States Code, and chapter 171 of title*
14 *28, United States Code.*

15 “(m) *PRORATION OF PAY.*—

16 “(1) *ELECTION OF EMPLOYEE.*—*Notwithstanding*
17 *any other provision of law, including laws relating to*
18 *dual compensation, the Secretary, at the election of*
19 *the employee, shall prorate the salary of an employee*
20 *employed in an education position for the academic*
21 *school year over the entire 12-month period. Each ed-*
22 *ucator employed for the academic school year shall*
23 *annually elect to be paid on a 12-month basis or for*
24 *those months while school is in session. No educator*
25 *shall suffer a loss of pay or benefits, including benefits*

1 *under unemployment or other Federal or federally as-*
2 *sisted programs, because of such election.*

3 “(2) *CHANGE OF ELECTION.*—*During the course*
4 *of such year the employee may change election once.*

5 “(3) *LUMP SUM PAYMENT.*—*That portion of the*
6 *employee’s pay which would be paid between aca-*
7 *demie school years may be paid in a lump sum at*
8 *the election of the employee.*

9 “(4) *DEFINITIONS.*—*For purposes of this sub-*
10 *section, the terms ‘educator’ and ‘education position’*
11 *have the meanings contained in paragraphs (1) and*
12 *(2) of subsection (o). This subsection applies to those*
13 *individuals employed under the provisions of section*
14 *1132 of this title or title 5, United States Code.*

15 “(n) *EXTRACURRICULAR ACTIVITIES.*—

16 “(1) *STIPEND.*—*Notwithstanding any other pro-*
17 *vision of law, the Secretary may provide, for each*
18 *Bureau area, a stipend in lieu of overtime premium*
19 *pay or compensatory time off. Any employee of the*
20 *Bureau who performs additional activities to provide*
21 *services to students or otherwise support the school’s*
22 *academic and social programs may elect to be com-*
23 *pensated for all such work on the basis of the stipend.*
24 *Such stipend shall be paid as a supplement to the em-*
25 *ployee’s base pay.*

1 “(2) *ELECTION NOT TO RECEIVE STIPEND.*—If
2 *an employee elects not to be compensated through the*
3 *stipend established by this subsection, the appropriate*
4 *provisions of title 5, United States Code, shall apply.*

5 “(3) *APPLICABILITY OF SUBSECTION.*—This sub-
6 *section applies to all Bureau employees, whether em-*
7 *ployed under section 1132 of this title or title 5,*
8 *United States Code.*

9 “(o) *DEFINITIONS.*—For the purpose of this section—

10 “(1) *EDUCATION POSITION.*—The term ‘edu-
11 *cation position’ means a position in the Bureau the*
12 *duties and responsibilities of which—*

13 “(A) *are performed on a school-year basis*
14 *principally in a Bureau school and involve—*

15 “(i) *classroom or other instruction or*
16 *the supervision or direction of classroom or*
17 *other instruction;*

18 “(ii) *any activity (other than teaching)*
19 *which requires academic credits in edu-*
20 *cational theory and practice equal to the*
21 *academic credits in educational theory and*
22 *practice required for a bachelor’s degree in*
23 *education from an accredited institution of*
24 *higher education;*

1 “(iii) any activity in or related to the
2 field of education notwithstanding that aca-
3 demic credits in educational theory and
4 practice are not a formal requirement for
5 the conduct of such activity; or

6 “(iv) support services at, or associated
7 with, the site of the school; or

8 “(B) are performed at the agency level of
9 the Bureau and involve the implementation of
10 education-related programs other than the posi-
11 tion for agency superintendent for education.

12 “(2) *EDUCATOR*.—The term ‘educator’ means an
13 individual whose services are required, or who is em-
14 ployed, in an education position.

15 “(p) *COVERED INDIVIDUALS; ELECTION*.—This section
16 shall apply with respect to any educator hired after Novem-
17 ber 1, 1979 (and to any educator who elected for coverage
18 under that provision after November 1, 1979) and to the
19 position in which such individual is employed. The enact-
20 ment of this section shall not affect the continued employ-
21 ment of an individual employed on October 31, 1979 in
22 an education position, or such person’s right to receive the
23 compensation attached to such position.

1 **“SEC. 1133. COMPUTERIZED MANAGEMENT INFORMATION**
2 **SYSTEM.**

3 “(a) *ESTABLISHMENT OF SYSTEM.*—Not later than
4 July 1, 2003, the Secretary shall establish within the Office,
5 a computerized management information system, which
6 shall provide processing and information to the Office. The
7 information provided shall include information regard-
8 ing—

9 “(1) *student enrollment;*

10 “(2) *curriculum;*

11 “(3) *staffing;*

12 “(4) *facilities;*

13 “(5) *community demographics;*

14 “(6) *student assessment information;*

15 “(7) *information on the administrative and pro-*
16 *gram costs attributable to each Bureau program, di-*
17 *vided into discreet elements;*

18 “(8) *relevant reports;*

19 “(9) *personnel records;*

20 “(10) *finance and payroll; and*

21 “(11) *such other items as the Secretary deems*
22 *appropriate.*

23 “(b) *IMPLEMENTATION OF SYSTEM.*—Not later than
24 July 1, 2004, the Secretary shall complete implementation
25 of such a system at each field office and Bureau funded
26 school.

1 **“SEC. 1134. UNIFORM EDUCATION PROCEDURES AND PRAC-**
2 **TICES.**

3 *“The Secretary shall cause the various divisions of the*
4 *Bureau to formulate uniform procedures and practices with*
5 *respect to such concerns of those divisions as relate to edu-*
6 *cation, and shall report such practices and procedures to*
7 *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 shall*
12 *include opportunities for acquiring work experience prior*
13 *to actual work assignment.*

14 **“SEC. 1136. BIENNIAL REPORT; AUDITS.**

15 *“(a) BIENNIAL REPORTS.—The Secretary shall submit*
16 *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 Indian*
20 *education during the 2-year period covered by the report.*
21 *Such report shall contain suggestions for the improvement*
22 *of the Bureau educational system and for increasing tribal*
23 *or local Indian control of such system. Such report shall*
24 *also include the current status of tribally controlled commu-*
25 *nity colleges. The annual budget submission for the Bu-*
26 *reau’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 main-
7 tenance of tribally controlled community colleges eli-
8 gible for assistance under the Tribally Controlled
9 Community College Assistance Act of 1978 and rec-
10 ommendations with respect to meeting such needs and
11 costs; and

12 “(3) the plans required by sections 1121 (g),
13 1122(c), and 1125(b).

14 “(b) *FINANCIAL AND COMPLIANCE AUDITS.*—The In-
15 specter General of the Department of the Interior shall es-
16 tablish a system to ensure that financial and compliance
17 audits are conducted of each Bureau operated school at least
18 once in every 3 years. Audits of Bureau schools shall be
19 based upon the extent to which such school has complied
20 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 schools,
25 including such students’ right to privacy under the laws

1 *of the United States, such students' right to freedom of reli-*
2 *gion and expression, and such students' right to due process*
3 *in connection with disciplinary actions, suspensions, and*
4 *expulsions.*

5 **“SEC. 1138. REGULATIONS.**

6 “(a) *IN GENERAL.—The Secretary is authorized to*
7 *issue only such regulations as are necessary to ensure com-*
8 *pliance 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 Act*
17 *shall supersede any conflicting provisions of law (in-*
18 *cluding any conflicting regulations) in effect on the*
19 *day before the date of the enactment of this Act and*
20 *the Secretary is authorized to repeal any regulation*
21 *inconsistent with the provisions of this Act.*

22 “(2) *LEGAL AUTHORITY TO BE STATED.—Regu-*
23 *lations issued to implement this Act shall contain,*
24 *immediately following each substantive provision of*
25 *such regulations, citations to the particular section or*

1 *tion in the Federal Register together with such pro-*
2 *posed regulations.*

3 “(b) *DRAFT REGULATIONS.*—

4 “(1) *IN GENERAL.*—*After obtaining the advice*
5 *and recommendations described in subsection (a)(1)*
6 *and before publishing proposed regulations in the*
7 *Federal Register, the Secretary shall prepare draft*
8 *regulations implementing this part and the Tribally*
9 *Controlled Schools Act of 1988 and shall submit such*
10 *regulations to a negotiated rulemaking process. Par-*
11 *ticipants in the negotiations process shall be chosen*
12 *by the Secretary from individuals nominated by the*
13 *entities described in subsection (a)(1). To the max-*
14 *imum extent possible, the Secretary shall ensure that*
15 *the tribal representative membership chosen pursuant*
16 *to the preceding sentence reflects the proportionate*
17 *share of students from tribes served by the Bureau*
18 *funded school system. The negotiation process shall be*
19 *conducted in a timely manner in order that the final*
20 *regulations may issued by the Secretary no later than*
21 *18 months after the enactment of this section.*

22 “(2) *NOTIFICATION TO CONGRESS.*—*If draft reg-*
23 *ulations implementing this part and the Tribally*
24 *Controlled Schools Act of 1988 are not issued in final*
25 *form by the deadline provided in paragraph (1), the*

1 *Secretary shall notify the appropriate committees of*
2 *Congress of which draft regulations were not issued in*
3 *final form by the deadline and the reason such final*
4 *regulations were not issued.*

5 “(3) *EXPANSION OF NEGOTIATED RULE-*
6 *MAKING.—All regulations pertaining to this part and*
7 *the Tribally Controlled Schools Act of 1988 that are*
8 *promulgated after the date of the enactment of this*
9 *subsection shall be subject to a negotiated rulemaking*
10 *(including the selection of the regulations to be nego-*
11 *tiated), unless the Secretary determines that applying*
12 *such a requirement with respect to given regulations*
13 *is impracticable, unnecessary, or contrary to the pub-*
14 *lic interest (within the meaning of section*
15 *553(b)(3)(B) of title 5), and publishes the basis for*
16 *such determination in the Federal Register at the*
17 *same time as the proposed regulations in question are*
18 *first published. All published proposed regulations*
19 *shall conform to agreements resulting from such nego-*
20 *tiated rulemaking unless the Secretary reopens the ne-*
21 *gotiated rulemaking process or provides a written ex-*
22 *planation to the participants in that process why the*
23 *Secretary has decided to depart from such agreements.*
24 *Such negotiated rulemaking shall be conducted in ac-*
25 *cordance with the provisions of subsection (a), and*

1 *the Secretary shall ensure that a clear and reliable*
2 *record of agreements reached during the negotiation*
3 *process is maintained.*

4 “(c) *APPLICABILITY OF FEDERAL ADVISORY COM-*
5 *MITTEE ACT.*—*The Federal Advisory Committee Act shall*
6 *apply to activities carried out under this section.*

7 **“SEC. 1139. EARLY CHILDHOOD DEVELOPMENT PROGRAM.**

8 “(a) *IN GENERAL.*—*The Secretary shall provide grants*
9 *to tribes, tribal organizations, and consortia of tribes and*
10 *tribal organizations to fund early childhood development*
11 *programs that are operated by such tribes, organizations,*
12 *or consortia.*

13 “(b) *AMOUNT OF GRANTS.*—

14 “(1) *IN GENERAL.*—*The total amount of the*
15 *grants provided under subsection (a) with respect to*
16 *each tribe, tribal organization, or consortium of tribes*
17 *or tribal organizations for each fiscal year shall be*
18 *equal to the amount which bears the same relation-*
19 *ship to the total amount appropriated under the au-*
20 *thority of subsection (g) for such fiscal year (less*
21 *amounts provided under subsection (f)) as—*

22 “(A) *the total number of children under 6*
23 *years of age who are members of—*

24 “(i) *such tribe;*

1 “(ii) the tribe that authorized such
2 tribal organization; or

3 “(iii) any tribe that—

4 “(I) is a member of such consor-
5 tium; or

6 “(II) authorizes any tribal orga-
7 nization that is a member of such con-
8 sortium; bears to

9 “(B) the total number of all children under
10 6 years of age who are members of any tribe
11 that—

12 “(i) is eligible to receive funds under
13 subsection (a);

14 “(ii) is a member of a consortium that
15 is eligible to receive such funds; or

16 “(iii) authorizes a tribal organization
17 that is eligible to receive such funds.

18 “(2) *LIMITATION*.—No grant may be provided
19 under subsection (a)—

20 “(A) to any tribe that has less than 500
21 members;

22 “(B) to any tribal organization which is
23 authorized—

24 “(i) by only one tribe that has less
25 than 500 members; or

1 “(ii) by one or more tribes that have a
2 combined total membership of less than 500
3 members; or

4 “(C) to any consortium composed of tribes,
5 or tribal organizations authorized by tribes, that
6 have a combined total tribal membership of less
7 than 500 members.

8 “(c) APPLICATION.

9 “(1) IN GENERAL.—A grant may be provided
10 under subsection (a) to a tribe, tribal organization, or
11 consortia of tribes and tribal organizations only if the
12 tribe, organization, or consortia submits to the Sec-
13 retary an application for the grant at such time and
14 in such form as the Secretary shall prescribe.

15 “(2) CONTENTS.—Applications submitted under
16 paragraph (1) shall set forth the early childhood de-
17 velopment program that the applicant desires to oper-
18 ate.

19 “(d) REQUIREMENT OF PROGRAMS FUNDED.—The
20 early childhood development programs that are funded by
21 grants provided under subsection (a)—

22 “(1) shall coordinate existing programs and may
23 provide services that meet identified needs of parents
24 and children under 6 years of age which are not being
25 met by existing programs, including—

1 “(A) prenatal care;

2 “(B) nutrition education;

3 “(C) health education and screening;

4 “(D) family literacy services;

5 “(E) educational testing; and

6 “(F) other educational services;

7 “(2) may include instruction in the language,
8 art, and culture of the tribe; and

9 “(3) shall provide for periodic assessment of the
10 program.

11 “(e) COORDINATION OF FAMILY LITERACY PRO-
12 GRAMS.—Family literacy programs operated under this
13 section and other family literacy programs operated by the
14 Bureau of Indian Affairs shall be coordinated with family
15 literacy programs for Indian children under part B of title
16 I of the Elementary and Secondary Education Act of 1965
17 in order to avoid duplication and to encourage the dissemi-
18 nation of information on quality family literacy programs
19 serving Indians.

20 “(f) ADMINISTRATIVE COSTS.—The Secretary shall,
21 out of funds appropriated under subsection (g), include in
22 the grants provided under subsection (a) amounts for ad-
23 ministrative costs incurred by the tribe, tribal organization,
24 or consortium of tribes in establishing and maintaining the
25 early childhood development program.

1 *former Indian reservations in Oklahoma) (including*
2 *all preschool, elementary, secondary, and higher or*
3 *vocational educational programs funded by tribal,*
4 *Federal, or other sources) by encouraging tribal ad-*
5 *ministrative support of all Bureau funded edu-*
6 *cational programs as well as encouraging tribal co-*
7 *operation and coordination with all educational pro-*
8 *grams receiving financial support from State agen-*
9 *cies, other Federal agencies, or private entities;*

10 *“(5) provide for the development and enforce-*
11 *ment of tribal educational codes, including tribal edu-*
12 *cational policies and tribal standards applicable to*
13 *curriculum, personnel, students, facilities, and sup-*
14 *port programs; and*

15 *“(6) otherwise comply with regulations for*
16 *grants under section 103(a) of the Indian Self-Deter-*
17 *mination and Educational Assistance Act that are in*
18 *effect on the date that application for such grants are*
19 *made.*

20 *“(c) PRIORITIES.—*

21 *“(1) IN GENERAL.—In making grants under this*
22 *section, the Secretary shall give priority to any appli-*
23 *cation that—*

24 *“(A) includes assurances from the majority*
25 *of Bureau funded schools located within the*

1 *boundaries of the reservation of the applicant*
2 *that the tribal department of education to be*
3 *funded under this section will provide coordi-*
4 *nating services and technical assistance to all of*
5 *such schools, including the submission to each*
6 *applicable agency of a unified application for*
7 *funding for all of such schools which provides*
8 *that—*

9 *“(i) no administrative costs other than*
10 *those attributable to the individual pro-*
11 *grams of such schools will be associated*
12 *with the unified application; and*

13 *“(ii) the distribution of all funds re-*
14 *ceived under the unified application will be*
15 *equal to the amount of funds provided by*
16 *the applicable agency to which each of such*
17 *schools is entitled under law;*

18 *“(B) includes assurances from the tribal*
19 *governing body that the tribal department of*
20 *education funded under this section will admin-*
21 *ister all contracts or grants (except those covered*
22 *by the other provisions of this title and the Trib-*
23 *ally Controlled Community College Assistance*
24 *Act of 1978) for education programs adminis-*

1 *tered by the tribe and will coordinate all of the*
2 *programs to the greatest extent possible;*

3 *“(C) includes assurances for the monitoring*
4 *and auditing by or through the tribal depart-*
5 *ment of education of all education programs for*
6 *which funds are provided by contract or grant to*
7 *ensure that the programs meet the requirements*
8 *of law; and*

9 *“(D) provides a plan and schedule for—*

10 *“(i) the assumption over the term of*
11 *the grant by the tribal department of edu-*
12 *cation of all assets and functions of the Bu-*
13 *reau agency office associated with the tribe,*
14 *insofar as those responsibilities relate to*
15 *education; and*

16 *“(ii) the termination by the Bureau of*
17 *such operations and office at the time of*
18 *such assumption,*

19 *except that when mutually agreeable between the*
20 *tribal governing body and the Assistant Sec-*
21 *retary, the period in which such assumption is*
22 *to occur may be modified, reduced, or extended*
23 *after the initial year of the grant.*

24 *“(2) TIME PERIOD OF GRANT.—Subject to the*
25 *availability of appropriated funds, grants provided*

1 *under this section shall be provided for a period of 3*
2 *years and the grant may, if performance by the*
3 *grantee is satisfactory to the Secretary, be renewed for*
4 *additional 3-year terms.*

5 *“(d) TERMS, CONDITIONS, OR REQUIREMENTS.—The*
6 *Secretary shall not impose any terms, conditions, or re-*
7 *quirements on the provision of grants under this section*
8 *that are not specified in this section.*

9 *“(e) AUTHORIZATION OF APPROPRIATIONS.—For the*
10 *purpose of carrying out the provisions of this section, there*
11 *are authorized to be appropriated \$2,000,000 for fiscal year*
12 *2002 and such sums as may be necessary for each of the*
13 *fiscal years 2003, 2004, 2005, and 2006.*

14 **“SEC. 1141. DEFINITIONS.**

15 *“For the purposes of this part, unless otherwise speci-*
16 *fied:*

17 *“(1) AGENCY SCHOOL BOARD.—The term ‘agency*
18 *school board’ means a body, the members of which are*
19 *appointed by all of the school boards of the schools lo-*
20 *located within an agency, including schools operated*
21 *under contract or grant, and the number of such*
22 *members shall be determined by the Secretary in con-*
23 *sultation with the affected tribes, except that, in agen-*
24 *cies serving a single school, the school board of such*
25 *school shall fulfill these duties, and in agencies having*

1 *schools or a school operated under contract or grant,*
2 *one such member at least shall be from such a school.*

3 “(2) *BUREAU.*—*The term ‘Bureau’ means the*
4 *Bureau of Indian Affairs of the Department of the In-*
5 *terior.*

6 “(3) *BUREAU FUNDED SCHOOL.*—*The term ‘Bu-*
7 *reau funded school’ means—*

8 “(A) *a Bureau school;*

9 “(B) *a contract or grant school; or*

10 “(C) *a school for which assistance is pro-*
11 *vided under the Tribally Controlled Schools Act*
12 *of 1988.*

13 “(4) *BUREAU SCHOOL.*—*The term ‘Bureau*
14 *school’ means a Bureau operated elementary or sec-*
15 *ondary day or boarding school or a Bureau operated*
16 *dormitory for students attending a school other than*
17 *a Bureau school.*

18 “(5) *CONTRACT OR GRANT SCHOOL.*—*The term*
19 *‘contract or grant school’ means an elementary or sec-*
20 *ondary school or dormitory which receives financial*
21 *assistance for its operation under a contract, grant or*
22 *agreement with the Bureau under section 102, 103(a),*
23 *or 208 of the Indian Self-Determination and Edu-*
24 *cation Assistance Act, or under the Tribally Con-*
25 *trolled Schools Act of 1988.*

1 “(6) *EDUCATION LINE OFFICER.*—*The term ‘edu-*
2 *cation line officer’ means education personnel under*
3 *the supervision of the Director, whether located in the*
4 *central, area, or agency offices.*

5 “(7) *FAMILY LITERACY SERVICES.*—*The term*
6 *‘family literacy services’ has the meaning given that*
7 *term in section 8101 of the Elementary and Sec-*
8 *ondary Education Act of 1965 (20 U.S.C. 8801).*

9 “(8) *FINANCIAL PLAN.*—*The term ‘financial*
10 *plan’ means a plan of services provided by each Bu-*
11 *reau school.*

12 “(9) *INDIAN ORGANIZATION.*—*the term ‘Indian*
13 *organization’ means any group, association, partner-*
14 *ship, corporation, or other legal entity owned or con-*
15 *trolled by a federally recognized Indian tribe or*
16 *tribes, or a majority of whose members are members*
17 *of federally recognized tribes.*

18 “(10) *LOCAL EDUCATIONAL AGENCY.*—*The term*
19 *‘local educational agency’ means a board of education*
20 *or other legally constituted local school authority hav-*
21 *ing administrative control and direction of free public*
22 *education in a county, township, independent, or*
23 *other school district located within a State, and in-*
24 *cludes any State agency which directly operates and*

1 *maintains facilities for providing free public edu-*
2 *cation.*

3 “(11) *LOCAL SCHOOL BOARD.*—*The term ‘local*
4 *school board’, when used with respect to a Bureau*
5 *school, means a body chosen in accordance with the*
6 *laws of the tribe to be served or, in the absence of such*
7 *laws, elected by the parents of the Indian children at-*
8 *tending the school, except that in schools serving a*
9 *substantial number of students from different tribes,*
10 *the members shall be appointed by the governing bod-*
11 *ies of the tribes affected, and the number of such*
12 *members shall be determined by the Secretary in con-*
13 *sultation with the affected tribes.*

14 “(12) *OFFICE.*—*The term ‘Office’ means the Of-*
15 *fice of Indian Education Programs within the Bu-*
16 *reau.*

17 “(13) *SECRETARY.*—*The term ‘Secretary’ means*
18 *the Secretary of the Interior.*

19 “(14) *SUPERVISOR.*—*The term ‘supervisor’*
20 *means the individual in the position of ultimate au-*
21 *thority at a Bureau school.*

22 “(15) *TRIBAL GOVERNING BODY.*—*The term*
23 *‘tribal governing body’ means, with respect to any*
24 *school, the tribal governing body, or tribal governing*

1 *bodies, that represent at least 90 percent of the stu-*
2 *dents served by such school.*

3 “(16) *TRIBE.*—*The term ‘tribe’ means any In-*
4 *Indian tribe, band, nation, or other organized group or*
5 *community, including any Alaska Native village or*
6 *regional or village corporation as defined in or estab-*
7 *lished pursuant to the Alaska Native Claims Settle-*
8 *ment Act, which is recognized as eligible for the spe-*
9 *cial programs and services provided by the United*
10 *States to Indians because of their status as Indians.”.*

11 **SEC. 314. TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.**

12 *Sections 5202 through 5212 of the Tribally Controlled*
13 *Schools Act of 1988 (25 U.S.C. 2501 et seq.) are amended*
14 *to read as follows:*

15 **“SEC. 5202. FINDINGS.**

16 *“Congress, after careful review of the Federal Govern-*
17 *ment’s historical and special legal relationship with, and*
18 *resulting responsibilities to, Indians, finds that—*

19 *“(1) the Indian Self-Determination and Edu-*
20 *cation Assistance Act, which was a product of the le-*
21 *gitimate aspirations and a recognition of the inherent*
22 *authority of Indian nations, was and is a crucial*
23 *positive step towards tribal and community control;*

24 *“(2) the Bureau of Indian Affairs’ administra-*
25 *tion and domination of the contracting process under*

1 *such Act has not provided the full opportunity to de-*
2 *velop leadership skills crucial to the realization of*
3 *self-government and has denied Indians an effective*
4 *voice in the planning and implementation of pro-*
5 *grams for the benefit of Indians which are responsive*
6 *to the true needs of Indian communities;*

7 *“(3) Indians will never surrender their desire to*
8 *control their relationships both among themselves and*
9 *with non-Indian governments, organizations, and*
10 *persons;*

11 *“(4) true self-determination in any society of*
12 *people is dependent upon an educational process*
13 *which will ensure the development of qualified people*
14 *to fulfill meaningful leadership roles;*

15 *“(5) the Federal administration of education for*
16 *Indian children has not effected the desired level of*
17 *educational achievement or created the diverse oppor-*
18 *tunities and personal satisfaction that education can*
19 *and should provide;*

20 *“(6) true local control requires the least possible*
21 *Federal interference; and*

22 *“(7) the time has come to enhance the concepts*
23 *made manifest in the Indian Self-Determination and*
24 *Education Assistance Act.*

1 **“SEC. 5203. DECLARATION OF POLICY.**

2 “(a) *RECOGNITION.*—Congress recognizes the obliga-
3 *tion of the United States to respond to the strong expression*
4 *of the Indian people for self-determination by assuring*
5 *maximum Indian participation in the direction of edu-*
6 *cational services so as to render such services more respon-*
7 *sive to the needs and desires of those communities.*

8 “(b) *COMMITMENT.*—Congress declares its commitment
9 *to the maintenance of the Federal Government’s unique and*
10 *continuing trust relationship with and responsibility to the*
11 *Indian people through the establishment of a meaningful*
12 *Indian self-determination policy for education which will*
13 *deter further perpetuation of Federal bureaucratic domina-*
14 *tion of programs.*

15 “(c) *NATIONAL GOAL.*—Congress declares that a major
16 *national goal of the United States is to provide the re-*
17 *sources, processes, and structure which will enable tribes*
18 *and local communities to effect the quantity and quality*
19 *of educational services and opportunities which will permit*
20 *Indian children to compete and excel in the life areas of*
21 *their choice and to achieve the measure of self-determination*
22 *essential to their social and economic well-being.*

23 “(d) *EDUCATIONAL NEEDS.*—Congress affirms the re-
24 *ality of the special and unique educational needs of Indian*
25 *peoples, including the need for programs to meet the lin-*

1 *guistic and cultural aspirations of Indian tribes and com-*
2 *munities. These may best be met through a grant process.*

3 “(e) *FEDERAL RELATIONS.*—Congress declares its
4 *commitment to these policies and its support, to the full*
5 *extent of its responsibility, for Federal relations with the*
6 *Indian Nations.*

7 “(f) *TERMINATION.*—Congress hereby repudiates and
8 *rejects House Resolution 108 of the 83d Congress and any*
9 *policy of unilateral termination of Federal relations with*
10 *any Indian Nation.*

11 **“SEC. 5204. GRANTS AUTHORIZED.**

12 “(a) *IN GENERAL.*—

13 “(1) *ELIGIBILITY.*—The Secretary shall provide
14 *grants to Indian tribes, and tribal organizations*
15 *that—*

16 “(A) *operate contract schools under title XI*
17 *of the Education Amendments of 1978 and no-*
18 *tify the Secretary of their election to operate the*
19 *schools with assistance under this part rather*
20 *than continuing as contract school;*

21 “(B) *operate other tribally controlled schools*
22 *eligible for assistance under this part and submit*
23 *applications (which are approved by their tribal*
24 *governing bodies) to the Secretary for such*
25 *grants; or*

1 “(C) elect to assume operation of Bureau
2 funded schools with the assistance under this
3 part and submit applications (which are ap-
4 proved by their tribal governing bodies) to the
5 Secretary for such grants.

6 “(2) DEPOSIT OF FUNDS.—Grants provided
7 under this part shall be deposited into the general op-
8 erating fund of the tribally controlled school with re-
9 spect to which the grant is made.

10 “(3) USE OF FUNDS.—(A) Except as otherwise
11 provided in this paragraph, grants provided under
12 this part shall be used to defray, at the discretion of
13 the school board of the tribally controlled school with
14 respect to which the grant is provided, any expendi-
15 tures for education related activities for which any
16 funds that compose the grant may be used under the
17 laws described in section 5205(a), including, but not
18 limited to, expenditures for—

19 “(i) school operations, academic, edu-
20 cational, residential, guidance and counseling,
21 and administrative purposes; and

22 “(ii) support services for the school, includ-
23 ing transportation.

24 “(B) Grants provided under this part may, at
25 the discretion of the school board of the tribally con-

1 *trolled school with respect to which such grant is pro-*
2 *vided, be used to defray operations and maintenance*
3 *expenditures for the school if any funds for the oper-*
4 *ation and maintenance of the school are allocated to*
5 *the school under the provisions of any of the laws de-*
6 *scribed in section 5205(a).*

7 *“(b) LIMITATIONS.—*

8 *“(1) ONE GRANT PER TRIBE OR ORGANIZATION*
9 *PER FISCAL YEAR.—Not more than one grant may be*
10 *provided under this part with respect to any Indian*
11 *tribe or tribal organization for any fiscal year.*

12 *“(2) NONSECTARIAN USE.—Funds provided*
13 *under any grant made under this part may not be*
14 *used in connection with religious worship or sec-*
15 *tarian instruction.*

16 *“(3) ADMINISTRATIVE COSTS LIMITATION.—*
17 *Funds provided under any grant under this part may*
18 *not be expended for administrative costs (as defined*
19 *in section 1128(h)(1) of the Education Amendments*
20 *of 1978) in excess of the amount generated for such*
21 *costs under section 1128 of such Act.*

22 *“(c) LIMITATION ON TRANSFER OF FUNDS AMONG*
23 *SCHOOLSITES.—*

1 “(1) *IN GENERAL.*—*In the case of a grantee that*
2 *operates schools at more than one schoolsite, the*
3 *grantee may expend not more than the lesser of—*

4 “(A) *10 percent of the funds allocated for*
5 *such schoolsite under section 1128 of the Edu-*
6 *cation Amendments of 1978; or*

7 “(B) *\$400,000 of such funds, at any other*
8 *schoolsite.*

9 “(2) *DEFINITION OF SCHOOLSITE.*—*For purposes*
10 *of this subsection, the term ‘schoolsite’ means the*
11 *physical location and the facilities of an elementary*
12 *or secondary educational or residential program oper-*
13 *ated by, or under contract or grant with, the Bureau*
14 *for which a discreet student count is identified under*
15 *the funding formula established under section 1127 of*
16 *the Education Amendments of 1978.*

17 “(d) *NO REQUIREMENT TO ACCEPT GRANTS.*—*Noth-*
18 *ing in this part may be construed—*

19 “(1) *to require a tribe or tribal organization to*
20 *apply for or accept; or*

21 “(2) *to allow any person to coerce any tribe or*
22 *tribal organization to apply for, or accept,*

23 *a grant under this part to plan, conduct, and administer*
24 *all of, or any portion of, any Bureau program. Such appli-*
25 *cations and the timing of such applications shall be strictly*

1 *voluntary. Nothing in this part may be construed as allow-*
2 *ing or requiring any grant with any entity other than the*
3 *entity to which the grant is provided.*

4 “(e) *NO EFFECT ON FEDERAL RESPONSIBILITY.—*
5 *Grants provided under this part shall not terminate, mod-*
6 *ify, suspend, or reduce the responsibility of the Federal Gov-*
7 *ernment to provide a program.*

8 “(f) *RETROCESSION.—*

9 “(1) *IN GENERAL.—Whenever a tribal governing*
10 *body requests retrocession of any program for which*
11 *assistance is provided under this part, such retroces-*
12 *sion shall become effective upon a date specified by*
13 *the Secretary that is not later than 120 days after the*
14 *date on which the tribal governing body requests the*
15 *retrocession. A later date as may be specified if mutu-*
16 *ally agreed upon by the Secretary and the tribal gov-*
17 *erning body. If such a program is retroceded, the Sec-*
18 *retary shall provide to any Indian tribe served by*
19 *such program at least the same quantity and quality*
20 *of services that would have been provided under such*
21 *program at the level of funding provided under this*
22 *part prior to the retrocession.*

23 “(2) *STATUS AFTER RETROCESSION.—The tribe*
24 *requesting retrocession shall specify whether the ret-*
25 *rocession is to status as a Bureau operated school or*

1 *as a school operated under contract under title XI of*
2 *the Education Amendments of 1978.*

3 “(3) *TRANSFER OF EQUIPMENT AND MATE-*
4 *RIALS.—Except as otherwise determined by the Sec-*
5 *retary, the tribe or tribal organization operating the*
6 *program to be retroceded must transfer to the Sec-*
7 *retary (or to the tribe or tribal organization which*
8 *will operate the program as a contract school) the ex-*
9 *isting equipment and materials which were ac-*
10 *quired—*

11 “(A) *with assistance under this part; or*

12 “(B) *upon assumption of operation of the*
13 *program under this part if the school was a Bu-*
14 *reau funded school under title XI of the Edu-*
15 *cation Amendments of 1978 before receiving as-*
16 *sistance under this part.*

17 “(g) *PROHIBITION OF TERMINATION FOR ADMINISTRA-*
18 *TIVE CONVENIENCE.—Grants provided under this part may*
19 *not be terminated, modified, suspended, or reduced solely*
20 *for the convenience of the administering agency.*

21 **“SEC. 5205. COMPOSITION OF GRANTS.**

22 “(a) *IN GENERAL.—The grant provided under this*
23 *part to an Indian tribe or tribal organization for any fiscal*
24 *year shall consist of—*

1 “(1) the total amount of funds allocated for such
2 fiscal year under sections 1127 and 1128 of the Edu-
3 cation Amendments of 1978 with respect to the trib-
4 ally controlled schools eligible for assistance under
5 this part which are operated by such Indian tribe or
6 tribal organization, including, but not limited to,
7 funds provided under such sections, or under any
8 other provision of law, for transportation costs;

9 “(2) to the extent requested by such Indian tribe
10 or tribal organization, the total amount of funds pro-
11 vided from operations and maintenance accounts and,
12 notwithstanding section 105 of the Indian Self-Deter-
13 mination Act, or any other provision of law, other fa-
14 cilities accounts for such schools for such fiscal year
15 (including but not limited to those referenced under
16 section 1126(d) of the Education Amendments of 1978
17 or any other law); and

18 “(3) the total amount of funds that are allocated
19 to such schools for such fiscal year under—

20 “(A) title I of the Elementary and Sec-
21 ondary Education Act of 1965;

22 “(B) the Individuals with Disabilities Edu-
23 cation Act; and

24 “(C) any other Federal education law, that
25 are allocated to such schools for such fiscal year.

1 “(b) *SPECIAL RULES.*—

2 “(1) *IN GENERAL.*—(A) *Funds allocated to a*
3 *tribally controlled school by reason of paragraph (1)*
4 *or (2) of subsection (a) shall be subject to the provi-*
5 *sions of this part and shall not be subject to any ad-*
6 *ditional restriction, priority, or limitation that is im-*
7 *posed by the Bureau with respect to funds provided*
8 *under—*

9 “(i) *title I of the Elementary and Sec-*
10 *ondary Education Act of 1965;*

11 “(ii) *the Individuals with Disabilities Edu-*
12 *cation Act; or*

13 “(iii) *any Federal education law other than*
14 *title XI of the Education Amendments of 1978.*

15 “(B) *Indian tribes and tribal organizations to*
16 *which grants are provided under this part, and trib-*
17 *ally controlled schools for which such grants are pro-*
18 *vided, shall not be subject to any requirements, obliga-*
19 *tions, restrictions, or limitations imposed by the Bu-*
20 *reau that would otherwise apply solely by reason of*
21 *the receipt of funds provided under any law referred*
22 *to in clause (i), (ii), or (iii) of subparagraph (A).*

23 “(2) *SCHOOLS CONSIDERED CONTRACT*
24 *SCHOOLS.*—*Tribally controlled schools for which*
25 *grants are provided under this part shall be treated*

1 *as contract schools for the purposes of allocation of*
2 *funds under sections 1126(d), 1127, and 1128 of the*
3 *Education Amendments of 1978.*

4 “(3) SCHOOLS CONSIDERED BUREAU
5 SCHOOLS.—*Tribally controlled schools for which*
6 *grants are provided under this chapter shall be treat-*
7 *ed as Bureau schools for the purposes of allocation of*
8 *funds provided under—*

9 “(A) *title I of the Elementary and Sec-*
10 *ondary Education Act of 1965;*

11 “(B) *the Individuals with Disabilities Edu-*
12 *cation Act; and*

13 “(C) *any other Federal education law, that*
14 *are distributed through the Bureau.*

15 “(4) ACCOUNTS; USE OF CERTAIN FUNDS.—(A)
16 *Notwithstanding section 5204(a)(2), with respect to*
17 *funds from facilities improvement and repair, alter-*
18 *ation and renovation (major or minor), health and*
19 *safety, or new construction accounts included in the*
20 *grant under section 5204(a), the grantee shall main-*
21 *tain a separate account for such funds. At the end of*
22 *the period designated for the work covered by the*
23 *funds received, the grantee shall submit to the Sec-*
24 *retary a separate accounting of the work done and the*
25 *funds expended to the Secretary. Funds received from*

1 *these accounts may only be used for the purpose for*
2 *which they were appropriated and for the work en-*
3 *compassed by the application or submission under*
4 *which they were received.*

5 *“(B) Notwithstanding subparagraph (A), a*
6 *school receiving a grant under this part for facilities*
7 *improvement and repair may use such grant funds*
8 *for new construction if the tribal government or other*
9 *organization provides funding for the new construc-*
10 *tion equal to at least 25 percent of the total cost of*
11 *such new construction.*

12 *“(C) Where the appropriations measure or the*
13 *application submission does not stipulate a period for*
14 *the work covered by the funds so designated, the Sec-*
15 *retary and the grantee shall consult and determine*
16 *such a period prior to the transfer of the funds. A pe-*
17 *riod so determined may be extended upon mutual*
18 *agreement of the Secretary and the grantee.*

19 *“(5) ENFORCEMENT OF REQUEST TO INCLUDE*
20 *FUNDS.—If the Secretary fails to carry out a request*
21 *made under subsection (a)(2) within 180 days of a*
22 *request filed by an Indian tribe or tribal organization*
23 *to include in such tribe or organization’s grant the*
24 *funds described in subsection (a)(2), the Secretary*
25 *shall be deemed to have approved such request and the*

1 *Secretary shall immediately amend the grant accord-*
2 *ingly. Such tribe or organization may enforce its*
3 *rights under subsection (a)(2) and this paragraph, in-*
4 *cluding any denial or failure to act on such tribe or*
5 *organization's request, pursuant to the disputes au-*
6 *thority described in section 5209(e).*

7 **“SEC. 5206. ELIGIBILITY FOR GRANTS.**

8 *“(a) RULES.—*

9 *“(1) IN GENERAL.—A tribally controlled school*
10 *is eligible for assistance under this part if the*
11 *school—*

12 *“(A) on April 28, 1988, was a contract*
13 *school under title XI of the Education Amend-*
14 *ments of 1978 and the tribe or tribal organiza-*
15 *tion operating the school submits to the Sec-*
16 *retary a written notice of election to receive a*
17 *grant under this part;*

18 *“(B) was a Bureau operated school under*
19 *title XI of the Education Amendments of 1978*
20 *and has met the requirements of subsection (b);*

21 *“(C) is a school for which the Bureau has*
22 *not provided funds, but which has met the re-*
23 *quirements of subsection (c); or*

1 “(D) is a school with respect to which an
2 election has been made under paragraph (2) and
3 which has met the requirements of subsection (b).

4 “(2) *NEW SCHOOLS.*—Any application which
5 has been submitted under the Indian Self-Determina-
6 tion and Education Assistance Act by an Indian tribe
7 for a school which is not in operation on the date of
8 the enactment of the No Child Left Behind Act of
9 2001 shall be reviewed under the guidelines and regu-
10 lations for applications submitted under the Indian
11 Self-Determination and Education Assistance Act
12 that were in effect at the time the application was
13 submitted, unless the Indian tribe or tribal organiza-
14 tion elects to have the application reviewed under the
15 provisions of subsection (b).

16 “(b) *ADDITIONAL REQUIREMENTS FOR BUREAU FUND-*
17 *ED SCHOOLS AND CERTAIN ELECTING SCHOOLS.*—

18 “(1) *BUREAU FUNDED SCHOOLS.*—A school that
19 was a Bureau funded school under title XI of the
20 Education Amendments of 1978 on the date of the en-
21 actment of the No Child Left Behind Act of 2001, and
22 any school with respect to which an election is made
23 under subsection (a)(2), meets the requirements of this
24 subsection if—

1 “(A) *the Indian tribe or tribal organization*
2 *that operates, or desires to operate, the school*
3 *submits to the Secretary an application request-*
4 *ing that the Secretary—*

5 “(i) *transfer operation of the school to*
6 *the Indian tribe or tribal organization, if*
7 *the Indian tribe or tribal organization is*
8 *not already operating the school; and*

9 “(ii) *make a determination as to*
10 *whether the school is eligible for assistance*
11 *under this part; and*

12 “(B) *the Secretary makes a determination*
13 *that the school is eligible for assistance under*
14 *this part.*

15 “(2) *CERTAIN ELECTING SCHOOLS.—(A) By not*
16 *later than the date that is 120 days after the date on*
17 *which an application is submitted to the Secretary*
18 *under paragraph (1)(A), the Secretary shall deter-*
19 *mine—*

20 “(i) *in the case of a school which is not*
21 *being operated by the Indian tribe or tribal or-*
22 *ganization, whether to transfer operation of the*
23 *school to the Indian tribe or tribal organization;*
24 *and*

1 “(i) whether the school is eligible for assist-
2 ance under this part.

3 “(B) In considering applications submitted
4 under paragraph (1)(A), the Secretary—

5 “(i) shall transfer operation of the school to
6 the Indian tribe or tribal organization, if the
7 tribe or tribal organization is not already oper-
8 ating the school; and

9 “(ii) shall determine that the school is eligi-
10 ble for assistance under this part, unless the Sec-
11 retary finds by clear and convincing evidence
12 that the services to be provided by the Indian
13 tribe or tribal organization will be deleterious to
14 the welfare of the Indians served by the school.

15 “(C) In considering applications submitted
16 under paragraph (1)(A), the Secretary shall consider
17 whether the Indian tribe or tribal organization would
18 be deficient in operating the school with respect to—

19 “(i) equipment;

20 “(ii) bookkeeping and accounting proce-
21 dures;

22 “(iii) ability to adequately manage a school;

23 or

24 “(iv) adequately trained personnel.

1 “(c) *ADDITIONAL REQUIREMENTS FOR A SCHOOL*
2 *WHICH IS NOT A BUREAU FUNDED SCHOOL.—*

3 “(1) *IN GENERAL.—A school which is not a Bu-*
4 *reau funded school under title XI of the Education*
5 *Amendments of 1978 meets the requirements of this*
6 *subsection if—*

7 “(A) *the Indian tribe or tribal organization*
8 *that operates, or desires to operate, the school*
9 *submits to the Secretary an application request-*
10 *ing a determination by the Secretary as to*
11 *whether the school is eligible for assistance under*
12 *this part; and*

13 “(B) *the Secretary makes a determination*
14 *that a school is eligible for assistance under this*
15 *part.*

16 “(2) *DEADLINE FOR DETERMINATION BY SEC-*
17 *RETARY.—(A) By not later than the date that is 180*
18 *days after the date on which an application is sub-*
19 *mitted to the Secretary under paragraph (1)(A), the*
20 *Secretary shall determine whether the school is eligible*
21 *for assistance under this part.*

22 “(B) *In making the determination under sub-*
23 *paragraph (A), the Secretary shall give equal consid-*
24 *eration to each of the following factors:*

1 “(i) with respect to the applicant’s pro-
2 posal—

3 “(I) the adequacy of facilities or the
4 potential to obtain or provide adequate fa-
5 cilities;

6 “(II) geographic and demographic fac-
7 tors in the affected areas;

8 “(III) adequacy of the applicant’s pro-
9 gram plans;

10 “(IV) geographic proximity of com-
11 parable public education; and

12 “(V) the needs as expressed by all af-
13 fected parties, including but not limited to
14 students, families, tribal governments at
15 both the central and local levels, and school
16 organizations; and

17 “(ii) with respect to all education services
18 already available—

19 “(I) geographic and demographic fac-
20 tors in the affected areas;

21 “(II) adequacy and comparability of
22 programs already available;

23 “(III) consistency of available pro-
24 grams with tribal education codes or tribal
25 legislation on education; and

1 “(IV) *the history and success of these*
2 *services for the proposed population to be*
3 *served, as determined from all factors in-*
4 *cluding, if relevant, standardized examina-*
5 *tion performance.*

6 “(C) *The Secretary may not make a deter-*
7 *mination under this paragraph that is pri-*
8 *marily based upon the geographic proximity of*
9 *comparable public education.*

10 “(D) *Applications submitted under para-*
11 *graph (1)(A) shall include information on the*
12 *factors described in subparagraph (B)(i), but the*
13 *applicant may also provide the Secretary such*
14 *information relative to the factors described in*
15 *subparagraph (B)(ii) as the applicant considers*
16 *appropriate.*

17 “(E) *If the Secretary fails to make a deter-*
18 *mination under subparagraph (A) with respect*
19 *to an application within 180 days after the date*
20 *on which the Secretary received the application,*
21 *the Secretary shall be treated as having made a*
22 *determination that the tribally controlled school*
23 *is eligible for assistance under the title and the*
24 *grant shall become effective 18 months after the*
25 *date on which the Secretary received the applica-*

1 tion, or on an earlier date, at the Secretary's
2 discretion.

3 “(d) *FILING OF APPLICATIONS AND REPORTS.*—

4 “(1) *IN GENERAL.*—All applications and reports
5 submitted to the Secretary under this part, and any
6 amendments to such applications or reports, shall be
7 filed with the education line officer designated by the
8 Director of the Office of Indian Education Programs
9 of the Bureau of Indian Affairs. The date on which
10 such filing occurs shall, for purposes of this part, be
11 treated as the date on which the application or
12 amendment was submitted to the Secretary.

13 “(2) *SUPPORTING DOCUMENTATION.*—Any appli-
14 cation that is submitted under this chapter shall be
15 accompanied by a document indicating the action
16 taken by the tribal governing body in authorizing
17 such application.

18 “(e) *EFFECTIVE DATE FOR APPROVED APPLICA-*
19 *TIONS.*—Except as provided by subsection (c)(2)(E), a
20 grant provided under this part, and any transfer of the op-
21 eration of a Bureau school made under subsection (b), shall
22 become effective beginning the academic year succeeding the
23 fiscal year in which the application for the grant or transfer
24 is made, or at an earlier date determined by the Secretary.

25 “(f) *DENIAL OF APPLICATIONS.*—

1 “(1) *IN GENERAL.*—Whenever the Secretary re-
2 fuses to approve a grant under this chapter, to trans-
3 fer operation of a Bureau school under subsection (b),
4 or determines that a school is not eligible for assist-
5 ance under this part, the Secretary shall—

6 “(A) state the objections in writing to the
7 tribe or tribal organization within the allotted
8 time;

9 “(B) provide assistance to the tribe or tribal
10 organization to overcome all stated objections.

11 “(C) at the request of the tribe or tribal or-
12 ganization, provide the tribe or tribal organiza-
13 tion a hearing on the record under the same
14 rules and regulations that apply under the In-
15 dian Self-Determination and Education Assist-
16 ance Act; and

17 “(D) provide an opportunity to appeal the
18 objection raised.

19 “(2) *TIMELINE FOR RECONSIDERATION OF*
20 *AMENDED APPLICATIONS.*—The Secretary shall recon-
21 sider any amended application submitted under this
22 part within 60 days after the amended application is
23 submitted to the Secretary.

24 “(g) *REPORT.*—The Bureau shall submit an annual
25 report to the Congress on all applications received, and ac-

1 tions taken (including the costs associated with such ac-
2 tions), under this section at the same time that the Presi-
3 dent is required to submit to Congress the budget under sec-
4 tion 1105 of title 31, United States Code.

5 **“SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION.**

6 “(a) *IN GENERAL.*—If the Secretary determines that
7 a tribally controlled school is eligible for assistance under
8 this part, the eligibility determination shall remain in effect
9 until the determination is revoked by the Secretary, and
10 the requirements of subsection (b) or (c) of section 5206,
11 if applicable, shall be considered to have been met with re-
12 spect to such school until the eligibility determination is
13 revoked by the Secretary.

14 “(b) *ANNUAL REPORTS.*—

15 “(1) *IN GENERAL.*—Each recipient of a grant
16 provided under this part shall complete an annual re-
17 port which shall be limited to—

18 “(A) an annual financial statement report-
19 ing revenue and expenditures as defined by the
20 cost accounting established by the grantee;

21 “(B) an annual financial audit conducted
22 pursuant to the standards of the Single Audit
23 Act of 1984;

24 “(C) an annual submission to the Secretary
25 of the number of students served and a brief de-

1 *scription of programs offered under the grant;*
2 *and*

3 “(D) *a program evaluation conducted by an*
4 *impartial evaluation review team, to be based on*
5 *the standards established for purposes of sub-*
6 *section (c)(1)(A)(ii).*

7 “(2) *EVALUATION REVIEW TEAMS.—Where ap-*
8 *propriate, other tribally controlled schools and rep-*
9 *resentatives of tribally controlled community colleges*
10 *shall make up members of the evaluation review*
11 *teams.*

12 “(3) *EVALUATIONS.—In the case of a school*
13 *which is accredited, evaluations will be conducted at*
14 *intervals under the terms of accreditation.*

15 “(4) *SUBMISSION OF REPORT.—*

16 “(A) *TO TRIBALLY GOVERNING BODY.—*
17 *Upon completion of the report required under*
18 *paragraph (a), the recipient of the grant shall*
19 *send (via first class mail, return receipt re-*
20 *quested) a copy of such annual report to the trib-*
21 *al governing body (as defined in section 1132(f)*
22 *of the Education Amendments of 1978) of the*
23 *tribally controlled school.*

24 “(B) *TO SECRETARY.—Not later than 30*
25 *days after receiving written confirmation that*

1 *the tribal governing body has received the report*
2 *send pursuant to subsection (A), the recipient of*
3 *the grant shall send a copy of the report to the*
4 *Secretary.*

5 “(c) *REVOCATION OF ELIGIBILITY.*—

6 “(1) *IN GENERAL.*—(A) *The Secretary shall not*
7 *revoke a determination that a school is eligible for as-*
8 *sistance under this part if—*

9 “(i) *the Indian tribe or tribal organization*
10 *submits the reports required under subsection (b)*
11 *with respect to the school; and*

12 “(ii) *at least one of the following subclauses*
13 *applies with respect to the school:*

14 “(I) *The school is certified or accred-*
15 *ited by a State or regional accrediting asso-*
16 *ciation or is a candidate in good standing*
17 *for such accreditation under the rules of the*
18 *State or regional accrediting association,*
19 *showing that credits achieved by the stu-*
20 *dents within the education programs are, or*
21 *will be, accepted at grade level by a State*
22 *certified or regionally accredited institution.*

23 “(II) *A determination made by the*
24 *Secretary that there is a reasonable expecta-*
25 *tion that the accreditation described in sub-*

1 *clause (I), or the candidacy in good stand-*
2 *ing for such accreditation, will be reached*
3 *by the school within 3 years and that the*
4 *program offered by the school is beneficial to*
5 *the Indian students.*

6 *“(III) The school is accredited by a*
7 *tribal department of education if such ac-*
8 *creditation is accepted by a generally recog-*
9 *nized regional or State accreditation agen-*
10 *cy.*

11 *“(IV) The schools accept the standards*
12 *promulgated under section 1121 of the Edu-*
13 *cation Amendments of 1978 and an evalua-*
14 *tion of performance is conducted under this*
15 *section in conformance with the regulations*
16 *pertaining to Bureau operated schools by*
17 *an impartial evaluator chosen by the grant-*
18 *ee, but no grantee shall be required to com-*
19 *ply with these standards to a higher degree*
20 *than a comparable Bureau operated school.*

21 *“(V) A positive evaluation of the school*
22 *is conducted by an impartial evaluator*
23 *agreed upon by the Secretary and the grant-*
24 *ee every 2 years under standards adopted*
25 *by the contractor under a contract for a*

1 *school entered into under the Indian Self-*
2 *Determination and Education Assistance*
3 *Act (or revisions of such standards agreed to*
4 *by the Secretary and the grantee) prior to*
5 *the date of the enactment of this Act. If the*
6 *Secretary and the grantee other than the*
7 *tribal governing body fail to agree on such*
8 *an evaluator, the tribal governing body*
9 *shall choose the evaluator or perform the*
10 *evaluation. If the Secretary and a grantee*
11 *which is the tribal governing body fail to*
12 *agree on such an evaluator, this subclause*
13 *shall not apply.*

14 “(B) *The choice of standards employed for the*
15 *purpose of subparagraph (A)(ii) shall be consistent*
16 *with section 1121(e) of the Education Amendments of*
17 *1978.*

18 “(2) *NOTICE REQUIREMENTS FOR REVOCA-*
19 *TION.—The Secretary shall not revoke a determina-*
20 *tion that a school is eligible for assistance under this*
21 *part, or reassume control of a school that was a Bu-*
22 *reau school prior to approval of an application sub-*
23 *mitted under section 5206(b)(1)(A) until the Sec-*
24 *retary—*

1 “(A) provides notice to the tribally con-
2 trolled school and the tribal governing body
3 (within the meaning of section 1141(14) of the
4 Education Amendments of 1978) of the tribally
5 controlled school which states—

6 “(i) the specific deficiencies that led to
7 the revocation or resumption determination;
8 and

9 “(ii) the actions that are needed to
10 remedy such deficiencies; and

11 “(B) affords such authority an opportunity
12 to effect the remedial actions.

13 “(3) TECHNICAL ASSISTANCE.—The Secretary
14 shall provide such technical assistance as is prac-
15 ticable to effect such remedial actions. Such notice
16 and technical assistance shall be in addition to a
17 hearing and appeal to be conducted pursuant to the
18 regulations described in section 5206(f)(1)(C).

19 “(d) APPLICABILITY OF SECTION PURSUANT TO ELEC-
20 TION UNDER SECTION 5209(b).—With respect to a tribally
21 controlled school which receives assistance under this part
22 pursuant to an election made under section 5209(b)—

23 “(1) subsection (b) of this section shall apply;
24 and

1 “(2) *the Secretary may not revoke eligibility for*
2 *assistance under this part except in conformance with*
3 *subsection (c) of this section.*

4 **“SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS.**

5 “(a) *PAYMENTS.—*

6 “(1) *IN GENERAL.—Except as otherwise provided*
7 *in this subsection, the Secretary shall make payments*
8 *to grantees under this part in two payments, of*
9 *which—*

10 “(A) *the first payment shall be made not*
11 *later than July 15 of each year in an amount*
12 *equal to 85 percent of the amount which the*
13 *grantee was entitled to receive during the pre-*
14 *ceding academic year; and*

15 “(B) *the second payment, consisting of the*
16 *remainder to which the grantee is entitled for the*
17 *academic year, shall be made not later than De-*
18 *cember 1 of each year.*

19 “(2) *NEWLY FUNDED SCHOOLS.—For any school*
20 *for which no payment under this part was made from*
21 *Bureau funds in the preceding academic year, full*
22 *payment of the amount computed for the first aca-*
23 *demie year of eligibility under this part shall be made*
24 *not later than December 1 of the academic year.*

1 “(3) *LATE FUNDING.*—*With regard to funds for*
2 *grantees that become available for obligation on Octo-*
3 *ber 1 of the fiscal year for which such funds are ap-*
4 *propriated, the Secretary shall make payments to*
5 *grantees not later than December 1 of the fiscal year.*

6 “(4) *APPLICABILITY OF CERTAIN TITLE 31 PROVI-*
7 *SIONS.*—*The provisions of chapter 39 of Title 31,*
8 *United States Code, shall apply to the payments re-*
9 *quired to be made by paragraphs (1), (2), and (3).*

10 “(5) *RESTRICTIONS.*—*Paragraphs (1), (2), and*
11 *(3) shall be subject to any restriction on amounts of*
12 *payments under this part that are imposed by a con-*
13 *tinuing resolution or other Act appropriating the*
14 *funds involved.*

15 “(b) *INVESTMENT OF FUNDS.*—

16 “(1) *TREATMENT OF INTEREST AND INVESTMENT*
17 *INCOME.*—*Notwithstanding any other provision of*
18 *law, any interest or investment income that accrues*
19 *to any funds provided under this part after such*
20 *funds are paid to the Indian tribe or tribal organiza-*
21 *tion and before such funds are expended for the pur-*
22 *pose for which such funds were provided under this*
23 *part shall be the property of the Indian tribe or tribal*
24 *organization and shall not be taken into account by*
25 *any officer or employee of the Federal Government in*

1 *determining whether to provide assistance, or the*
2 *amount of assistance, under any provision of Federal*
3 *law. Such interest income shall be spent on behalf of*
4 *the school.*

5 “(2) *PERMISSIBLE INVESTMENTS.*—*Funds pro-*
6 *vided under this part may be invested by the Indian*
7 *tribe or tribal organization before such funds are ex-*
8 *pende*d *for the purposes of this part so long as such*
9 *funds are—*

10 “(A) *invested by the Indian tribe or tribal*
11 *organization only in obligations of the United*
12 *States, or in obligations or securities that are*
13 *guaranteed or insured by the United States, or*
14 *mutual (or other) funds registered with the Secu-*
15 *rities and Exchange Commission and which only*
16 *invest in obligations of the United States, or se-*
17 *curities that are guaranteed or insured by the*
18 *United States; or*

19 “(B) *deposited only into accounts that are*
20 *insure* *by and agency or instrumentality of the*
21 *United States, or are fully collateralized to en-*
22 *sure protection of the funds, even in the event of*
23 *a bank failure.*

24 “(c) *RECOVERIES.*—*For the purposes of underrecovery*
25 *and overrecovery determinations by any Federal agency for*

1 *any other funds, from whatever source derived, funds re-*
2 *ceived under this part shall not be taken into consideration.*

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 grants*
10 *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 stand-*
16 *ards).*

17 *“(4) Section 104 (relating to retention of Federal*
18 *employee coverage).*

19 *“(5) Section 105(f) (relating to Federal prop-*
20 *erty).*

21 *“(6) Section 105(k) (relating to access to Federal*
22 *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 CONTRACT.—

16 “(1) IN GENERAL.—Contractors for activities to
17 which this part applies who have entered into a con-
18 tract under the Indian Self-Determination and Edu-
19 cation Assistance Act that is in effect upon the date
20 of the enactment of the No Child Left Behind Act of
21 2001 may, by giving notice to the Secretary, elect to
22 have the provisions of this part apply to such activity
23 in lieu of such contract.

1 “(2) *EFFECTIVE DATE OF ELECTION.*—Any elec-
2 tion made under paragraph (1) shall take effect on
3 the later of—

4 “(A) October 1 of the fiscal year succeeding
5 the fiscal year in which such election is made; or

6 “(B) 60 days after the date of such election.

7 “(3) *EXCEPTION.*—In any case in which the 60-
8 day period referred to in paragraph (2)(B) is less
9 than 60 days before the beginning of the succeeding
10 fiscal year, such election shall not take effect until the
11 fiscal year after the fiscal year succeeding the election.

12 “(c) *NO DUPLICATION.*—No funds may be provided
13 under any contract entered into under the Indian Self-De-
14 termination and Education Assistance Act to pay any ex-
15 penses incurred in providing any program or services if
16 a grant has been made under this part to pay such expenses.

17 “(d) *TRANSFERS AND CARRYOVERS.*—

18 “(1) *BUILDINGS, EQUIPMENT, SUPPLIES, MATE-*
19 *RIALS.*—A tribe or tribal organization assuming the
20 operation of—

21 “(A) a Bureau school with assistance under
22 this part shall be entitled to the transfer or use
23 of buildings, equipment, supplies, and materials
24 to the same extent as if it were contracting under

1 *the Indian Self-Determination and Education*
2 *Assistance Act; or*

3 “(B) *a contract school with assistance under*
4 *this part shall be entitled to the transfer or use*
5 *of buildings, equipment, supplies and materials*
6 *that were used in the operation of the contract*
7 *school to the same extent as if it were contracting*
8 *under the Indian Self-Determination and Edu-*
9 *cation Assistance Act.*

10 “(2) *FUNDS.—Any tribe or tribal organization*
11 *which assumes operation of a Bureau school with as-*
12 *sistance under this part and any tribe or tribal orga-*
13 *nization which elects to operate a school with assist-*
14 *ance under this part rather than to continue as a con-*
15 *tract school shall be entitled to any funds which*
16 *would carryover from the previous fiscal year as if*
17 *such school were operated as a contract school.*

18 “(e) *EXCEPTIONS, PROBLEMS, AND DISPUTES.—Any*
19 *exception or problem cited in an audit conducted pursuant*
20 *to section 5207(b)(2), any dispute regarding a grant au-*
21 *thorized to be made pursuant to this part or any amend-*
22 *ment to such grant, and any dispute involving an adminis-*
23 *trative cost grant under section 1128 of the Education*
24 *Amendments of 1978 shall be administered under the provi-*
25 *sions governing such exceptions, problems, or disputes in*

1 *the case of contracts under the Indian Self-Determination*
2 *and Education Assistance Act of 1975. The Equal Access*
3 *to Justice Act shall apply to administrative appeals filed*
4 *after September 8, 1988, by grantees regarding a grant*
5 *under this part, including an administrative cost grant.*

6 **“SEC. 5210. ROLE OF THE DIRECTOR.**

7 *“Applications for grants under this part, and all ap-*
8 *plication modifications, shall be reviewed and approved by*
9 *personnel under the direction and control of the Director*
10 *of the Office of Indian Education Programs. Required re-*
11 *ports shall be submitted to education personnel under the*
12 *direction and control of the Director of such Office.*

13 **“SEC. 5211. REGULATIONS.**

14 *“The Secretary is authorized to issue regulations relat-*
15 *ing to the discharge of duties specifically assigned to the*
16 *Secretary by this part. In all other matters relating to the*
17 *details of planning, development, implementing, and evalu-*
18 *ating grants under this part, the Secretary shall not issue*
19 *regulations. Regulations issued pursuant to this part shall*
20 *not have the standing of a Federal statute for the purposes*
21 *of judicial review.*

22 **“SEC. 5212. THE TRIBALLY CONTROLLED GRANT SCHOOL**
23 ****ENDOWMENT PROGRAM.****

24 *“(a) IN GENERAL.—*

1 “(1) *TRUST FUNDS.*—*Each school receiving*
2 *grants under this part may establish, at a Federally*
3 *insured banking and savings institution, a trust fund*
4 *for the purposes of this section.*

5 “(2) *AUTHORITY OF SCHOOLS REGARDING TRUST*
6 *FUNDS.*—*The school may provide—*

7 “(A) *for the deposit into the trust fund, only*
8 *funds from non-Federal sources, except that the*
9 *interest on funds received from grants under this*
10 *part may be used for this purpose;*

11 “(B) *for the deposit in the account of any*
12 *earnings on funds deposited in the account; and*

13 “(C) *for the sole use of the school any*
14 *noncash, in-kind contributions of real or per-*
15 *sonal property, such property may at any time*
16 *be converted to cash.*

17 “(b) *INTEREST.*—*Interest from the fund established*
18 *under subsection (a) may periodically be withdrawn and*
19 *used, at the discretion of the school, to defray any expenses*
20 *associated with the operation of the school.*

21 **“SEC. 5213. DEFINITIONS.**

22 *“For the purposes of this part:*

23 “(1) *BUREAU.*—*The term ‘Bureau’ means the*
24 *Bureau of Indian Affairs of the Department of the In-*
25 *terior.*

1 “(2) *ELIGIBLE INDIAN STUDENT.*—The term ‘*eli-*
2 *gible Indian student*’ has the meaning of such term in
3 *section 1127(f) of the Education Amendments of 1978.*

4 “(3) *INDIAN TRIBE.*—The term ‘*Indian tribe*’
5 *means any Indian tribe, band, nation, or other orga-*
6 *nized group or community, including Alaska Native*
7 *Village or regional corporations (as defined in or es-*
8 *tablished pursuant to the Alaskan Native Claims Set-*
9 *tlement Act, which is recognized as eligible for the*
10 *special programs and services provided by the United*
11 *States to Indians because of their status as Indians.*

12 “(4) *LOCAL EDUCATIONAL AGENCY.*—The term
13 ‘*local educational agency*’ means a public board of
14 *education or other public authority legally constituted*
15 *within a State for either administrative control or di-*
16 *rection of, or to perform a service function for, public*
17 *elementary or secondary schools in a city, county,*
18 *township, school district, or other political subdivi-*
19 *sion of a State or such combination of school districts*
20 *or counties as are recognized in a State as an admin-*
21 *istrative agency for its public elementary or sec-*
22 *ondary schools. Such term includes any other public*
23 *institution or agency having administrative control*
24 *and direction of a public elementary or secondary*
25 *school.*

1 “(5) *SECRETARY*.—*The term ‘Secretary’ means*
2 *the Secretary of the Interior.*

3 “(6) *TRIBAL ORGANIZATION*.—(A) *The term*
4 *‘tribal organization’ means—*

5 “(i) *the recognized governing body of any*
6 *Indian tribe; or*

7 “(ii) *any legally established organization of*
8 *Indians which—*

9 “(I) *is controlled, sanctioned, or char-*
10 *tered by such governing body or is demo-*
11 *cratically elected by the adult members of*
12 *the Indian community to be served by such*
13 *organization; and*

14 “(II) *includes the maximum participa-*
15 *tion of Indians in all phases of its activi-*
16 *ties.*

17 “(B) *In any case in which a grant is provided*
18 *under this part to an organization to provide services*
19 *benefiting more than one Indian tribe, the approval*
20 *of the governing bodies of Indian tribes representing*
21 *80 percent of those students attending the tribally*
22 *controlled school shall be considered a sufficient tribal*
23 *authorization for such grant.*

24 “(7) *TRIBALLY CONTROLLED SCHOOL*.—*The term*
25 *‘tribally controlled school’ means a school operated by*

1 *a tribe or a tribal organization, enrolling students in*
 2 *kindergarten through grade 12, including preschools,*
 3 *which is not a local educational agency and which is*
 4 *not directly administered by the Bureau of Indian Af-*
 5 *fairs.”.*

6 **TITLE IV—PROMOTING IN-**
 7 **FORMED PARENTAL CHOICE**
 8 **AND INNOVATIVE PROGRAMS**

9 **PART A—INNOVATIVE PROGRAMS**

10 **SEC. 401. INNOVATIVE PROGRAMS.**

11 *Title IV is amended to read as follows:*

12 **“TITLE IV—PROMOTING IN-**
 13 **FORMED PARENTAL CHOICE**
 14 **AND INNOVATIVE PROGRAMS**

15 **“PART A—INNOVATIVE PROGRAMS**

16 **“Subpart 1—State and Local Innovative Programs**

17 **“SEC. 4101. FINDINGS AND STATEMENT OF PURPOSE.**

18 *“(a) FINDINGS.—Congress finds that this subpart—*

19 *“(1) provides flexibility to meet local needs;*

20 *“(2) promotes local and State education reforms;*

21 *“(3) contributes to the improvement of academic*
 22 *achievement for all students;*

23 *“(4) provides funding for critical activities; and*

24 *“(5) provides services for private school students.*

1 “(b) *STATEMENT OF PURPOSE.—It is the purpose of*
2 *programs under this subpart—*

3 “(1) *to provide funding to enable States and*
4 *local educational agencies to implement promising*
5 *educational reform programs and school improvement*
6 *initiatives based on scientifically based research;*

7 “(2) *to provide a continuing source of innova-*
8 *tion and educational improvement, including support*
9 *for library services and instructional and media ma-*
10 *terials; and*

11 “(3) *to meet the educational needs of all stu-*
12 *dents, including at-risk youth.*

13 “(c) *STATE AND LOCAL RESPONSIBILITY.—*

14 “(1) *IN GENERAL.—The States shall have the*
15 *basic responsibility for the administration of funds*
16 *made available under this subpart, but such adminis-*
17 *tration shall be carried out with a minimum of pa-*
18 *perwork.*

19 “(2) *DESIGN AND IMPLEMENTATION.—Notwith-*
20 *standing paragraph (1), local educational agencies,*
21 *school superintendents and principals, and classroom*
22 *teachers and supporting personnel shall be mainly re-*
23 *sponsible for the design and implementation of pro-*
24 *grams assisted under this subpart, because such agen-*
25 *cies and individuals have the most direct contact with*

1 *students and are most likely to be able to design pro-*
2 *grams to meet the educational needs of students in*
3 *their own school districts.*

4 **“CHAPTER 1—STATE AND LOCAL**
5 **PROGRAMS**

6 **“SEC. 4111. ALLOCATION TO STATES.**

7 *“(a) RESERVATIONS.—From the sums appropriated to*
8 *carry out this subpart for each fiscal year, the Secretary*
9 *shall reserve not more than 1 percent for payments to out-*
10 *lying areas to be allotted in accordance with their respective*
11 *needs.*

12 *“(b) ALLOCATION OF REMAINDER.—From the remain-*
13 *der of such sums, the Secretary shall allocate, and make*
14 *available in accordance with this subpart, to each State an*
15 *amount which bears the same ratio to the amount of such*
16 *remainder as the school-age population of the State bears*
17 *to the school-age population of all States, except that no*
18 *State shall receive less than an amount equal to 1/2 of 1*
19 *percent of such remainder.*

20 **“SEC. 4112. ALLOCATION TO LOCAL EDUCATIONAL AGEN-**
21 **CIES.**

22 *“(a) DISTRIBUTION RULE.—*

23 *“(1) IN GENERAL.—Subject to paragraph (2),*
24 *from the sums made available each year to carry out*
25 *this subpart, the State shall distribute not less than*

1 85 percent to local educational agencies within such
2 State according to the relative enrollments in public
3 and private, nonprofit schools within the jurisdictions
4 of such agencies, adjusted, in accordance with criteria
5 approved by the Secretary, to provide higher per-
6 pupil allocations to local educational agencies that
7 have the greatest numbers or percentages of children
8 whose education imposes a higher than average cost
9 per child, such as—

10 “(A) children living in areas with high con-
11 centrations of economically disadvantaged fami-
12 lies;

13 “(B) children from economically disadvan-
14 taged families; and

15 “(C) children living in sparsely populated
16 areas.

17 “(2) *EXCEPTION.*—100 percent of any amount
18 by which the funds paid to a State under this subpart
19 for a fiscal year exceed the amount of such funds paid
20 to the State for fiscal year 2001 shall be distributed
21 to local educational agencies and used locally for in-
22 novative assistance described in section 4131(b).

23 “(3) *LIMITATION ON USE OF FUNDS FOR ADMIN-*
24 *ISTRATION.*—In each fiscal year, a State may use not
25 more than 25 percent of the funds available for State

1 *programs under this subpart for State administration*
2 *under section 4121.*

3 *“(b) CALCULATION OF ENROLLMENTS.—*

4 *“(1) IN GENERAL.—The calculation of relative*
5 *enrollments under subsection (a)(1) shall be on the*
6 *basis of the total of—*

7 *“(A) the number of children enrolled in*
8 *public schools; and*

9 *“(B) the number of children enrolled in pri-*
10 *ivate, nonprofit schools whose parents would like*
11 *their children to participate in programs or*
12 *projects assisted under this subpart, for the fiscal*
13 *year preceding the fiscal year for which the de-*
14 *termination is made.*

15 *“(2) CONSTRUCTION.—Nothing in this subsection*
16 *shall diminish the responsibility of each local edu-*
17 *cational agency to contact, on an annual basis, ap-*
18 *propriate officials from private nonprofit schools*
19 *within the areas served by such agencies in order to*
20 *determine whether such schools desire that their chil-*
21 *dren participate in programs assisted under this*
22 *chapter.*

23 *“(3) ADJUSTMENTS.—*

24 *“(A) IN GENERAL.—Relative enrollments*
25 *calculated under subsection (a)(1) shall be ad-*

1 *justed, in accordance with criteria approved by*
2 *the Secretary under subparagraph (B), to pro-*
3 *vide higher per-pupil allocations only to local*
4 *educational agencies that serve the greatest num-*
5 *bers or percentages of—*

6 “(i) *children living in areas with high*
7 *concentrations of economically disadvan-*
8 *tagged families;*

9 “(ii) *children from economically dis-*
10 *advantaged families; or*

11 “(iii) *children living in sparsely popu-*
12 *lated areas.*

13 “(B) *CRITERIA.—The Secretary shall review*
14 *criteria submitted by a State for adjusting allo-*
15 *cations under paragraph (1) and shall approve*
16 *such criteria only if the Secretary determines*
17 *that such criteria are reasonably calculated to*
18 *produce an adjusted allocation that reflects the*
19 *relative needs of the State’s local educational*
20 *agencies based on the factors set forth in sub-*
21 *paragraph (A).*

22 “(c) *PAYMENT OF ALLOCATIONS.—*

23 “(1) *DISTRIBUTION.—From the funds paid to a*
24 *State under this subpart for a fiscal year, a State*
25 *shall distribute to each eligible local educational agen-*

1 *cy that has submitted an application as required in*
2 *section 4133 the amount of such local educational*
3 *agency's allocation, as determined under subsection*
4 *(a).*

5 *“(2) ADDITIONAL FUNDS.—*

6 *“(A) IN GENERAL.—Additional funds re-*
7 *sulting from higher per-pupil allocations pro-*
8 *vided to a local educational agency on the basis*
9 *of adjusted enrollments of children described in*
10 *subsection (a)(1) may, in the discretion of the*
11 *local educational agency, be allocated for expend-*
12 *itures to provide services for children enrolled in*
13 *public and private, nonprofit schools in direct*
14 *proportion to the number of children described in*
15 *subsection (a)(1) and enrolled in such schools*
16 *within the local educational agency.*

17 *“(B) ELECTION.—In any fiscal year, any*
18 *local educational agency that elects to allocate*
19 *such additional funds in the manner described*
20 *in subparagraph (A) shall allocate all additional*
21 *funds to schools within the local educational*
22 *agency in such manner.*

23 *“(C) CONSTRUCTION.—Subparagraphs (A)*
24 *and (B) may not be construed to require any*
25 *school to limit the use of the additional funds de-*

1 *scribed in subparagraph (A) to the provision of*
2 *services to specific students or categories of stu-*
3 *dents.*

4 **“CHAPTER 2—STATE PROGRAMS**

5 **“SEC. 4121. STATE USE OF FUNDS.**

6 *“A State may use funds made available for State use*
7 *under this subpart only for—*

8 *“(1) State administration of programs under*
9 *this subpart including—*

10 *“(A) supervision of the allocation of funds*
11 *to local educational agencies;*

12 *“(B) planning, supervision, and processing*
13 *of State funds; and*

14 *“(C) monitoring and evaluation of pro-*
15 *grams and activities under this subpart;*

16 *“(2) support for planning, designing, and initial*
17 *implementation of charter schools as described in part*
18 *B;*

19 *“(3) statewide education reform and school im-*
20 *provement activities and technical assistance and di-*
21 *rect grants to local educational agencies which assist*
22 *such agencies under section 4131; and*

23 *“(4) support for arrangements that provide for*
24 *independent analysis to measure and report on school*
25 *district achievement.*

1 **“SEC. 4122. STATE APPLICATIONS.**

2 “(a) *APPLICATION REQUIREMENTS.*—*If a State seeks*
3 *to receive assistance under this subpart, the individual, en-*
4 *tity, or agency responsible for public elementary and sec-*
5 *ondary education policy under the State constitution or*
6 *State law shall submit to the Secretary an application*
7 *that—*

8 “(1) *provides for an annual statewide summary*
9 *of how assistance under this subpart is contributing*
10 *toward improving student achievement or improving*
11 *the quality of education for students;*

12 “(2) *provides information setting forth the allo-*
13 *cation of such funds required to implement section*
14 *4142;*

15 “(3) *provides that the State will keep such*
16 *records and provide such information to the Secretary*
17 *as may be required for fiscal audit and program eval-*
18 *uation (consistent with the responsibilities of the Sec-*
19 *retary under this section);*

20 “(4) *provides assurance that, apart from tech-*
21 *nical and advisory assistance and monitoring compli-*
22 *ance with this subpart, the State has not exercised*
23 *and will not exercise any influence in the decision-*
24 *making processes of local educational agencies as to*
25 *the expenditure made pursuant to an application*
26 *under section 4133;*

1 “(5) contains assurances that there is compliance
2 with the specific requirements of this subpart; and

3 “(6) provides for timely public notice and public
4 dissemination of the information provided under
5 paragraph (2).

6 “(b) *STATEWIDE SUMMARY*.—The statewide summary
7 referred to in subsection (a)(1) shall be submitted to the Sec-
8 retary and shall be derived from the evaluation information
9 submitted by local educational agencies to the State under
10 section 4133(a)(2)(H). The format and content of such sum-
11 mary shall be in the discretion of the State and may include
12 statistical measures such as the number of students served
13 by each type of innovative assistance described in section
14 4131(b), including the number of teachers trained.

15 “(c) *PERIOD OF APPLICATION*.—An application filed
16 by the State under subsection (a) shall be for a period not
17 to exceed 3 years, and may be amended annually as may
18 be necessary to reflect changes without filing a new applica-
19 tion.

20 “(d) *AUDIT LIMITATION*.—Each local educational
21 agency receiving less than an average of \$5,000 under this
22 subpart may not be audited more frequently than once every
23 5 years.

1 **“CHAPTER 3—LOCAL INNOVATIVE**
2 **EDUCATION PROGRAMS**

3 **“SEC. 4131. USE OF FUNDS.**

4 “(a) *IN GENERAL.*—Funds made available to local
5 educational agencies under section 4112 shall be used for
6 innovative assistance programs described in subsection (b).

7 “(b) *INNOVATIVE ASSISTANCE.*—The innovative assist-
8 ance programs referred to in subsection (a) may include—

9 “(1) professional development activities and the
10 hiring of teachers, including activities carried out in
11 accordance with title II, that give teachers, prin-
12 cipals, and administrators the knowledge and skills to
13 provide students with the opportunity to meet chal-
14 lenging State or local academic content standards
15 and student achievement standards;

16 “(2) technology related to the implementation of
17 school-based reform programs, including professional
18 development to assist teachers, and other school offi-
19 cials, regarding how to use effectively such equipment
20 and software;

21 “(3) programs for the development or acquisition
22 and use of instructional and educational materials,
23 including library services and materials (including
24 media materials), academic assessments, reference
25 materials, computer software and hardware for in-

1 *structional use, and other curricular materials that*
2 *are tied to high academic standards, that will be used*
3 *to improve student achievement, and that are part of*
4 *an overall education reform program;*

5 *“(4) promising education reform projects, in-*
6 *cluding effective schools and magnet schools;*

7 *“(5) programs to improve the academic skills of*
8 *disadvantaged elementary and secondary school stu-*
9 *dents and to prevent students from dropping out of*
10 *school;*

11 *“(6) programs to combat illiteracy;*

12 *“(7) programs to provide for the educational*
13 *needs of gifted and talented children;*

14 *“(8) planning, designing, and initial implemen-*
15 *tation of charter schools as described in part B;*

16 *“(9) school improvement programs or activities*
17 *under sections 1116 and 1117;*

18 *“(10) community service programs that use*
19 *qualified school personnel to train and mobilize*
20 *young people to measurably strengthen their commu-*
21 *nities through nonviolence, responsibility, compassion,*
22 *respect, and moral courage;*

23 *“(11) activities to promote consumer, economic,*
24 *and personal finance education, such as dissemi-*
25 *nating and encouraging the best practices for teaching*

1 *the basic principles of economics and promoting the*
2 *concept of achieving financial literacy through the*
3 *teaching of personal financial management skills (in-*
4 *cluding the basic principles involved with earning,*
5 *spending, saving, and investing);*

6 *“(12) activities to promote, implement, or ex-*
7 *pand public school choice;*

8 *“(13) programs to hire and support school*
9 *nurses;*

10 *“(14) expanding and improving school-based*
11 *mental health services, including early identification*
12 *of drug use and violence, assessment, and direct indi-*
13 *vidual or group counseling services provided to stu-*
14 *dents, parents, and school personnel by qualified*
15 *school based mental health services personnel; and*

16 *“(15) alternative educational programs for those*
17 *students who have been expelled or suspended from*
18 *their regular educational setting, including programs*
19 *to assist students to reenter the regular educational*
20 *setting upon return from treatment or alternative*
21 *educational programs.*

22 **“SEC. 4132. ADMINISTRATIVE AUTHORITY.**

23 *“In order to conduct the activities authorized by this*
24 *subpart, each State or local educational agency may use*
25 *funds made available under this subpart to make grants*

1 *to, and to enter into contracts with, local educational agen-*
2 *cies, institutions of higher education, libraries, museums,*
3 *and other public and private nonprofit agencies, organiza-*
4 *tions, and institutions, including religious organizations.*

5 **“SEC. 4133. LOCAL APPLICATIONS.**

6 “(a) *CERTIFICATION.—*

7 “(1) *IN GENERAL.—A local educational agency*
8 *or a consortium of such agencies may receive an allo-*
9 *cation of funds under this subpart for any year for*
10 *which the agency or consortium submits an applica-*
11 *tion under this section that is certified by the State*
12 *to meet the requirements of this section.*

13 “(2) *CONTENTS OF APPLICATION.—The State*
14 *shall certify each application that—*

15 “(A) *describes locally identified needs rel-*
16 *ative to the purposes of this subpart and to the*
17 *innovative assistance described in section*
18 *4131(b);*

19 “(B) *based on the needs identified in sub-*
20 *paragraph (A), sets forth the planned allocation*
21 *of funds among innovative assistance programs*
22 *described in section 4131 and describes the pro-*
23 *grams, projects, and activities designed to carry*
24 *out such innovative assistance programs that the*
25 *local educational agency intends to support;*

1 “(C) contains information setting forth the
2 allocation of such funds required to implement
3 section 4142;

4 “(D) describes how assistance under this
5 subpart will contribute to improving student
6 academic achievement;

7 “(E) provides assurances of compliance
8 with the provisions of this subpart, including the
9 participation of children enrolled in private,
10 nonprofit schools in accordance with section
11 4142;

12 “(F) provides assurance that the local edu-
13 cational agency will keep such records, and pro-
14 vide such information to the State as may be
15 reasonably required for fiscal audit and program
16 evaluation, consistent with the responsibilities of
17 the State under this subpart;

18 “(G) provides in the allocation of funds for
19 the assistance authorized by this subpart, and in
20 the design, planning, and implementation of
21 such programs, for systematic consultation with
22 parents of children attending elementary and
23 secondary schools in the area served by the local
24 educational agency, with teachers and adminis-
25 trative personnel in such schools, and with other

1 groups involved in the implementation of this
2 subpart (such as librarians, school counselors,
3 and other pupil services personnel) as may be
4 considered appropriate by the local educational
5 agency; and

6 “(H) provides assurance that—

7 “(i) programs, services, and activities
8 will be evaluated annually;

9 “(ii) such evaluation will be used to
10 determine and implement appropriate
11 changes in program services and activities
12 for the subsequent year;

13 “(iii) such evaluation will describe how
14 assistance under this subpart contributed
15 toward improving student academic
16 achievement; and

17 “(iv) such evaluation will be submitted
18 to the State in the time and manner re-
19 quested by the State.

20 “(b) *TIME PERIOD TO WHICH APPLICATION RE-*
21 *LATES.*—An application submitted by a local educational
22 agency under subsection (a) may seek allocations under this
23 part for a period of time not to exceed 3 fiscal years and
24 may be amended annually as may be necessary to reflect
25 changes without the filing of a new application.

1 “(c) *LOCAL EDUCATIONAL AGENCY DISCRETION.*—

2 “(1) *IN GENERAL.*—*Subject to the limitations*
 3 *and requirements of this subpart, a local educational*
 4 *agency shall have complete discretion in determining*
 5 *how funds made available under this chapter will be*
 6 *divided among programs and activities described in*
 7 *section 4131.*

8 “(2) *LIMITATION.*—*In exercising the discretion*
 9 *described in paragraph (1), a local educational agen-*
 10 *cy shall ensure that expenditures under this chapter*
 11 *carry out the purposes of this subpart and are used*
 12 *to meet the educational needs within the schools of*
 13 *such local educational agency.*

14 **“CHAPTER 4—GENERAL PROVISIONS**

15 **“SEC. 4141. MAINTENANCE OF EFFORT; FEDERAL FUNDS**

16 ***SUPPLEMENTARY.***

17 “(a) *MAINTENANCE OF EFFORT.*—

18 “(1) *IN GENERAL.*—*Except as provided in para-*
 19 *graph (2), a State is entitled to receive its full alloca-*
 20 *tion of funds under this subpart for any fiscal year*
 21 *only if the Secretary determines that either the com-*
 22 *bined fiscal effort per student or the aggregate expend-*
 23 *itures within the State with respect to the provision*
 24 *of free public education for the fiscal year preceding*
 25 *the fiscal year for which the determination is made*

1 *was not less than 90 percent of such combined fiscal*
2 *effort or aggregate expenditures for the fiscal year*
3 *that is 2 fiscal years before the fiscal year for which*
4 *the determination is made.*

5 *“(2) REDUCTION OF FUNDS.—The Secretary*
6 *shall reduce the amount of the allocation of funds*
7 *under this subpart in any fiscal year in the exact*
8 *proportion to which the State fails to meet the re-*
9 *quirements of paragraph (1) by falling below 90 per-*
10 *cent of both the fiscal effort per student and aggregate*
11 *expenditures (using the measure most favorable to the*
12 *State), and no such lesser amount shall be used for*
13 *computing the effort required under paragraph (1) for*
14 *subsequent years.*

15 *“(3) WAIVER.—The Secretary may waive, for 1*
16 *fiscal year only, the requirements of this section if the*
17 *Secretary determines that such a waiver would be eq-*
18 *uitable due to exceptional or uncontrollable cir-*
19 *cumstances such as a natural disaster or a precipi-*
20 *tous and unforeseen decline in the financial resources*
21 *of the State.*

22 *“(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or*
23 *local educational agency may use and allocate funds re-*
24 *ceived under this subpart only to supplement and, to the*
25 *extent practical, to increase the level of funds that would,*

1 *in the absence of Federal funds made available under this*
2 *subpart, be made available from non-Federal sources, and*
3 *in no case may such funds be used so as to supplant funds*
4 *from non-Federal sources.*

5 **“SEC. 4142. PARTICIPATION OF CHILDREN ENROLLED IN**
6 **PRIVATE SCHOOLS.**

7 *“(a) PARTICIPATION ON EQUITABLE BASIS.—*

8 *“(1) IN GENERAL.—To the extent consistent with*
9 *the number of children in the school district of a local*
10 *educational agency which is eligible to receive funds*
11 *under this subpart or which serves the area in which*
12 *a program or project assisted under this subpart is lo-*
13 *cated, who are enrolled in private nonprofit elemen-*
14 *tary and secondary schools, or with respect to instruc-*
15 *tional or personnel training programs funded by the*
16 *State from funds made available for State use, such*
17 *agency, after consultation with appropriate private*
18 *school officials—*

19 *“(A) shall provide for the benefit of such*
20 *children in such schools secular, neutral, and*
21 *nonideological services, materials, and equip-*
22 *ment, including the participation of the teachers*
23 *of such children (and other educational personnel*
24 *serving such children) in training programs, and*
25 *the repair or minor remodeling of public facili-*

1 *ties as may be necessary for their provision (con-*
2 *sistent with subsection (c) of this section); or*

3 *“(B) if such services, materials, and equip-*
4 *ment are not feasible or necessary in 1 or more*
5 *such private schools as determined by the local*
6 *educational agency after consultation with the*
7 *appropriate private school officials, shall provide*
8 *such other arrangements as will assure equitable*
9 *participation of such children in the purposes*
10 *and benefits of this subpart.*

11 *“(2) OTHER PROVISIONS FOR SERVICES.—If no*
12 *program or project is carried out under paragraph*
13 *(1) in the school district of a local educational agen-*
14 *cy, the State shall make arrangements, such as*
15 *through contracts with nonprofit agencies or organi-*
16 *zations, under which children in private schools in*
17 *such district are provided with services and materials*
18 *to the extent that would have occurred if the local*
19 *educational agency had received funds under this sub-*
20 *part.*

21 *“(3) APPLICATION OF REQUIREMENTS.—The re-*
22 *quirements of this section relating to the participa-*
23 *tion of children, teachers, and other personnel serving*
24 *such children shall apply to programs and projects*
25 *carried out under this subpart by a State or local*

1 *educational agency, whether directly or through*
2 *grants to or contracts with other public or private*
3 *agencies, institutions, or organizations.*

4 “(b) *EQUAL EXPENDITURES.*—

5 “(1) *IN GENERAL.*—*Expenditures for programs*
6 *pursuant to subsection (a) shall be equal (consistent*
7 *with the number of children to be served) to expendi-*
8 *tures for programs under this subpart for children en-*
9 *rolled in the public schools of the local educational*
10 *agency.*

11 “(2) *CONCENTRATED PROGRAMS.*—*Taking into*
12 *account the needs of the individual children and other*
13 *factors which relate to the expenditures referred to in*
14 *paragraph (1), and when funds available to a local*
15 *educational agency under this subpart are used to*
16 *concentrate programs or projects on a particular*
17 *group, attendance area, or grade or age level, children*
18 *enrolled in private schools who are included within*
19 *the group, attendance area, or grade or age level se-*
20 *lected for such concentration shall, after consultation*
21 *with the appropriate private school officials, be as-*
22 *ured equitable participation in the purposes and*
23 *benefits of such programs or projects.*

24 “(c) *ADMINISTRATIVE RULES.*—

1 “(1) *FUNDS AND PROPERTY.*—*The control of*
2 *funds provided under this subpart, and title to mate-*
3 *rials, equipment, and property repaired, remodeled,*
4 *or constructed with such funds, shall be in a public*
5 *agency for the uses and purposes provided in this sub-*
6 *part, and a public agency shall administer such funds*
7 *and property.*

8 “(2) *PROVISION OF SERVICES.*—*The provision of*
9 *services pursuant to this subpart shall be provided by*
10 *employees of a public agency or through contract by*
11 *such public agency with a person, an association,*
12 *agency, or corporation who or which, in the provision*
13 *of such services, is independent of such private school*
14 *and of any religious organizations, and such employ-*
15 *ment or contract shall be under the control and super-*
16 *vision of such public agency, and the funds provided*
17 *under this subpart shall not be commingled with*
18 *State or local funds.*

19 “(d) *WAIVER.*—

20 “(1) *STATE PROHIBITION WAIVER.*—*If by reason*
21 *of any provision of law a State or local educational*
22 *agency is prohibited from providing for the participa-*
23 *tion in programs of children enrolled in private ele-*
24 *mentary and secondary schools, as required by this*
25 *section, the Secretary shall waive such requirements*

1 *and shall arrange for the provision of services to such*
2 *children through arrangements which shall be subject*
3 *to the requirements of this section.*

4 “(2) *FAILURE TO COMPLY.*—*If the Secretary de-*
5 *termines that a State or a local educational agency*
6 *has substantially failed or is unwilling to provide for*
7 *the participation on an equitable basis of children en-*
8 *rolled in private elementary and secondary schools as*
9 *required by this section, the Secretary may waive*
10 *such requirements and shall arrange for the provision*
11 *of services to such children through arrangements*
12 *which shall be subject to the requirements of this sec-*
13 *tion.*

14 “(e) *WITHHOLDING OF ALLOCATION.*—*Pending final*
15 *resolution of any investigation or complaint that could re-*
16 *sult in a waiver under subsection (d)(1) or (d)(2), the Sec-*
17 *retary may withhold from the allocation of the affected*
18 *State or local educational agency the amount estimated by*
19 *the Secretary to be necessary to pay the cost of services to*
20 *be provided by the Secretary under such subsection.*

21 “(f) *TERM OF DETERMINATIONS.*—*Any determination*
22 *by the Secretary under this section shall continue in effect*
23 *until the Secretary determines that there will no longer be*
24 *any failure or inability on the part of the State or local*

1 *educational agency to meet the requirements of subsections*
2 *(a) and (b).*

3 “(g) *PAYMENT FROM STATE ALLOTMENT.*—When the
4 *Secretary arranges for services pursuant to this section, the*
5 *Secretary shall, after consultation with the appropriate*
6 *public and private school officials, pay the cost of such serv-*
7 *ices, including the administrative costs of arranging for*
8 *those services, from the appropriate allotment of the State*
9 *under this subpart.*

10 “(h) *REVIEW.*—

11 “(1) *WRITTEN OBJECTIONS.*—The Secretary shall
12 *not take any final action under this section until the*
13 *State and the local educational agency affected by*
14 *such action have had an opportunity, for not less*
15 *than 45 days after receiving written notice thereof, to*
16 *submit written objections and to appear before the*
17 *Secretary or the Secretary’s designee to show cause*
18 *why that action should not be taken.*

19 “(2) *COURT ACTION.*—If a State or local edu-
20 *cational agency is dissatisfied with the Secretary’s*
21 *final action after a proceeding under paragraph (1),*
22 *such agency may, not later than 60 days after notice*
23 *of such action, file with the United States court of ap-*
24 *peals for the circuit in which such State is located a*
25 *petition for review of that action. A copy of the peti-*

1 *tion shall be transmitted by the clerk of the court to*
2 *the Secretary. The Secretary thereupon shall file in*
3 *the court the record of the proceedings on which the*
4 *Secretary based this action, as provided in section*
5 *2112 of title 28, United States Code.*

6 *“(3) REMAND TO SECRETARY.—The findings of*
7 *fact by the Secretary, if supported by substantial evi-*
8 *dence, shall be conclusive; but the court, for good*
9 *cause shown, may remand the case to the Secretary*
10 *to take further evidence and the Secretary may make*
11 *new or modified findings of fact and may modify the*
12 *Secretary’s previous action, and shall file in the court*
13 *the record of the further proceedings. Such new or*
14 *modified findings of fact shall likewise be conclusive*
15 *if supported by substantial evidence.*

16 *“(4) COURT REVIEW.—Upon the filing of such*
17 *petition, the court shall have jurisdiction to affirm the*
18 *action of the Secretary or to set such action aside, in*
19 *whole or in part. The judgment of the court shall be*
20 *subject to review by the Supreme Court of the United*
21 *States upon certiorari or certification as provided in*
22 *section 1254 of title 28, United States Code.*

23 *“(i) PRIOR DETERMINATION.—Any bypass determina-*
24 *tion by the Secretary under chapter 2 of title I of this Act*
25 *(as such chapter was in effect on the day preceding the date*

1 of enactment of the Improving America's Schools Act of
2 1994) shall, to the extent consistent with the purposes of
3 this title, apply to programs under this title.

4 **“SEC. 4143. FEDERAL ADMINISTRATION.**

5 “(a) *TECHNICAL ASSISTANCE.*—The Secretary, upon
6 request, shall provide technical assistance to States and
7 local educational agencies under this subpart.

8 “(b) *RULEMAKING.*—The Secretary shall issue regula-
9 tions under this subpart only to the extent that such regula-
10 tions are necessary to ensure that there is compliance with
11 the specific requirements and assurances required by this
12 subpart.

13 “(c) *AVAILABILITY OF APPROPRIATIONS.*—Notwith-
14 standing any other provision of law, unless expressly in
15 limitation of this subsection, funds appropriated in any fis-
16 cal year to carry out activities under this subpart shall be-
17 come available for obligation on July 1 of such fiscal year
18 and shall remain available for obligation until the end of
19 the subsequent fiscal year.

20 **“SEC. 4144. DEFINITIONS.**

21 “In this subpart, the following definitions apply:

22 “(1) *SCHOOL-AGE POPULATION.*—The term
23 ‘school-age population’ means the population aged 5
24 through 17.

1 “(2) *STATE*.—The term ‘State’ means each of the
2 50 States, the District of Columbia, and the Common-
3 wealth of Puerto Rico.

4 **“SEC. 4145. AUTHORIZATION OF APPROPRIATIONS.**

5 “*There are authorized to be appropriated to carry out*
6 *this subpart \$450,000,000 for fiscal year 2002 and such*
7 *sums as may be necessary for each of fiscal years 2003*
8 *through 2006.*

9 **“Subpart 2—Arts Education**

10 **“SEC. 4151. ASSISTANCE FOR ARTS EDUCATION.**

11 “(a) *FINDINGS*.—The Congress finds that—

12 “(1) *every student can benefit from an education*
13 *in the arts;*

14 “(2) *a growing body of research indicates that*
15 *education in the arts may provide cognitive benefits*
16 *and bolster academic achievement, beginning at an*
17 *early age and continuing through secondary school;*

18 “(3) *qualified arts teachers and a sequential cur-*
19 *riculum are the basis and core for substantive arts*
20 *education for students;*

21 “(4) *the arts should be taught according to rig-*
22 *orous academic standards under arts education pro-*
23 *grams that provide mechanisms under which edu-*
24 *cators are accountable to parents, school officials, and*
25 *the community;*

1 “(5) opportunities to participate in the arts have
2 enabled individuals with disabilities of all ages to
3 participate more fully in school and community ac-
4 tivities; and

5 “(6) arts education is a valuable part of the ele-
6 mentary and secondary school curriculum.

7 “(b) *PURPOSES.*—The purposes of this subpart are
8 to—

9 “(1) support systemic education reform by
10 strengthening arts education as an integral part of
11 the elementary and secondary school curriculum; and

12 “(2) help ensure that all students meet chal-
13 lenging State academic content standards and chal-
14 lenging State student academic achievement stand-
15 ards in the arts.

16 “(c) *AUTHORITY.*—In accordance with this subpart,
17 the Secretary may make grants to, or enter into contracts
18 or cooperative agreements with, eligible entities described
19 in subsection (d).

20 “(d) *ELIGIBLE ENTITIES.*—The Secretary may make
21 assistance available under subsection (c) to each of the fol-
22 lowing entities:

23 “(1) States.

24 “(2) Local educational agencies.

25 “(3) Institutions of higher education.

1 “(4) *Museums or other cultural institutions.*

2 “(5) *Any other public or private agencies, insti-*
3 *tutions, and organizations.*

4 “(e) *USE OF FUNDS.—Assistance made available*
5 *under this subpart may be used only for—*

6 “(1) *research on arts education;*

7 “(2) *planning, developing, acquiring, expanding,*
8 *improving, or disseminating model school-based arts*
9 *education programs;*

10 “(3) *the development of model State arts edu-*
11 *cation assessments based on State academic stand-*
12 *ards;*

13 “(4) *the development and implementation of cur-*
14 *riculum frameworks for arts education;*

15 “(5) *the development of model inservice profes-*
16 *sional development programs for arts educators and*
17 *other instructional staff;*

18 “(6) *supporting collaborative activities with Fed-*
19 *eral agencies or institutions, arts educators, and orga-*
20 *nizations representing the arts, including State and*
21 *local arts agencies involved in arts education;*

22 “(7) *supporting model projects or programs in*
23 *the performing arts for children and youth or pro-*
24 *grams which assure the participation in mainstream*
25 *settings in arts and education programs of individ-*

1 *uals with disabilities through arrangements made*
2 *with organizations such as the John F. Kennedy Cen-*
3 *ter for the Performing Arts and VSA arts;*

4 *“(8) supporting model projects or programs to*
5 *integrate arts education into the regular elementary*
6 *and secondary school curriculum; or*

7 *“(9) other activities that further the purposes of*
8 *this subpart.*

9 *“(f) CONDITIONS.—As conditions of receiving assist-*
10 *ance made available under this subpart, the Secretary shall*
11 *require each entity receiving such assistance—*

12 *“(1) to coordinate, to the extent practicable, each*
13 *project or program carried out with such assistance*
14 *with appropriate activities of public or private cul-*
15 *tural agencies, institutions, and organizations, in-*
16 *cluding museums, arts education associations, librar-*
17 *ies, and theaters; and*

18 *“(2) to use such assistance only to supplement*
19 *and not to supplant any other assistance or funds*
20 *made available from non-Federal sources for the ac-*
21 *tivities assisted under this subpart.*

22 *“(g) CONSULTATION.—In carrying out this part, the*
23 *Secretary shall consult with Federal agencies or institu-*
24 *tions, arts educators (including professional arts education*
25 *associations), and organizations representing the arts in-*

1 *cluding State and local arts agencies involved in arts edu-*
2 *cation.*

3 “(h) *AUTHORIZATION OF APPROPRIATIONS.*—*There*
4 *are authorized to be appropriated to carry out this subpart*
5 *such sums as may be necessary for each of fiscal years 2002*
6 *through 2006.*

7 **“Subpart 3—Gifted and Talented Children**

8 **“SEC. 4161. SHORT TITLE.**

9 “*This subpart may be cited as the ‘Jacob K. Javits*
10 *Gifted and Talented Students Education Act of 2001’.*

11 **“SEC. 4162. FINDINGS AND PURPOSE.**

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

13 “(1) *While the families and communities of some*
14 *gifted and talented students can provide private edu-*
15 *cational programs with appropriately trained staff to*
16 *supplement public educational offerings, most gifted*
17 *and talented students, especially those from inner cit-*
18 *ies, rural communities, or low-income families, must*
19 *rely on the services and personnel available in public*
20 *schools. In order to ensure that there are equal edu-*
21 *cational opportunities for all gifted and talented stu-*
22 *dents in the United States, the public schools should*
23 *provide gifted and talented education programs car-*
24 *ried out by qualified professionals.*

1 “(2) *Due to the wide dispersal of students who*
2 *are gifted and talented and the national interest in*
3 *a well-educated populace, it is the Federal Govern-*
4 *ment that can most effectively and appropriately con-*
5 *duct scientifically based research and development to*
6 *ensure that there is a national capacity to educate*
7 *students who are gifted and talented in the 21st cen-*
8 *tury.*

9 “(3) *Many State and local educational agencies*
10 *lack the specialized resources and trained personnel*
11 *necessary to consistently plan and implement effective*
12 *programs for the identification of gifted and talented*
13 *students and for the provision of educational services*
14 *and programs appropriate for the needs of such stu-*
15 *dents.*

16 “(4) *Because gifted and talented students are*
17 *generally more advanced academically, are generally*
18 *able to learn more quickly, and generally study in*
19 *more depth and complexity than others their age, they*
20 *require educational opportunities and experiences*
21 *that are different from those usually available to other*
22 *students.*

23 “(5) *A typical elementary school student who is*
24 *academically gifted and talented has already mas-*
25 *tered 35 to 50 percent of the content to be learned in*

1 *several subjects in any school year before that year be-*
2 *gins. Without an advanced and challenging cur-*
3 *riculum, such a student may lose motivation and de-*
4 *velop poor study habits that are difficult to break.*

5 *“(6) Classes in elementary and secondary schools*
6 *in the United States consist of students with a wide*
7 *variety of traits, characteristics, and needs. Although*
8 *most teachers receive some training to meet the needs*
9 *of students with limited English proficiency, students*
10 *with disabilities, and students from diverse cultural*
11 *and racial backgrounds, few receive training to meet*
12 *the needs of students who are gifted and talented.*

13 *“(b) PURPOSE.—The purpose of this subpart is to ini-*
14 *tiate a coordinated program of scientifically based research,*
15 *demonstration projects, innovative strategies, and similar*
16 *activities designed to build and enhance the ability of ele-*
17 *mentary and secondary schools nationwide to meet the spe-*
18 *cial educational needs of gifted and talented students.*

19 **“SEC. 4163. RULE OF CONSTRUCTION.**

20 *Nothing in this subpart shall be construed to prohibit*
21 *a recipient of funds under this subpart from serving gifted*
22 *and talented students simultaneously with students with*
23 *similar educational needs, in the same educational settings*
24 *where appropriate.*

1 **“SEC. 4164. AUTHORIZED PROGRAMS.**

2 “(a) *ESTABLISHMENT OF PROGRAM.*—

3 “(1) *IN GENERAL.*—*From the sums available to*
4 *carry out this subpart in any fiscal year, the Sec-*
5 *retary (after consultation with experts in the field of*
6 *the education of gifted and talented students) shall*
7 *make grants to, or enter into contracts with, State*
8 *educational agencies, local educational agencies, insti-*
9 *tutions of higher education, other public agencies, and*
10 *other private agencies and organizations (including*
11 *Indian tribes and Indian organizations (as such*
12 *terms are defined in section 4 of the Indian Self-De-*
13 *termination and Education Assistance Act (25 U.S.C.*
14 *450b)) and Native Hawaiian organizations) to assist*
15 *such agencies, institutions, and organizations in car-*
16 *rying out programs or projects authorized by this sub-*
17 *part that are designed to meet the educational needs*
18 *of gifted and talented students, including the training*
19 *of personnel in the education of gifted and talented*
20 *students and in the use, where appropriate, of gifted*
21 *and talented services, materials, and methods for all*
22 *students.*

23 “(2) *APPLICATION.*—

24 “(A) *IN GENERAL.*—*Each entity seeking as-*
25 *sistance under this subpart shall submit an ap-*
26 *plication to the Secretary at such time, in such*

1 *manner, and containing such information as the*
2 *Secretary may reasonably require.*

3 “(B) *CONTENTS.*—*Each application sub-*
4 *mitted under this paragraph shall describe*
5 *how—*

6 “(i) *the proposed gifted and talented*
7 *services, materials, and methods can be*
8 *adapted, if appropriate, for use by all stu-*
9 *dents; and*

10 “(ii) *the proposed programs can be*
11 *evaluated.*

12 “(b) *USE OF FUNDS.*—*Programs and projects assisted*
13 *under this section may include each of the following:*

14 “(1) *Conducting—*

15 “(A) *scientifically based research on meth-*
16 *ods and techniques for identifying and teaching*
17 *gifted and talented students, and for using gifted*
18 *and talented programs and methods to serve all*
19 *students; and*

20 “(B) *program evaluations, surveys, and the*
21 *collection, analysis, and development of informa-*
22 *tion needed to accomplish the purpose of this*
23 *subpart.*

24 “(2) *Professional development (including fellow-*
25 *ships) for personnel (including leadership personnel)*

1 *involved in the education of gifted and talented stu-*
2 *dents.*

3 *“(3) Establishment and operation of model*
4 *projects and exemplary programs for serving gifted*
5 *and talented students, including innovative methods*
6 *for identifying and educating students who may not*
7 *be served by traditional gifted and talented programs,*
8 *including summer programs, mentoring programs,*
9 *service learning programs, and cooperative programs*
10 *involving business, industry, and education.*

11 *“(4) Implementing innovative strategies, such as*
12 *cooperative learning, peer tutoring, and service learn-*
13 *ing.*

14 *“(5) Programs of technical assistance and infor-*
15 *mation dissemination, including assistance and infor-*
16 *mation with respect to how gifted and talented pro-*
17 *grams and methods, where appropriate, may be*
18 *adapted for use by all students.*

19 *“(c) ESTABLISHMENT OF NATIONAL CENTER.—*

20 *“(1) IN GENERAL.—The Secretary (after con-*
21 *sultation with experts in the field of the education of*
22 *gifted and talented students) shall establish a Na-*
23 *tional Center for Research and Development in the*
24 *Education of Gifted and Talented Children and Youth*
25 *through grants to or contracts with one or more insti-*

1 *tutions of higher education or State educational agen-*
2 *cies, or a combination or consortium of such institu-*
3 *tions and agencies and other public or private agen-*
4 *cies and organizations, for the purpose of carrying*
5 *out activities described in paragraph (1) of subsection*
6 *(b).*

7 “(2) *DIRECTOR.*—*The National Center estab-*
8 *lished under paragraph (1) shall be headed by a Di-*
9 *rector. The Secretary may authorize the Director to*
10 *carry out such functions of the National Center as*
11 *may be agreed upon through arrangements with insti-*
12 *tutions of higher education, State or local educational*
13 *agencies, or other public or private agencies and orga-*
14 *nizations.*

15 “(d) *LIMITATION.*—*Not more than 30 percent of the*
16 *funds available in any fiscal year to carry out the programs*
17 *and projects authorized by this section may be used to con-*
18 *duct activities pursuant to subsection (b)(1) or subsection*
19 *(c).*

20 “(e) *COORDINATION.*—*Scientifically based research ac-*
21 *tivities supported under this subpart—*

22 “(1) *shall be carried out in consultation with the*
23 *Office of Educational Research and Improvement to*
24 *ensure that such activities are coordinated with and*

1 *enhance the research and development activities sup-*
2 *ported by such Office; and*

3 *“(2) may include collaborative scientifically*
4 *based research activities which are jointly funded and*
5 *carried out with such Office.*

6 **“SEC. 4165. PROGRAM PRIORITIES.**

7 *“(a) GENERAL PRIORITY.—In carrying out this sub-*
8 *part, the Secretary shall give highest priority to programs*
9 *and projects designed to develop new information that—*

10 *“(1) improves the capability of schools to plan,*
11 *conduct, and improve programs to identify and serve*
12 *gifted and talented students; and*

13 *“(2) assists schools in the identification of, and*
14 *provision of services to, gifted and talented students*
15 *who may not be identified and served through tradi-*
16 *tional assessment methods (including economically*
17 *disadvantaged individuals, individuals of limited*
18 *English proficiency, and individuals with disabili-*
19 *ties).*

20 *“(b) SERVICE PRIORITY.—In approving applications*
21 *for assistance under section 4164(a)(2), the Secretary shall*
22 *ensure that in each fiscal year not less than 50 percent of*
23 *the applications approved under such section address the*
24 *priority described in subsection (a)(2) of this section.*

1 **“SEC. 4166. GENERAL PROVISIONS.**

2 “(a) *PARTICIPATION OF PRIVATE SCHOOL CHILDREN*
3 *AND TEACHERS.*—*In making grants and entering into con-*
4 *tracts under this subpart, the Secretary shall ensure, where*
5 *appropriate, that provision is made for the equitable par-*
6 *ticipation of students and teachers in private nonprofit ele-*
7 *mentary and secondary schools, including the participation*
8 *of teachers and other personnel in professional development*
9 *programs serving such children.*

10 “(b) *REVIEW, DISSEMINATION, AND EVALUATION.*—
11 *The Secretary shall—*

12 “(1) *use a peer review process in reviewing ap-*
13 *plications under this subpart;*

14 “(2) *ensure that information on the activities*
15 *and results of programs and projects funded under*
16 *this subpart is disseminated to appropriate State and*
17 *local educational agencies and other appropriate or-*
18 *ganizations, including nonprofit private organiza-*
19 *tions; and*

20 “(3) *evaluate the effectiveness of programs under*
21 *this subpart in accordance with section 8651, both in*
22 *terms of the impact on students traditionally served*
23 *in separate gifted and talented programs and on*
24 *other students, and submit the results of such evalua-*
25 *tion to the Congress not later than 2 years after the*

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

3 “(c) *PROGRAM OPERATIONS.*—*The Secretary shall en-*
4 *sure that the programs under this subpart are administered*
5 *within the Department by a person who has recognized pro-*
6 *fessional qualifications and experience in the field of the*
7 *education of gifted and talented students and who shall—*

8 “(1) *administer and coordinate the programs au-*
9 *thorized under this subpart;*

10 “(2) *serve as a focal point of national leadership*
11 *and information on the educational needs of gifted*
12 *and talented students and the availability of edu-*
13 *cational services and programs designed to meet such*
14 *needs; and*

15 “(3) *assist the Assistant Secretary of the Office*
16 *of Educational Research and Improvement in identi-*
17 *fying research priorities which reflect the needs of*
18 *gifted and talented students.*

19 **“SEC. 4167. AUTHORIZATION OF APPROPRIATIONS.**

20 *“There are authorized to be appropriated to carry out*
21 *this subpart such sums as may be necessary for each of fis-*
22 *cal years 2002 through 2006.”.*

23 **SEC. 402. CONTINUATION OF AWARDS.**

24 *Notwithstanding any other provision of this Act, any*
25 *person or agency that was awarded a grant under part B*

1 *or D of title X (20 U.S.C. 8031 et seq., 8091 et seq.) prior*
2 *to the date of the enactment of this Act shall continue to*
3 *receive funds in accordance with the terms of such award*
4 *until the date on which the award period terminates under*
5 *such terms.*

6 **PART B—PUBLIC CHARTER SCHOOLS**

7 **SEC. 411. PUBLIC CHARTER SCHOOLS.**

8 *Title IV, as amended by section 401, is further amend-*
9 *ed by adding at the end the following:*

10 **“PART B—PUBLIC CHARTER SCHOOLS**

11 **“SEC. 4201. FINDINGS AND PURPOSE.**

12 *“(a) FINDINGS.—The Congress finds that—*

13 *“(1) enhancement of parent and student choices*
14 *among public schools can assist in promoting com-*
15 *prehensive educational reform and give more students*
16 *the opportunity to meet challenging State academic*
17 *content standards and State student academic*
18 *achievement standards, if sufficiently diverse and*
19 *high-quality choices, and genuine opportunities to*
20 *take advantage of such choices, are available to all*
21 *students;*

22 *“(2) useful examples of such choices can come*
23 *from States and communities that experiment with*
24 *methods of offering teachers and other educators, par-*
25 *ents, and other members of the public the opportunity*

1 *to design and implement new public schools and to*
2 *transform existing public schools;*

3 *“(3) charter schools are a mechanism for testing*
4 *a variety of educational approaches and should, there-*
5 *fore, be exempted from restrictive rules and regula-*
6 *tions if the leadership of such schools commits to at-*
7 *taining specific and ambitious educational results for*
8 *educationally disadvantaged students consistent with*
9 *challenging State academic content standards and*
10 *State student academic achievement standards for all*
11 *students;*

12 *“(4) charter schools can embody the necessary*
13 *mixture of enhanced choice, exemption from restric-*
14 *tive regulations, and a focus on learning gains;*

15 *“(5) charter schools, including charter schools*
16 *that are schools-within-schools, can help reduce school*
17 *size, and this reduction can have a significant effect*
18 *on student achievement;*

19 *“(6) the Federal Government should test, evalu-*
20 *ate, and disseminate information on a variety of*
21 *charter school models in order to help demonstrate the*
22 *benefits of this promising educational reform; and*

23 *“(7) there is a strong documented need for cash-*
24 *flow assistance to charter schools that are starting up,*

1 *because State and local operating revenue streams are*
2 *not immediately available.*

3 “(b) *PURPOSE.—It is the purpose of this part to in-*
4 *crease national understanding of the charter schools model*
5 *by—*

6 “(1) *providing financial assistance for the plan-*
7 *ning, program design and initial implementation of*
8 *charter schools;*

9 “(2) *evaluating the effects of such schools, includ-*
10 *ing the effects on students, student achievement, staff,*
11 *and parents; and*

12 “(3) *expanding the number of high-quality char-*
13 *ter schools available to students across the Nation.*

14 **“SEC. 4202. PROGRAM AUTHORIZED.**

15 “(a) *IN GENERAL.—The Secretary may award grants*
16 *to State educational agencies having applications approved*
17 *pursuant to section 4203 to enable such agencies to conduct*
18 *a charter school grant program in accordance with this*
19 *part.*

20 “(b) *SPECIAL RULE.—If a State educational agency*
21 *elects not to participate in the program authorized by this*
22 *part or does not have an application approved under sec-*
23 *tion 4203, the Secretary may award a grant to an eligible*
24 *applicant that serves such State and has an application*
25 *approved pursuant to section 4203(c).*

1 “(c) *PROGRAM PERIODS.*—

2 “(1) *GRANTS TO STATES.*—*Grants awarded to*
3 *State educational agencies under this part shall be*
4 *awarded for a period of not more than 3 years.*

5 “(2) *GRANTS TO ELIGIBLE APPLICANTS.*—*Grants*
6 *awarded by the Secretary to eligible applicants or*
7 *subgrants awarded by State educational agencies to*
8 *eligible applicants under this part shall be awarded*
9 *for a period of not more than 3 years, of which the*
10 *eligible applicant may use—*

11 “(A) *not more than 18 months for planning*
12 *and program design;*

13 “(B) *not more than 2 years for the initial*
14 *implementation of a charter school; and*

15 “(C) *not more than 2 years to carry out*
16 *dissemination activities described in section*
17 *4204(f)(6)(B).*

18 “(d) *LIMITATION.*—*A charter school may not receive—*

19 “(1) *more than one grant for activities described*
20 *in subparagraphs (A) and (B) of subsection (c)(2); or*

21 “(2) *more than one grant for activities under*
22 *subparagraph (C) of subsection (c)(2).*

23 “(e) *PRIORITY TREATMENT.*—

24 “(1) *IN GENERAL.*—*In awarding grants under*
25 *this part from any funds appropriated under section*

1 4211, the Secretary shall give priority to States to the
2 extent that the States meet the criteria described in
3 paragraph (2) and one or more of the criteria de-
4 scribed in subparagraph (A), (B), or (C) of para-
5 graph (3).

6 “(2) *REVIEW AND EVALUATION PRIORITY CRI-*
7 *TERIA.*—The criteria referred to in paragraph (1) is
8 that the State provides for periodic review and eval-
9 uation by the authorized public chartering agency of
10 each charter school, at least once every 5 years unless
11 required more frequently by State law, to determine
12 whether the charter school is meeting the terms of the
13 school’s charter, and is meeting or exceeding the aca-
14 demic performance requirements and goals for charter
15 schools as set forth under State law or the school’s
16 charter.

17 “(3) *PRIORITY CRITERIA.*—The criteria referred
18 to in paragraph (1) are the following:

19 “(A) The State has demonstrated progress,
20 in increasing the number of high quality charter
21 schools that are held accountable in the terms of
22 the schools’ charters for meeting clear and meas-
23 urable objectives for the educational progress of
24 the students attending the schools, in the period
25 prior to the period for which a State educational

1 *agency or eligible applicant applies for a grant*
2 *under this part.*

3 “(B) *The State—*

4 “(i) *provides for one authorized public*
5 *chartering agency that is not a local edu-*
6 *cational agency, such as a State chartering*
7 *board, for each individual or entity seeking*
8 *to operate a charter school pursuant to such*
9 *State law; or*

10 “(ii) *in the case of a State in which*
11 *local educational agencies are the only au-*
12 *thorized public chartering agencies, allows*
13 *for an appeals process for the denial of an*
14 *application for a charter school.*

15 “(C) *The State ensures that each charter*
16 *school has a high degree of autonomy over the*
17 *charter school’s budgets and expenditures.*

18 “(f) *AMOUNT CRITERIA.—In determining the amount*
19 *of a grant to be awarded under this part to a State edu-*
20 *cational agency, the Secretary shall take into consideration*
21 *the number of charter schools that are operating, or are ap-*
22 *proved to open, in the State.*

23 **“SEC. 4203. APPLICATIONS.**

24 “(a) *APPLICATIONS FROM STATE AGENCIES.—Each*
25 *State educational agency desiring a grant from the Sec-*

1 *retary under this part shall submit to the Secretary an ap-*
2 *plication at such time, in such manner, and containing or*
3 *accompanied by such information as the Secretary may re-*
4 *quire.*

5 “(b) *CONTENTS OF A STATE EDUCATIONAL AGENCY*
6 *APPLICATION.—Each application submitted pursuant to*
7 *subsection (a) shall—*

8 “(1) *describe the objectives of the State edu-*
9 *catational agency’s charter school grant program and*
10 *how such objectives will be fulfilled, including steps*
11 *taken by the State educational agency to inform*
12 *teachers, parents, and communities of the State edu-*
13 *catational agency’s charter school grant program; and*

14 “(2) *describe how the State educational 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 in*
22 *the State receives the charter school’s commensu-*
23 *rate share of Federal education funds that are*
24 *allocated by formula each year, including during*

1 *the first year of operation of the charter school;*
2 *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 charter*
12 *school, including—*

13 “(i) *how the program will enable all*
14 *students to meet challenging State student*
15 *academic achievement standards;*

16 “(ii) *the grade levels or ages of children*
17 *to be served; and*

18 “(iii) *the curriculum and instructional*
19 *practices to be used;*

20 “(B) *a description of how the charter school*
21 *will be managed;*

22 “(C) *a description of—*

23 “(i) *the objectives of the charter school;*
24 *and*

1 “(i) 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 au-
6 thorized public chartering agency;

7 “(E) a description of how parents and other
8 members of the community will be involved in
9 the planning, program design and implementa-
10 tion 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 that
15 the school has met the objectives described in sub-
16 paragraph (C)(i);

17 “(G) a request and justification for waivers
18 of any Federal statutory or regulatory provisions
19 that the applicant believes are necessary for the
20 successful operation of the charter school, and a
21 description of any State or local rules, generally
22 applicable to public schools, that will be waived
23 for, or otherwise not apply to, the school;

24 “(H) a description of how the subgrant
25 funds or grant funds, as appropriate, will be

1 *used, including a description of how such funds*
2 *will be used in conjunction with other Federal*
3 *programs administered by the Secretary;*

4 “(I) *a description of how students in the*
5 *community will be—*

6 “(i) *informed about the charter school;*

7 *and*

8 “(ii) *given an equal opportunity to at-*
9 *tend the charter school;*

10 “(J) *an assurance that the eligible appli-*
11 *cant will annually provide the Secretary and the*
12 *State educational agency such information as*
13 *may be required to determine if the charter*
14 *school is making satisfactory progress toward*
15 *achieving the objectives described in subpara-*
16 *graph (C)(i);*

17 “(K) *an assurance that the applicant will*
18 *cooperate with the Secretary and the State edu-*
19 *cational agency in evaluating the program as-*
20 *sisted under this part;*

21 “(L) *a description of how a charter school*
22 *that is considered a local educational agency*
23 *under State law, or a local educational agency*
24 *in which a charter school is located, will comply*

1 with sections 613(a)(5) and 613(e)(1)(B) of the
2 *Individuals with Disabilities Education Act*;

3 “(M) if the eligible applicant desires to use
4 subgrant funds for dissemination activities
5 under section 4202(c)(2)(C), a description of
6 those activities and how those activities will in-
7 volve charter schools and other public schools,
8 local educational agencies, developers, and poten-
9 tial developers; and

10 “(N) such other information and assurances
11 as the Secretary and the State educational agen-
12 cy may require.

13 “(c) *CONTENTS OF ELIGIBLE APPLICANT APPLICA-*
14 *TION.—Each eligible applicant desiring a grant pursuant*
15 *to section 4202(b) shall submit an application to the State*
16 *educational agency or Secretary, respectively, at such time,*
17 *in such manner, and accompanied by such information as*
18 *the State educational agency or Secretary, respectively,*
19 *may reasonably require.*

20 “(d) *CONTENTS OF APPLICATION.—Each application*
21 *submitted pursuant to subsection (c) shall contain—*

22 “(1) the information and assurances described in
23 subparagraphs (A) through (N) of subsection (b)(3),
24 except that for purposes of this subsection subpara-
25 graphs (J), (K), and (N) of such subsection shall be

1 *applied by striking ‘and the State educational agen-*
2 *cy’ each place such term appears;*

3 *“(2) assurances that the State educational agen-*
4 *cy—*

5 *“(A) will grant, or will obtain, waivers of*
6 *State statutory or regulatory requirements; and*

7 *“(B) will assist each subgrantee in the State*
8 *in receiving a waiver under section 4204(e); and*

9 *“(3) assurances that the eligible applicant has*
10 *provided its authorized public chartering authority*
11 *timely notice, and a copy, of the application, except*
12 *that the State educational agency (or the Secretary,*
13 *in the case of an application submitted to the Sec-*
14 *retary) may waive this requirement in the case of an*
15 *application for a precharter planning grant or*
16 *subgrant if the authorized public chartering authority*
17 *to which a charter school proposal will be submitted*
18 *has not been determined at the time the grant or*
19 *subgrant application is submitted.*

20 **“SEC. 4204. ADMINISTRATION.**

21 **“(a) SELECTION CRITERIA FOR STATE EDUCATIONAL**
22 **AGENCIES.—***The Secretary shall award grants to State edu-*
23 *cational agencies under this part on the basis of the quality*
24 *of the applications submitted under section 4203(b), after*
25 *taking into consideration such factors as—*

1 “(1) *the contribution that the charter schools*
2 *grant program will make to assisting educationally*
3 *disadvantaged and other students to achieving State*
4 *academic content standards and State student aca-*
5 *ademic achievement standards and, in general, a*
6 *State’s education improvement plan;*

7 “(2) *the degree of flexibility afforded by the State*
8 *educational agency to charter schools under the*
9 *State’s charter schools law;*

10 “(3) *the ambitiousness of the objectives for the*
11 *State charter school grant program;*

12 “(4) *the quality of the strategy for assessing*
13 *achievement of those objectives;*

14 “(5) *the likelihood that the charter school grant*
15 *program will meet those objectives and improve edu-*
16 *cational results for students;*

17 “(6) *the number of high quality charter schools*
18 *created under this part in the State; and*

19 “(7) *in the case of State educational agencies*
20 *that propose to use grant funds to support dissemina-*
21 *tion activities under section 4202(c)(2)(C), the qual-*
22 *ity of those activities and the likelihood that those ac-*
23 *tivities will improve student academic achievement.*

24 “(b) *SELECTION CRITERIA FOR ELIGIBLE APPLI-*
25 *CANTS.—The Secretary shall award grants to eligible appli-*

1 *cants under this part on the basis of the quality of the ap-*
2 *plications submitted under section 4203(c), after taking*
3 *into consideration such factors as—*

4 “(1) *the quality of the proposed curriculum and*
5 *instructional practices;*

6 “(2) *the degree of flexibility afforded by the State*
7 *educational agency and, if applicable, the local edu-*
8 *cational agency to the charter school;*

9 “(3) *the extent of community support for the ap-*
10 *plication;*

11 “(4) *the ambitiousness of the objectives for the*
12 *charter school;*

13 “(5) *the quality of the strategy for assessing*
14 *achievement of those objectives;*

15 “(6) *the likelihood that the charter school will*
16 *meet those objectives and improve educational results*
17 *for students; and*

18 “(7) *in the case of an eligible applicant that pro-*
19 *poses to use grant funds to support dissemination ac-*
20 *tivities under section 4202(c)(2)(C), the quality of*
21 *those activities and the likelihood that those activities*
22 *will improve student achievement.*

23 “(c) *PEER REVIEW.—The Secretary, and each State*
24 *educational agency receiving a grant under this part, shall*

1 *use a peer review process to review applications for assist-*
2 *ance under this part.*

3 “(d) *DIVERSITY OF PROJECTS.*—*The Secretary and*
4 *each State educational agency receiving a grant under this*
5 *part, shall award subgrants under this part in a manner*
6 *that, to the extent possible, ensures that such grants and*
7 *subgrants—*

8 “(1) *are distributed throughout different areas of*
9 *the Nation and each State, including urban and rural*
10 *areas; and*

11 “(2) *will assist charter schools representing a va-*
12 *riety of educational approaches, such as approaches*
13 *designed to reduce school size.*

14 “(e) *WAIVERS.*—*The Secretary may waive any statu-*
15 *tory or regulatory requirement over which the Secretary ex-*
16 *ercises administrative authority except any such require-*
17 *ment relating to the elements of a charter school described*
18 *in section 4210(1), if—*

19 “(1) *the waiver is requested in an approved ap-*
20 *plication under this part; and*

21 “(2) *the Secretary determines that granting such*
22 *a waiver will promote the purpose of this part.*

23 “(f) *USE OF FUNDS.*—

24 “(1) *STATE EDUCATIONAL AGENCIES.*—*Each*
25 *State educational agency receiving a grant under this*

1 *part shall use such grant funds to award subgrants*
2 *to one or more eligible applicants in the State to en-*
3 *able such applicant to plan and implement a charter*
4 *school in accordance with this part, except that the*
5 *State educational agency may reserve not more than*
6 *10 percent of the grant funds to support dissemina-*
7 *tion activities described in paragraph (6).*

8 “(2) *ELIGIBLE APPLICANTS.—Each eligible ap-*
9 *plicant receiving funds from the Secretary or a State*
10 *educational agency shall use such funds to plan and*
11 *implement a charter school, or to disseminate infor-*
12 *mation about the charter school and successful prac-*
13 *tices in the charter school, in accordance with this*
14 *part.*

15 “(3) *ALLOWABLE ACTIVITIES.—An eligible appli-*
16 *cant receiving a grant or subgrant under this part*
17 *may use the grant or subgrant funds only for—*

18 “(A) *post-award planning and design of the*
19 *educational program, which may include—*

20 “(i) *refinement of the desired edu-*
21 *cational results and of the methods for*
22 *measuring progress toward achieving those*
23 *results; and*

1 “(ii) professional development of teach-
2 ers and other staff who will work in the
3 charter school; and

4 “(B) initial implementation of the charter
5 school, which may include—

6 “(i) informing the community about
7 the school;

8 “(ii) acquiring necessary equipment
9 and educational materials and supplies;

10 “(iii) acquiring or developing cur-
11 riculum materials; and

12 “(iv) other initial operational costs
13 that cannot be met from State or local
14 sources.

15 “(4) ADMINISTRATIVE EXPENSES.—Each State
16 educational agency receiving a grant pursuant to this
17 part may reserve not more than 5 percent of such
18 grant funds for administrative expenses associated
19 with the charter school grant program assisted under
20 this part. A local educational agency may not deduct
21 funds for administrative fees or expenses from a
22 subgrant awarded to an eligible applicant.

23 “(5) REVOLVING LOAN FUNDS.—Each State edu-
24 cational agency receiving a grant pursuant to this
25 part may reserve not more than 10 percent of the

1 *grant amount for the establishment of a revolving*
2 *loan fund. Such fund may be used to make loans to*
3 *eligible applicants that have received a subgrant*
4 *under this part, under such terms as may be deter-*
5 *mined by the State educational agency, for the initial*
6 *operation of the charter school grant program of such*
7 *recipient until such time as the recipient begins re-*
8 *ceiving ongoing operational support from State or*
9 *local financing sources.*

10 *“(6) DISSEMINATION.—*

11 *“(A) IN GENERAL.—A charter school may*
12 *apply for funds under this part, whether or not*
13 *the charter school has applied for or received*
14 *funds under this part for planning, program de-*
15 *sign, or implementation, to carry out the activi-*
16 *ties described in subparagraph (B) if the charter*
17 *school has been in operation for at least 3 con-*
18 *secutive years and has demonstrated overall suc-*
19 *cess, including—*

20 *“(i) substantial progress in improving*
21 *student academic achievement;*

22 *“(ii) high levels of parent satisfaction;*
23 *and*

24 *“(iii) the management and leadership*
25 *necessary to overcome initial start-up prob-*

1 *lems and establish a thriving, financially*
2 *viable charter school.*

3 “(B) *ACTIVITIES.*—*A charter school de-*
4 *scribed in subparagraph (A) may use funds re-*
5 *served under paragraph (1) to assist other*
6 *schools in adapting the charter school’s program*
7 *(or certain aspects of the charter school’s pro-*
8 *gram), or to disseminate information about the*
9 *charter school, through such activities as—*

10 *“(i) assisting other individuals with*
11 *the planning and start-up of one or more*
12 *new public schools, including charter*
13 *schools, that are independent of the assist-*
14 *ing charter school and the assisting charter*
15 *school’s developers, and that agree to be held*
16 *to at least as high a level of accountability*
17 *as the assisting charter school;*

18 *“(ii) developing partnerships with*
19 *other public schools, including charter*
20 *schools, designed to improve student aca-*
21 *ademic achievement in each of the schools*
22 *participating in the partnership;*

23 *“(iii) developing curriculum materials,*
24 *academic assessments, and other materials*
25 *that promote increased student academic*

1 *achievement and are based on successful*
2 *practices within the assisting charter school;*
3 *and*

4 “(iv) *conducting evaluations and devel-*
5 *oping materials that document the success-*
6 *ful practices of the assisting charter school*
7 *and that are designed to improve student*
8 *academic achievement in other schools.*

9 “(g) *TRIBALLY CONTROLLED SCHOOLS.—Each State*
10 *that receives a grant under this part and designates a trib-*
11 *ally controlled school as a charter school shall not consider*
12 *payments to a school under the Tribally Controlled Schools*
13 *Act of 1988 (25 U.S.C. 2507) in determining—*

14 “(1) *the eligibility of the school to receive any*
15 *other Federal, State, or local aid; or*

16 “(2) *the amount of such aid.*

17 **“SEC. 4205. NATIONAL ACTIVITIES.**

18 “(a) *IN GENERAL.—The Secretary shall reserve for*
19 *each fiscal year the greater of 5 percent or \$5,000,000 of*
20 *the amount appropriated to carry out this part, except that*
21 *in no fiscal year shall the total amount so reserved exceed*
22 *\$8,000,000, to carry out the following activities:*

23 “(1) *To provide charter schools, either directly or*
24 *through State educational agencies, with—*

25 “(A) *information regarding—*

1 “(i) Federal funds that charter schools
2 are eligible to receive; and

3 “(ii) other Federal programs in which
4 charter schools may participate; and

5 “(B) assistance in applying for Federal
6 education funds that are allocated by formula,
7 including assistance with filing deadlines and
8 submission of applications.

9 “(2) To provide for other evaluations or studies
10 that include the evaluation of the impact of charter
11 schools on student academic achievement, including
12 information regarding—

13 “(A) students attending charter schools re-
14 ported on the basis of race, age, disability, gen-
15 der, limited English proficiency, and previous
16 enrollment in public school; and

17 “(B) the professional qualifications of teach-
18 ers within a charter school and the turnover of
19 the teaching force.

20 “(3) To provide—

21 “(A) information to applicants for assist-
22 ance under this part;

23 “(B) assistance to applicants for assistance
24 under this part with the preparation of applica-
25 tions under section 4203;

1 “(C) assistance in the planning and startup
2 of charter schools;

3 “(D) training and technical assistance to
4 existing charter schools; and

5 “(E) for the dissemination to other public
6 schools of best or promising practices in charter
7 schools.

8 “(4) To provide (including through the use of one
9 or more contracts that use a competitive bidding
10 process) for the collection of information regarding the
11 financial resources available to charter schools, in-
12 cluding access to private capital, and to widely dis-
13 seminate to charter schools any such relevant infor-
14 mation and model descriptions of successful pro-
15 grams.

16 “(b) CONSTRUCTION.—Nothing in this section shall be
17 construed to require charter schools to collect any data de-
18 scribed in subsection (a).

19 **“SEC. 4206. FEDERAL FORMULA ALLOCATION DURING**
20 **FIRST YEAR AND FOR SUCCESSIVE ENROLL-**
21 **MENT EXPANSIONS.**

22 “(a) IN GENERAL.—For purposes of the allocation to
23 schools by the States or their agencies of funds under part
24 A of title I, and any other Federal funds which the Sec-
25 retary allocates to States on a formula basis, the Secretary

1 *and each State educational agency shall take such measures*
2 *as are necessary to ensure that every charter school receives*
3 *the Federal funding for which the charter school is eligible*
4 *not later than 5 months after the charter school first opens,*
5 *notwithstanding the fact that the identity and characteris-*
6 *tics of the students enrolling in that charter school are not*
7 *fully and completely determined until that charter school*
8 *actually opens. The measures similarly shall ensure that*
9 *every charter school expanding its enrollment in any subse-*
10 *quent year of operation receives the Federal funding for*
11 *which the charter school is eligible not later than 5 months*
12 *after such expansion.*

13 “(b) *ADJUSTMENT AND LATE OPENINGS.*—

14 “(1) *IN GENERAL.*—*The measures described in*
15 *subsection (a) shall include provision for appropriate*
16 *adjustments, through recovery of funds or reduction of*
17 *payments for the succeeding year, in cases where pay-*
18 *ments made to a charter school on the basis of esti-*
19 *mated or projected enrollment data exceed the*
20 *amounts that the school is eligible to receive on the*
21 *basis of actual or final enrollment data.*

22 “(2) *RULE.*—*For charter schools that first open*
23 *after November 1 of any academic year, the State, in*
24 *accordance with guidance provided by the Secretary*
25 *and applicable Federal statutes and regulations, shall*

1 *transfer of the student to the charter school, to another pub-*
2 *lic school upon the transfer of the student from a charter*
3 *school to another public school, and to a private school upon*
4 *the transfer of the student from a charter or public school*
5 *to the private school (with the written consent of a parent*
6 *of the student), in accordance with applicable State law.*

7 **“SEC. 4209. PAPERWORK REDUCTION.**

8 *“To the extent practicable, the Secretary and each au-*
9 *thorized public chartering agency shall ensure that imple-*
10 *mentation of this part results in a minimum of paperwork*
11 *for any eligible applicant or charter school.*

12 **“SEC. 4210. DEFINITIONS.**

13 *“As used in this part:*

14 *“(1) The term ‘charter school’ means a public*
15 *school that—*

16 *“(A) in accordance with a specific State*
17 *statute authorizing the granting of charters to*
18 *schools, is exempted from significant State or*
19 *local rules that inhibit the flexible operation and*
20 *management of public schools, but not from any*
21 *rules relating to the other requirements of this*
22 *paragraph;*

23 *“(B) is created by a developer as a public*
24 *school, or is adapted by a developer from an ex-*

1 *isting public school, and is operated under pub-*
2 *lic supervision and direction;*

3 *“(C) operates in pursuit of a specific set of*
4 *educational objectives determined by the school’s*
5 *developer and agreed to by the authorized public*
6 *chartering agency;*

7 *“(D) provides a program of elementary or*
8 *secondary education, or both;*

9 *“(E) is nonsectarian in its programs, ad-*
10 *missions policies, employment practices, and all*
11 *other operations, and is not affiliated with a sec-*
12 *tarian school or religious institution;*

13 *“(F) does not charge tuition;*

14 *“(G) complies with the Age Discrimination*
15 *Act of 1975, title VI of the Civil Rights Act of*
16 *1964, title IX of the Education Amendments of*
17 *1972, section 504 of the Rehabilitation Act of*
18 *1973, and part B of the Individuals with Dis-*
19 *abilities Education Act;*

20 *“(H) is a school to which parents choose to*
21 *send their children, and that admits students on*
22 *the basis of a lottery, or in another nondiscrim-*
23 *inatory manner consistent with State law, if*
24 *more students apply for admission than can be*
25 *accommodated;*

1 “(I) agrees to comply with the same Federal
2 and State audit requirements as do other elemen-
3 tary and secondary schools in the State, unless
4 such requirements are specifically waived for the
5 purpose of this program;

6 “(J) meets all applicable Federal, State,
7 and local health and safety requirements;

8 “(K) operates in accordance with State law;
9 and

10 “(L) has a written performance contract
11 with the authorized public chartering agency in
12 the State that includes a description of how stu-
13 dent academic achievement will be measured in
14 charter schools pursuant to State academic as-
15 sessments that are required of other schools and
16 pursuant to any other assessments mutually
17 agreeable to the authorized public chartering
18 agency and the charter school.

19 “(2) The term ‘developer’ means an individual
20 or group of individuals (including a public or private
21 nonprofit organization), which may include teachers,
22 administrators and other school staff, parents, or
23 other members of the local community in which a
24 charter school project will be carried out.

1 “(3) *The term ‘eligible applicant’ means a devel-*
2 *oper that has—*

3 “(A) *applied to an authorized public char-*
4 *tering authority; and*

5 “(B) *provided adequate and timely notice to*
6 *that authority under section 4203(d)(3).*

7 “(4) *The term ‘authorized public chartering*
8 *agency’ means a State educational agency, local edu-*
9 *cational agency, or other public entity that has the*
10 *authority pursuant to State law and approved by the*
11 *Secretary to authorize or approve a charter school.*

12 **“SEC. 4211. AUTHORIZATION OF APPROPRIATIONS.**

13 *“For the purpose of carrying out this part, there are*
14 *authorized to be appropriated \$225,000,000 for fiscal year*
15 *2002 and such sums as may be necessary for each of the*
16 *4 succeeding fiscal years.”.*

17 **SEC. 412. CONTINUATION OF AWARDS.**

18 *Notwithstanding any other provision of this Act, any*
19 *person or agency that was awarded a grant or subgrant*
20 *under subpart 1 of part C of title X (20 U.S.C. 8061 et*
21 *seq.) prior to the date of the enactment of this Act shall*
22 *continue to receive funds in accordance with the terms of*
23 *such award until the date on which the award period termi-*
24 *nates under such terms.*

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

3 **SEC. 421. MAGNET SCHOOLS ASSISTANCE.**

4 *Title IV, as amended by sections 401 and 411, is fur-*
5 *ther amended by adding at the end the following:*

6 **“PART C—MAGNET SCHOOLS ASSISTANCE;**
7 **WOMEN’S EDUCATIONAL EQUITY**

8 **“Subpart 1—Magnet Schools Assistance**

9 **“SEC. 4301. FINDINGS.**

10 *“The Congress finds as follows:*

11 *“(1) Magnet schools are a significant part of the*
12 *Nation’s efforts to achieve voluntary desegregation in*
13 *our schools.*

14 *“(2) The use of magnet schools has increased*
15 *dramatically since the inception of the magnet schools*
16 *assistance program under this Act, with approxi-*
17 *mately 2,000,000 students nationwide attending such*
18 *schools, of whom more than 65 percent are non-white.*

19 *“(3) Magnet schools offer a wide range of distinc-*
20 *tive programs that have served as models for school*
21 *improvement efforts.*

22 *“(4) It is in the best interests of the United*
23 *States—*

24 *“(A) to continue the Federal Government’s*
25 *support of local educational agencies that are*
26 *implementing court-ordered desegregation plans*

1 *and local educational agencies that are volun-*
2 *tarily seeking to foster meaningful interaction*
3 *among students of different racial and ethnic*
4 *backgrounds, beginning at the earliest stage of*
5 *such students' education;*

6 *“(B) to ensure that all students have equi-*
7 *table access to a quality education that will pre-*
8 *pare them to function well in a highly competi-*
9 *tive economy;*

10 *“(C) to maximize the ability of local edu-*
11 *cational agencies to plan, develop, implement,*
12 *and continue effective and innovative magnet*
13 *schools that contribute to State and local sys-*
14 *temic reform; and*

15 *“(D) to ensure that grant recipients provide*
16 *adequate data that demonstrate an ability to im-*
17 *prove student academic achievement.*

18 **“SEC. 4302. STATEMENT OF PURPOSE.**

19 *“The purpose of this part is to assist in the desegrega-*
20 *tion of schools served by local educational agencies by pro-*
21 *viding financial assistance to eligible local educational*
22 *agencies for—*

23 *“(1) the elimination, reduction, or prevention of*
24 *minority group isolation in elementary and sec-*

1 *ondary schools with substantial proportions of minor-*
2 *ity students;*

3 *“(2) the development and implementation of*
4 *magnet school projects that will assist local edu-*
5 *cational agencies in achieving systemic reforms and*
6 *providing all students the opportunity to meet chal-*
7 *lenging State academic content standards and student*
8 *academic achievement standards;*

9 *“(3) the development and design of innovative*
10 *educational methods and practices that promote di-*
11 *versity and increase choices in public elementary and*
12 *secondary schools and educational programs; and*

13 *“(4) courses of instruction within magnet schools*
14 *that will substantially strengthen the knowledge of*
15 *academic subjects and the grasp of tangible and mar-*
16 *ketable vocational and technical skills of students at-*
17 *tending such schools.*

18 **“SEC. 4303. PROGRAM AUTHORIZED.**

19 *“The Secretary, in accordance with this part, is au-*
20 *thorized to make grants to eligible local educational agen-*
21 *cies, and consortia of such agencies where appropriate, to*
22 *carry out the purpose of this part for magnet schools that*
23 *are—*

24 *“(1) part of an approved desegregation plan;*
25 *and*

1 “(2) designed to bring students from different so-
2 cial, economic, ethnic, and racial backgrounds to-
3 gether.

4 **“SEC. 4304. DEFINITION.**

5 “*For the purpose of this part, the term ‘magnet school’*
6 *means a public elementary or secondary school or public*
7 *elementary or secondary education center that offers a spe-*
8 *cial curriculum capable of attracting substantial numbers*
9 *of students of different racial backgrounds.*

10 **“SEC. 4305. ELIGIBILITY.**

11 “*A local educational agency, or consortium of such*
12 *agencies where appropriate, is eligible to receive assistance*
13 *under this part to carry out the purpose of this part if such*
14 *agency or consortium—*

15 “*(1) is implementing a plan undertaken pursu-*
16 *ant to a final order issued by a court of the United*
17 *States, or a court of any State, or any other State*
18 *agency or official of competent jurisdiction, that re-*
19 *quires the desegregation of minority-group-segregated*
20 *children or faculty in the elementary and secondary*
21 *schools of such agency; or*

22 “*(2) without having been required to do so, has*
23 *adopted and is implementing, or will, if assistance is*
24 *made available to such local educational agency or*
25 *consortium of such agencies under this part, adopt*

1 *and implement a plan that has been approved by the*
2 *Secretary as adequate under title VI of the Civil*
3 *Rights Act of 1964 for the desegregation of minority-*
4 *group-segregated children or faculty in such schools.*

5 **“SEC. 4306. APPLICATIONS AND REQUIREMENTS.**

6 “(a) *APPLICATIONS.*—*An eligible local educational*
7 *agency, or consortium of such agencies, desiring to receive*
8 *assistance under this part shall submit an application to*
9 *the Secretary at such time, in such manner, and containing*
10 *such information and assurances as the Secretary may rea-*
11 *sonably require.*

12 “(b) *INFORMATION AND ASSURANCES.*—*Each such ap-*
13 *plication shall include—*

14 “(1) *a description of—*

15 “(A) *how assistance made available under*
16 *this part will be used to promote desegregation,*
17 *including how the proposed magnet school project*
18 *will increase interaction among students of dif-*
19 *ferent social, economic, ethnic, and racial back-*
20 *grounds;*

21 “(B) *the manner and extent to which the*
22 *magnet school project will increase student aca-*
23 *demie achievement in the instructional area or*
24 *areas offered by the school;*

1 “(C) how an applicant will continue the
2 magnet school project after assistance under this
3 part is no longer available, including, if applica-
4 ble, an explanation of why magnet schools estab-
5 lished or supported by the applicant with funds
6 under this part cannot be continued without the
7 use of funds under this part;

8 “(D) how funds under this part will be used
9 to improve student academic performance for all
10 students attending the magnet schools; and

11 “(E) the criteria to be used in selecting stu-
12 dents to attend the proposed magnet school
13 projects; and

14 “(2) assurances that the applicant will—

15 “(A) use funds under this part for the pur-
16 pose specified in section 4302;

17 “(B) employ fully qualified teachers in the
18 courses of instruction assisted under this part;

19 “(C) not engage in discrimination based on
20 race, religion, color, national origin, sex, or dis-
21 ability in—

22 “(i) the hiring, promotion, or assign-
23 ment of employees of the agency or other
24 personnel for whom the agency has any ad-
25 ministrative responsibility;

1 “(ii) the assignment of students to
2 schools, or to courses of instruction within
3 the school, of such agency, except to carry
4 out the approved plan; and

5 “(iii) designing or operating extra-
6 curricular activities for students;

7 “(D) carry out a high-quality education
8 program that will encourage greater parental de-
9 cisionmaking and involvement; and

10 “(E) give students residing in the local at-
11 tendance area of the proposed magnet school
12 projects equitable consideration for placement in
13 those projects.

14 **“SEC. 4307. PRIORITY.**

15 *“In approving applications under this part, the Sec-
16 retary shall give priority to applicants that—*

17 “(1) demonstrate the greatest need for assistance,
18 based on the expense or difficulty of effectively car-
19 rying out an approved desegregation plan and the
20 projects for which assistance is sought;

21 “(2) propose to carry out new magnet school
22 projects, or significantly revise existing magnet school
23 projects; and

1 “(3) propose to select students to attend magnet
2 school projects by methods such as lottery, rather than
3 through academic examination.

4 **“SEC. 4308. USE OF FUNDS.**

5 “(a) *IN GENERAL.*—Grant funds made available under
6 this part may be used by an eligible local educational agen-
7 cy or consortium of such agencies—

8 “(1) for planning and promotional activities di-
9 rectly related to the development, expansion, continu-
10 ation, or enhancement of academic programs and
11 services offered at magnet schools;

12 “(2) for the acquisition of books, materials, and
13 equipment, including computers and the maintenance
14 and operation thereof, necessary for the conduct of
15 programs in magnet schools;

16 “(3) for the payment, or subsidization of the
17 compensation, of elementary and secondary school
18 teachers who are fully qualified, and instructional
19 staff where applicable, who are necessary for the con-
20 duct of programs in magnet schools;

21 “(4) with respect to a magnet school program of-
22 fered to less than the entire student population of a
23 school, for instructional activities that—

24 “(A) are designed to make available the spe-
25 cial curriculum that is offered by the magnet

1 *school project to students who are enrolled in the*
2 *school but who are not enrolled in the magnet*
3 *school program; and*

4 *“(B) further the purpose of this part; and*
5 *“(5) for activities, which may include profes-*
6 *sional development, that will build the recipient’s ca-*
7 *capacity to operate magnet school programs once the*
8 *grant period has ended.*

9 *“(b) SPECIAL RULE.—Grant funds under this part*
10 *may be used in accordance with paragraphs (2) and (3)*
11 *of subsection (a) only if the activities described in such*
12 *paragraphs are directly related to improving the students’*
13 *academic performance based on the State’s challenging aca-*
14 *demic content standards and student academic achievement*
15 *standards or directly related to improving the students’*
16 *reading skills or knowledge of mathematics, science, history,*
17 *geography, English, foreign languages, art, or music, or to*
18 *improving vocational and technical skills.*

19 **“SEC. 4309. PROHIBITIONS.**

20 *“(a) TRANSPORTATION.—Grants under this part may*
21 *not be used for transportation or any activity that does not*
22 *augment academic improvement.*

23 *“(b) PLANNING.—A local educational agency shall not*
24 *expend funds under this part after the third year that such*
25 *agency receives funds under this part for such project.*

1 **“SEC. 4310. LIMITATIONS.**

2 “(a) *DURATION OF AWARDS.*—A grant under this part
3 shall be awarded for a period that shall not exceed three
4 fiscal years.

5 “(b) *LIMITATION ON PLANNING FUNDS.*—A local edu-
6 cational agency may expend for planning not more than
7 50 percent of the funds received under this part for the first
8 year of the project, 15 percent of such funds for the second
9 such year, and 10 percent of such funds for the third such
10 year.

11 “(c) *AMOUNT.*—No local educational agency or consor-
12 tium awarded a grant under this part shall receive more
13 than \$4,000,000 under this part in any one fiscal year.

14 “(d) *TIMING.*—To the extent practicable, the Secretary
15 shall award grants for any fiscal year under this part not
16 later than July 1 of the applicable fiscal year.

17 **“SEC. 4311. EVALUATIONS.**

18 “(a) *RESERVATION.*—The Secretary may reserve not
19 more than 2 percent of the funds appropriated under section
20 4312(a) for any fiscal year to carry out evaluations, tech-
21 nical assistance, and dissemination projects with respect to
22 magnet school projects and programs assisted under this
23 part.

24 “(b) *CONTENTS.*—Each evaluation described in sub-
25 section (a), at a minimum, shall address—

1 “(1) *how and the extent to which magnet school*
2 *programs lead to educational quality and improve-*
3 *ment;*

4 “(2) *the extent to which magnet school programs*
5 *enhance student access to quality education;*

6 “(3) *the extent to which magnet school programs*
7 *lead to the elimination, reduction, or prevention of*
8 *minority group isolation in elementary and sec-*
9 *ondary schools with substantial proportions of minor-*
10 *ity students; and*

11 “(4) *the extent to which magnet school programs*
12 *differ from other school programs in terms of the or-*
13 *ganizational characteristics and resource allocations*
14 *of such magnet school programs.*

15 **“SEC. 4312. AUTHORIZATION OF APPROPRIATIONS; RES-**
16 **ERVATION.**

17 “(a) *AUTHORIZATION.—For the purpose of carrying*
18 *out this part, there are authorized to be appropriated*
19 *\$125,000,000 for fiscal year 2002 and such sums as may*
20 *be necessary for each of the 4 succeeding fiscal years.*

21 “(b) *AVAILABILITY OF FUNDS FOR GRANTS TO AGEN-*
22 *CIES NOT PREVIOUSLY ASSISTED.—In any fiscal year for*
23 *which the amount appropriated pursuant to subsection (a)*
24 *exceeds \$75,000,000, the Secretary shall give priority to*
25 *using such amounts in excess of \$75,000,000 to award*

1 *grants to local educational agencies or consortia of such*
2 *agencies that did not receive a grant under this part in*
3 *the preceding fiscal year.”.*

4 **SEC. 422. WOMEN’S EDUCATIONAL EQUITY.**

5 (a) *TRANSFER AND REDESIGNATION.*—*Part B of title*
6 *V (20 U.S.C. 7231 et seq.) is transferred and redesignated*
7 *as subpart 2 of part C of title IV. Sections 5201 through*
8 *5208 are redesignated as sections 4321 through 4328, re-*
9 *spectively.*

10 (b) *REPORT.*—*Section 4326 (as so redesignated) is*
11 *amended by striking “January 1, 1999,” and inserting*
12 *“January 1, 2005.”.*

13 (c) *EVALUATION AND DISSEMINATION.*—*Section*
14 *4327(a) (as so redesignated) is amended—*

15 (1) *by striking “14701,” and inserting “8651,”;*
16 *and*

17 (2) *by striking “January 1, 1998.” and insert-*
18 *ing “January 1, 2004.”.*

19 (d) *REAUTHORIZATION.*—*Section 4328 (as so redesign-*
20 *ated) is amended by striking “\$5,000,000 for fiscal year*
21 *1995 and such sums as may be necessary for each of the*
22 *four succeeding fiscal years,” and inserting “\$3,000,000 for*
23 *fiscal year 2002 and such sums as may be necessary for*
24 *each of the four succeeding fiscal years,”.*

25 (e) *OTHER CONFORMING AMENDMENTS.*—

1 (1) *SHORT TITLE*.—Section 4321(a) (as so rededesignated) is amended to read as follows:

2 “(a) *SHORT TITLE*.—This subpart may be cited as the
3 ‘*Women’s Educational Equity Act of 2001*’.”

4 (2) *REFERENCES*.—Subpart 2 of part C of title
5 IV (as so redesignated) is amended—

6 (A) by striking “this part” each place such
7 term appears and inserting “this subpart”; and

8 (B) by striking “5203(b)” each place such
9 term appears and inserting “4423(b)”.

10 **SEC. 423. CONTINUATION OF AWARDS.**

11 Notwithstanding any other provision of this Act, any
12 person or agency that was awarded a grant under part A
13 of title V (20 U.S.C. 7201 et seq.), or a grant, contract,
14 or cooperative agreement under part B of such title (20
15 U.S.C. 7231 et seq.), prior to the date of the enactment of
16 this Act shall continue to receive funds in accordance with
17 the terms of such award until the date on which the award
18 period terminates under such terms.

19 **TITLE V—21ST CENTURY**
20 **SCHOOLS**

21 **SEC. 501. SAFE SCHOOLS.**

22 Title V, except part B (which is transferred and rededesignated as subpart 2 of part C of title IV by section 422(a)
23 of this Act) is amended to read as follows:
24
25

1 **“TITLE V—21ST CENTURY**
2 **SCHOOLS**

3 **“PART A—SUPPORTING VIOLENCE AND DRUG**
4 **PREVENTION AND ACADEMIC ENRICHMENT**

5 **“SEC. 5001. SHORT TITLE.**

6 *“This part may be cited as the ‘21st Century Schools*
7 *Act of 2001’.*

8 **“SEC. 5002. PURPOSE.**

9 *“The purpose of this part is to support programs that*
10 *prevent the use of illegal drugs, prevent violence, provide*
11 *quality before and after school activities and supervision*
12 *for school age youth, involve parents and communities, and*
13 *are coordinated with related Federal, State, and community*
14 *efforts and resources to foster a safe and drug-free learning*
15 *environment in which students increase their academic*
16 *achievement, through the provision of Federal assistance*
17 *to—*

18 *“(1) States for grants to local educational agen-*
19 *cies and consortia of such agencies to establish, oper-*
20 *ate, and improve local programs of drug and violence*
21 *prevention in elementary and secondary schools;*

22 *“(2) States for grants to local educational agen-*
23 *cies, community-based organizations, and other public*
24 *entities and private organizations, for before and*
25 *after school programs for youth; and*

1 “(3) States and public and private nonprofit
2 and for-profit organizations to conduct training, dem-
3 onstrations, and evaluations.

4 **“SEC. 5003. AUTHORIZATION OF APPROPRIATIONS.**

5 *“There are authorized to be appropriated—*

6 *“(1) \$475,000,000 for fiscal year 2002, and such*
7 *sums as may be necessary for each of the 4 succeeding*
8 *fiscal years, for State grants under subpart 1;*

9 *“(2) \$900,000,000 for fiscal year 2002, and such*
10 *sums as may be necessary for each of the four suc-*
11 *ceeding fiscal years, for State grants under subpart 2;*
12 *and*

13 *“(3) \$60,000,000 for fiscal year 2002, and for*
14 *each of the 4 succeeding fiscal years, for national pro-*
15 *grams under subpart 3.*

16 **“Subpart 1—Safe Schools**

17 **“SEC. 5111. RESERVATIONS AND ALLOTMENTS.**

18 *“(a) RESERVATIONS.—From the amount made avail-*
19 *able under section 5003(1) to carry out this subpart for each*
20 *fiscal year, the Secretary—*

21 *“(1) shall reserve 1 percent or \$4,750,000*
22 *(whichever is greater) of such amount for grants to*
23 *Guam, American Samoa, the United States Virgin Is-*
24 *lands, and the Commonwealth of the Northern Mar-*
25 *iana Islands, to be allotted in accordance with the*

1 *Secretary’s determination of their respective needs*
2 *and to carry out programs described in this subpart;*

3 “(2) shall reserve 1 percent or \$4,750,000
4 *(whichever is greater) of such amount for the Sec-*
5 *retary of the Interior to carry out programs described*
6 *in this subpart for Indian youth;*

7 “(3) shall reserve 0.2 percent of such amount for
8 *Native Hawaiians to be used to carry out programs*
9 *described in this subpart;*

10 “(4) notwithstanding section 3 of the *Leave No*
11 *Child Behind Act of 2001, shall reserve an amount*
12 *necessary to make continuation grants to grantees*
13 *under part I of title X of this Act (under the terms*
14 *of those grants), as such part existed on the day before*
15 *the effective date of the Leave No Child Behind Act*
16 *of 2001; and*

17 “(5) notwithstanding section 3 of the *Leave No*
18 *Child Behind Act of 2001, shall reserve an amount*
19 *necessary to make continuation grants to grantees*
20 *under the Safe Schools/Healthy Students initiative*
21 *(under the terms of those grants), as it existed on the*
22 *day before the date of the effective date of the Leave*
23 *No Child Behind Act of 2001.*

24 “(b) *STATE ALLOTMENTS.—*

1 “(1) *IN GENERAL.*—*Except as provided in para-*
2 *graph (2), the Secretary, for each fiscal year, shall al-*
3 *locate among the States—*

4 “(A) *one-half of the remainder not reserved*
5 *under subsection (a) according to the ratio be-*
6 *tween the school-aged population of each State*
7 *and the school-aged population of all the States;*
8 *and*

9 “(B) *one-half of such remainder according*
10 *to the ratio between the amount each State re-*
11 *ceived under part A of title I for the preceding*
12 *year and the sum of such amounts received by*
13 *all the States.*

14 “(2) *MINIMUM.*—*For any fiscal year, no State*
15 *shall be allotted under this subsection an amount that*
16 *is less than one-half of 1 percent of the total amount*
17 *allotted to all the States under this subsection.*

18 “(c) *REALLOTMENT OF UNUSED FUNDS.*—*If any State*
19 *does not apply for an allotment under this subpart for a*
20 *fiscal year, the Secretary shall reallocate the amount of the*
21 *State’s allotment to the remaining States in accordance*
22 *with this section.*

23 “(d) *DEFINITION.*—*For the purposes of this section, the*
24 *term ‘Native Hawaiian’ means any individual any of*

1 *whose ancestors were natives, prior to 1778, of the area*
2 *which now comprises the State of Hawaii.*

3 **“SEC. 5112. RESERVATION OF STATE FUNDS FOR SAFE**
4 **SCHOOLS.**

5 *“(a) STATE RESERVATION FOR THE GOVERNOR.—*

6 *“(1) IN GENERAL.—The chief executive officer of*
7 *a State may reserve not more than 20 percent of the*
8 *total amount allocated to a State under section*
9 *5111(b) for each fiscal year to award competitive*
10 *grants and contracts to local educational agencies,*
11 *community-based organizations, and other public en-*
12 *tities and private organizations for programs or ac-*
13 *tivities to support community efforts that complement*
14 *activities of local educational agencies described in*
15 *section 5115. Such officer shall award grants based*
16 *on—*

17 *“(A) the quality of the activity or program*
18 *proposed; and*

19 *“(B) how the program or activity is aligned*
20 *with the appropriate principles of effectiveness*
21 *described in section 5114(a).*

22 *“(2) SPECIAL CONSIDERATION.—In awarding*
23 *funds under subparagraph (A), a chief executive offi-*
24 *cer shall give special consideration to grantees that*
25 *pursue a comprehensive approach to drug and vio-*

1 *lence prevention by providing and incorporating*
2 *mental health services in their programs.*

3 *“(3) ADMINISTRATIVE COSTS.—The chief execu-*
4 *tive officer of a State may use not more than 1 per-*
5 *cent of the amount described in subparagraph (A) for*
6 *the administrative costs incurred in carrying out the*
7 *duties of such officer under this section.*

8 *“(b) STATE FUNDS.—*

9 *“(1) ADDITIONAL RESERVATIONS.—Each State*
10 *shall reserve an amount equal to the total amount al-*
11 *lotted to a State under section 5111(b), less the*
12 *amount reserved under subsection (a) and paragraphs*
13 *(2) and (3) of this subsection, for each fiscal year for*
14 *its local educational agencies.*

15 *“(2) STATE ACTIVITIES.—A State may use not*
16 *more than 4 percent of the total amount available*
17 *under subsection (a) for State activities described in*
18 *subsection (c).*

19 *“(3) STATE ADMINISTRATION.—A State may use*
20 *not more than 1 percent of the amount made avail-*
21 *able under subsection (a) for the administrative costs*
22 *of carrying out its responsibilities under this subpart.*

23 *“(c) ACTIVITIES.—*

24 *“(1) IN GENERAL.—A State shall use a portion*
25 *of the funds described in subsection (b)(2), either di-*

1 *rectly, or through grants and contracts, to plan, de-*
2 *velop, and implement capacity building, technical as-*
3 *sistance, evaluation, program improvement services,*
4 *and coordination activities for local educational agen-*
5 *cies, community-based organizations, other public en-*
6 *tities, and private organizations that are designed to*
7 *support the implementation of programs and activi-*
8 *ties under this subpart.*

9 “(2) *DATA COLLECTION.*—

10 “(A) *STATISTICS.*—A State may use a por-
11 *tion of the funds, not to exceed 20 percent, de-*
12 *scribed in subsection (b)(2), either directly or*
13 *through grants and contracts, to establish and*
14 *implement a statewide system of collecting data*
15 *regarding statistics on—*

16 “(i) *truancy rates; and*

17 “(ii) *the frequency, seriousness, and in-*
18 *cidence of violence and drug related offenses*
19 *resulting in suspensions and expulsion in*
20 *elementary and secondary schools in States.*

21 “(B) *COMPILATION OF STATISTICS.*—The
22 *statistics shall be compiled in accordance with*
23 *definitions as determined in the State criminal*
24 *code, but shall not identify victims of crimes or*
25 *persons accused of crimes. The collected data*

1 *shall include, incident reports by school officials,*
2 *anonymous student surveys, and anonymous*
3 *teacher surveys.*

4 “(C) *REPORTING.*—*Such data and statistics*
5 *shall be reported to the public and shall be re-*
6 *ported on a school-by-school basis.*

7 “(D) *LIMITATION.*—*Nothing in this sub-*
8 *section shall be construed to authorize the Sec-*
9 *retary to require particular policies, procedures,*
10 *or practices with respect to crimes on school*
11 *property or school security.*

12 “(3) *SAFE SCHOOLS.*—*The State shall establish*
13 *and implement a statewide policy requiring that stu-*
14 *dents attending persistently dangerous public elemen-*
15 *tary and secondary schools, as determined by the*
16 *State, or who become a victim of a violent criminal*
17 *offense, as defined by State law, while in or on the*
18 *grounds of a public elementary school or secondary*
19 *school that the student attends, be allowed to attend*
20 *a safe public elementary or secondary school, within*
21 *the local educational agency, including a public char-*
22 *ter school and allowing payment of reasonable trans-*
23 *portation costs and tuition costs for such students.*

1 **“SEC. 5113. STATE APPLICATION.**

2 “(a) *IN GENERAL.*—*In order to receive an allotment*
3 *under section 5111 for any fiscal year, a State shall submit*
4 *to the Secretary, at such time as the Secretary may require,*
5 *an application that—*

6 “(1) *describes the activities to be funded under*
7 *section 5112(c);*

8 “(2) *describes how activities funded under this*
9 *subpart will support State academic achievement*
10 *standards in accordance with section 1111;*

11 “(3) *describes how funds under this subpart will*
12 *be coordinated with programs under this Act, and*
13 *other programs, as appropriate, in accordance with*
14 *the provisions of section 8306;*

15 “(4) *provides an assurance that the application*
16 *was developed in consultation and coordination with*
17 *appropriate State officials and others, including the*
18 *chief executive officer, the chief State school officer, the*
19 *head of the State alcohol and drug abuse agency, the*
20 *heads of the State health and mental health agencies,*
21 *the head of the State criminal justice planning agen-*
22 *cy, the head of the State child welfare agency, the*
23 *head of the State board of education, or their des-*
24 *ignees, and representatives of parents, students, and*
25 *community-based organizations;*

1 “(5) provides an assurance that the State will
2 cooperate with, and assist, the Secretary in con-
3 ducting data collection as required by section 5116(a);

4 “(6) provides an assurance that the local edu-
5 cational agencies in the State will comply with the
6 provisions of section 8503 pertaining to the partici-
7 pation of private school children and teachers in the
8 programs and activities under this subpart;

9 “(7) provides an assurance that funds under this
10 subpart will be used to increase the level of State,
11 local, and other non-Federal funds that would, in the
12 absence of funds under this subpart, be made avail-
13 able for programs and activities authorized under this
14 subpart, and in no case supplant such State, local,
15 and other non-Federal funds;

16 “(8) describes the results of the State’s needs and
17 resources assessment for violence and illegal drug use
18 prevention which shall be based on the results of on-
19 going evaluation (which may include data on the in-
20 cidence and prevalence, age of onset, perception of
21 health risk and perception of social disapproval of vi-
22 olence and illegal drug use by youth in schools and
23 communities and the prevalence of risk and protective
24 factors or other scientifically based research variables
25 in the school and community);

1 “(9)(A) provides a statement of the State’s per-
2 formance measures for drug and violence prevention
3 programs and activities to be funded under this part
4 that shall be developed in consultation between the
5 State and local officials and that consist of—

6 “(i) performance indicators for drug and
7 violence prevention programs and activities; and

8 “(ii) levels of performance for each perform-
9 ance indicator;

10 “(B) a description of the procedures the State
11 will use for assessing and publicly reporting progress
12 toward meeting those performance measures; and

13 “(C) a plan for monitoring the implementation
14 of, and providing technical assistance regarding, the
15 activities and programs conducted by local edu-
16 cational agencies, community-based organizations,
17 other public entities, and private organizations under
18 this subpart;

19 “(10) provides an assurance that the State will
20 consult with a representative sample of local edu-
21 cational agencies in the development of the definition
22 of ‘persistently dangerous school’ for the purposes of
23 section 5112(c)(3);

1 “(11) provides a description of how the State de-
2 fines ‘persistently dangerous school’ for the purposes
3 of section 5112(c)(3); and

4 “(12) provides an assurance that the State ap-
5 plication will be available for public review after sub-
6 mission of the application.

7 “(b) *GENERAL APPROVAL.*—A State application sub-
8 mitted pursuant to subsection (a) shall be deemed to be ap-
9 proved by the Secretary unless the Secretary makes a writ-
10 ten determination, prior to the expiration of the 90-day pe-
11 riod beginning on the date that the Secretary receives the
12 application, that the application is in violation of this sub-
13 part.

14 “(c) *DISAPPROVAL.*—The Secretary shall not finally
15 disapprove a State application, except after giving the
16 State notice and opportunity for a hearing.

17 **“SEC. 5114. FORMULA GRANT PROGRAM.**

18 “(a) *IN GENERAL.*—

19 “(1) *FUNDS TO LOCAL EDUCATIONAL AGEN-*
20 *CIES.*—A State shall provide the amount made avail-
21 able to the State under this subpart, less the amounts
22 reserved under sections 5111 and 5112 to local edu-
23 cational agencies for drug and violence prevention
24 and education as follows:

1 “(A) 60 percent of such amount based on
2 the relative amount such agencies received under
3 part A of title I for the preceding fiscal year.

4 “(B) 40 percent of such amount to local
5 educational agencies based on the relative enroll-
6 ments in public and private nonprofit elemen-
7 tary and secondary schools within the bound-
8 aries of such agencies.

9 “(2) ADMINISTRATIVE COSTS.—Of the amount
10 received under paragraph (1), a local educational
11 agency may use not more than 1 percent for the ad-
12 ministrative costs of carrying out its responsibilities
13 under this subpart.

14 “(3) RETURN OF FUNDS TO STATE; REALLOCA-
15 TION.—

16 “(A) RETURN.—Except as provided in sub-
17 paragraph (B), upon the expiration of the 1-year
18 period beginning on the date that a local edu-
19 cational agency receives its allocation—

20 “(i) such agency shall return to the
21 State any funds from such allocation that
22 remain unobligated; and

23 “(ii) the State shall reallocate any such
24 amount to local educational agencies that

1 *have submitted plans for using such amount*
2 *for programs or activities on a timely basis.*

3 “(B) *CARRYOVER.*—*In any fiscal year, a*
4 *local educational agency, may retain for obliga-*
5 *tion in the succeeding fiscal year—*

6 “(i) *an amount equal to not more than*
7 *25 percent of the allocation it received*
8 *under this subpart for such fiscal year; or*

9 “(ii) *upon a demonstration of good*
10 *cause by such agency and approval by the*
11 *State, an amount that exceeds 25 percent of*
12 *such allocation.*

13 “(b) *ELIGIBILITY.*—*To be eligible to receive a subgrant*
14 *under this subpart, a local educational agency desiring a*
15 *subgrant shall submit an application to the State. Such an*
16 *application shall be amended, as necessary, to reflect*
17 *changes in the activities and programs of the local edu-*
18 *cational agency.*

19 “(c) *DEVELOPMENT.*—

20 “(1) *CONSULTATION.*—

21 “(A) *IN GENERAL.*—*A local educational*
22 *agency shall develop its application through*
23 *timely and meaningful consultation with State*
24 *and local government representatives, representa-*
25 *tives of schools to be served, school personnel, and*

1 *community organizations with relevant and*
2 *demonstrated expertise in drug and violence pre-*
3 *vention activities, students and parents.*

4 “(B) *CONTINUED CONSULTATION.*—*On an*
5 *ongoing basis, the local educational agency shall*
6 *consult with such representatives and organiza-*
7 *tions in order to seek advice regarding how best*
8 *to coordinate such agency’s activities under this*
9 *subpart with other related strategies, programs,*
10 *and activities being conducted in the commu-*
11 *nity.*

12 “(2) *DESIGN AND DEVELOPMENT.*—*To ensure*
13 *timely and meaningful consultation, a local edu-*
14 *cational agency at the initial stages of design and de-*
15 *velopment of a program or activity shall consult, in*
16 *accordance with this subsection, with appropriate en-*
17 *tities and persons on issues regarding the design and*
18 *development of the program or activity, including ef-*
19 *forts to meet the principles of effectiveness described*
20 *in section 5115(a).*

21 “(d) *CONTENTS OF APPLICATIONS.*—

22 “(1) *IN GENERAL.*—*An application submitted by*
23 *a local educational agency under this section shall*
24 *contain—*

1 “(A) an assurance that the activities or pro-
2 grams to be funded support State academic
3 achievement goals in accordance with section
4 1111;

5 “(B) a detailed explanation of the local edu-
6 cational agency’s comprehensive plan for drug
7 and violence prevention, which shall include a
8 description of—

9 “(i) how the plan will be coordinated
10 with programs under this Act, other Fed-
11 eral, State, and local programs for drug
12 and violence prevention, in accordance with
13 the provisions of section 8306;

14 “(ii) the local educational agency’s
15 performance measures for drug and violence
16 prevention programs and activities, that
17 shall consist of—

18 “(I) performance indicators for
19 drug and violence prevention programs
20 and activities; and

21 “(II) levels of performance for
22 each performance indicator;

23 “(iii) how such agency will assess and
24 publicly report progress toward attaining
25 its performance measures;

1 “(iv) the drug and violence prevention
2 activity or program to be funded, including
3 how the activity or program will meet the
4 principles of effectiveness described in sec-
5 tion 5115(a), and the means of evaluating
6 such activity or program; and

7 “(v) how the services will be targeted to
8 schools and students with the greatest need;

9 “(C) a certification that a meaningful as-
10 sessment has been conducted to determine com-
11 munity needs (including consultation with com-
12 munity leaders, businesses, and school officials),
13 available resources and capacity in the public
14 and private sector (which may include an anal-
15 ysis based on data reasonably available at the
16 time on the incidence and prevalence, age of
17 onset, perception of health risk, and perception of
18 social disapproval of drug use and violence by
19 youth in schools and communities, prevalence of
20 risk and protective factors, buffers or assets, or
21 other scientifically based research variables in
22 the school and community), the findings of such
23 assessments;

24 “(D) an assurance that funds under this
25 subpart will be used to increase the level of State,

1 local, and other non-Federal funds that would,
2 in the absence of funds under this subpart, be
3 made available for programs and activities au-
4 thorized under this subpart, and in no case sup-
5 plant such State, local, and other non-Federal
6 funds;

7 “(E) a description of the mechanisms used
8 to provide effective notice to the community of
9 an intention to submit an application under this
10 title;

11 “(F) an assurance that drug prevention
12 programs supported under this part convey a
13 clear and consistent message that the illegal use
14 of drugs is wrong and harmful;

15 “(G) an assurance that the local edu-
16 cational agency has established and implemented
17 a student code of conduct policy that clearly
18 states responsibilities of students, teachers, and
19 administrators in maintaining a classroom envi-
20 ronment that allows a teacher to communicate
21 effectively with all students in the class, that al-
22 lows all students in the class to learn, has con-
23 sequences that are fair and appropriate for vio-
24 lations, and is enforced equitably;

1 “(H) an assurance that the application and
2 any waiver request will be available for public
3 review after submission of the application; and

4 “(I) such other information and assurances
5 as the State may reasonably require.

6 “(2) *GENERAL APPROVAL.*—A local educational
7 agency’s application submitted to the State under this
8 subpart shall be deemed to be approved by the State
9 unless the State makes a written determination, prior
10 to the expiration of the 90-day period beginning on
11 the date that the State receives the application, that
12 the application is in violation of this subpart.

13 “(3) *DISAPPROVAL.*—The State shall not finally
14 disapprove a local educational agency application,
15 except after giving such agency notice and an oppor-
16 tunity for a hearing.

17 **“SEC. 5115. AUTHORIZED ACTIVITIES.**

18 “(a) *PRINCIPLES OF EFFECTIVENESS.*—

19 “(1) *IN GENERAL.*—For a program or activity
20 developed pursuant to this subpart to meet the prin-
21 ciples of effectiveness, such program or activity
22 shall—

23 “(A) be based upon an assessment of objec-
24 tive data regarding the incidence of violence and
25 illegal drug use in the elementary and secondary

1 *schools and communities to be served, including*
2 *an objective analysis of the current conditions*
3 *and consequences regarding violence and illegal*
4 *drug use, including delinquency and serious dis-*
5 *cipline problems, among students who attend*
6 *such schools (including private school students*
7 *who participate in the drug and violence preven-*
8 *tion program) that is based on ongoing local as-*
9 *essment or evaluation activities;*

10 *“(B) be based upon an established set of*
11 *performance measures aimed at ensuring that*
12 *the elementary and secondary schools and com-*
13 *munities to be served by the program have a*
14 *drug-free, safe, and orderly learning environ-*
15 *ment; and*

16 *“(C) be based upon scientifically based re-*
17 *search that provides evidence that the program to*
18 *be used will reduce violence and illegal drug use.*

19 *“(2) PERIODIC EVALUATION.—The program or*
20 *activity shall undergo a periodic evaluation to assess*
21 *its progress toward reducing violence and illegal drug*
22 *use in schools to be served based on performance*
23 *measures described in section 5114(d)(1)(B)(i) The*
24 *results shall be used to refine, improve, and strength-*
25 *en the program, and to refine the performance meas-*

1 *ures. The results shall also be made available to the*
2 *public upon request, with public notice of such avail-*
3 *ability provided.*

4 *“(3) WAIVER.—A local educational agency may*
5 *apply to the State for a waiver of the requirement of*
6 *paragraph (1)(C) to allow innovative activities or*
7 *programs that demonstrate substantial likelihood of*
8 *success.*

9 *“(b) LOCAL EDUCATIONAL AGENCY ACTIVITIES.—*

10 *“(1) PROGRAM REQUIREMENTS.—A local edu-*
11 *cational agency shall use funds made available under*
12 *section 5114 to develop, implement, and evaluate com-*
13 *prehensive programs and activities, which are coordi-*
14 *nated with other school and community-based services*
15 *and programs, that shall—*

16 *“(A) support State academic achievement*
17 *goals in accordance with section 1111;*

18 *“(B) be consistent with the principles of ef-*
19 *fectiveness described in subsection (a);*

20 *“(C) be designed to—*

21 *“(i) prevent or reduce violence and ille-*
22 *gal drug use, delinquency, serious discipline*
23 *problems, and poor academic achievement*
24 *and illegal drug use; and*

1 “(ii) create a well disciplined environ-
2 ment conducive to learning, which includes
3 consultation between teachers, principals,
4 and other school personnel to identify early
5 warning signs of drug use and violence and
6 to provide behavioral interventions as part
7 of classroom management efforts; and

8 “(D) include activities to promote the in-
9 volvement of parents in the activity or program,
10 to promote coordination with community groups
11 and coalitions, and government agencies, and to
12 distribute information about the local edu-
13 cational agency’s needs, goals, and programs
14 under this subpart.

15 “(2) *AUTHORIZED ACTIVITIES.*—Each local edu-
16 cational agency or consortium of such agencies, that
17 receives a subgrant under this subpart may use such
18 funds to carry out activities, such as—

19 “(A) developmentally appropriate drug and
20 violence prevention programs in both elementary
21 and secondary schools that incorporate a variety
22 of prevention strategies and activities, which
23 may include—

24 “(i) teaching students that most people
25 do not use illegal drugs;

1 “(ii) teaching students to recognize so-
2 cial and peer pressure to use illegal drugs
3 and the skills for resisting illegal drug use;

4 “(iii) teaching students about the dan-
5 gers of emerging drugs;

6 “(iv) engaging students in the learning
7 process;

8 “(v) incorporating activities in sec-
9 ondary schools that reinforce prevention ac-
10 tivities implemented in elementary schools;
11 and

12 “(vi) involving families and commu-
13 nities in setting clear expectations against
14 violence and illegal drug use and enforcing
15 appropriate consequences for violence and
16 illegal drug use;

17 “(B) training of school personnel and par-
18 ents in youth drug and violence prevention, in-
19 cluding training in early identification, inter-
20 vention, and prevention of threatening behavior;

21 “(C) community-wide strategies for reduc-
22 ing violence and illegal drug use, and illegal
23 gang activity;

24 “(D) to the extent that expenditures do not
25 exceed 20 percent of the amount made available

1 to a local educational agency under this subpart,
2 law enforcement and security activities, includ-
3 ing—

4 “(i) acquisition and installation of
5 metal detectors;

6 “(ii) hiring and training of security
7 personnel, that are related to youth drug
8 and violence prevention;

9 “(iii) reporting of criminal offenses on
10 school property; and

11 “(iv) development of comprehensive
12 school security assessments;

13 “(E) expanding and improving school-based
14 mental health services, including early identi-
15 fication of violence and illegal drug use, assess-
16 ment, and direct individual or group counseling
17 services provided to students, parents, and school
18 personnel by qualified school based mental health
19 services personnel;

20 “(F) establishing and maintaining peer me-
21 diation programs that include educating and
22 training peer mediators and a designated faculty
23 supervisor and purchasing necessary materials
24 to facilitate training and the mediation process;

1 “(G) *alternative education programs or*
2 *services that reduce the need for suspensions or*
3 *expulsions or programs or services for students*
4 *who have been expelled or suspended from the*
5 *regular educational settings, including programs*
6 *or services to assist students to reenter the reg-*
7 *ular education setting upon return from treat-*
8 *ment or alternative education programs;*

9 “(H) *counseling, mentoring, and referral*
10 *services, and other student assistance practices*
11 *and programs, including assistance provided by*
12 *qualified school based mental health services per-*
13 *sonnel and the training of teachers by school-*
14 *based mental health service providers in appro-*
15 *priate identification and intervention techniques*
16 *for students, at risk of violent behavior and drug*
17 *use;*

18 “(I) *activities that reduce truancy;*

19 “(J) *age appropriate, developmentally based*
20 *violence prevention and education programs that*
21 *address the legal, health, personal, and social*
22 *consequences of illegal drug use and violent and*
23 *disruptive behavior and that include activities*
24 *designed to help students develop a sense of indi-*

1 *vidual responsibility and respect for the rights of*
2 *others, and to resolve conflicts without violence;*

3 “(K) *providing guidance to students that*
4 *encourages students to seek advice for anxiety,*
5 *threats of violence, or actual violence and to con-*
6 *fide in a trusted adult regarding an uncomfort-*
7 *able or threatening situation;*

8 “(L) *the development of educational pro-*
9 *grams that prevent school based crime, including*
10 *preventing crimes motivated by hate that result*
11 *in acts of physical violence at school and any*
12 *programs or published materials that address*
13 *school based crime shall not recommend or re-*
14 *quire any action that abridges or infringes upon*
15 *the constitutionally protected rights of free*
16 *speech, religion, and equal protection of students,*
17 *their parents, or legal guardians;*

18 “(M) *testing students for illegal drug use or*
19 *conducting student locker searches for illegal*
20 *drugs or drug paraphernalia consistent with the*
21 *4th amendment to the Constitution;*

22 “(N) *emergency intervention services fol-*
23 *lowing traumatic crisis events, such as a shoot-*
24 *ing, major accident, or a drug-related incident,*
25 *that has disrupted the learning environment;*

1 “(O) establishing and implementing a sys-
2 tem for transferring suspension and expulsion
3 records by a local educational agency to any
4 public or private elementary or secondary school;

5 “(P) allowing students attending a persist-
6 ently dangerous public elementary or secondary
7 school, as determined by the State, or who be-
8 come a victim of a violent criminal offense, as
9 defined by State law, while in or on the grounds
10 of a public elementary school or secondary school
11 that the student attends, to attend a safe public
12 elementary or secondary school, within the local
13 educational agency, including a public charter
14 school, and allowing payment of reasonable
15 transportation costs and tuition costs for such
16 students;

17 “(Q) the development and implementation
18 of character education and training programs
19 that reflect values, that take into account the
20 views of parents or guardians of the student for
21 whom the program is intended, which may in-
22 clude honesty, citizenship, courage, justice, re-
23 spect, personal responsibility, and trust-
24 worthiness;

1 “(R) *establishing and maintaining a school*
2 *violence hotline;*

3 “(S) *activities to ensure students’ safe travel*
4 *to and from school, including pedestrian and bi-*
5 *cycle safety education; and*

6 “(T) *the evaluation of any of the activities*
7 *authorized under this subsection and the collec-*
8 *tion of any data required by this part.*

9 **“SEC. 5116. EVALUATION AND REPORTING.**

10 “(a) *DATA COLLECTION.—*

11 “(1) *IN GENERAL.—The National Center for*
12 *Education Statistics shall report, and when appro-*
13 *priate, collect data to determine the frequency, seri-*
14 *ousness, and incidence of illegal drug use and violence*
15 *by youth in schools and communities in the States,*
16 *using if appropriate, data submitted by the States*
17 *pursuant to subsection (b).*

18 “(2) *REPORT.—The Secretary shall submit to the*
19 *Congress a report on the data collected under this*
20 *subsection.*

21 “(b) *STATE REPORT.—*

22 “(1) *IN GENERAL.—Not later than October 1,*
23 *2004, and every third year thereafter, the chief execu-*
24 *tive officer of a State, in consultation with the State*
25 *educational agency, shall submit to the Secretary a*

1 *report on the implementation and effectiveness of*
 2 *State and local programs under this subpart.*

3 “(2) *SPECIAL RULE.—The report required by*
 4 *this subsection shall be—*

5 “(A) *based on the State’s ongoing evalua-*
 6 *tion activities, and shall include data on the*
 7 *prevalence of violence and illegal drug use by*
 8 *youth in schools and communities; and*

9 “(B) *made available to the public upon re-*
 10 *quest, with public notice of such availability pro-*
 11 *vided.*

12 “(c) *LOCAL EDUCATIONAL AGENCY REPORT.—Each*
 13 *local educational agency receiving funds under this subpart*
 14 *shall submit to the State such information, and at such in-*
 15 *tervals as the State reasonably requires to complete the*
 16 *State report required by subsection (b), information on the*
 17 *prevalence of violence and illegal drug use by youth in the*
 18 *schools and the community and the progress of the local*
 19 *educational agency toward meeting its performance meas-*
 20 *ures. The report shall be made available to the public upon*
 21 *request, with public notice of such availability provided.*

22 **“Subpart 2—21st Century Schools**

23 **“SEC. 5121. STATE ALLOTMENTS FOR 21ST CENTURY**
 24 **SCHOOLS.**

25 “(a) *STATE ALLOTMENTS.—*

1 “(1) *IN GENERAL.*—*Except as provided in para-*
2 *graph (2), from the amount made available under sec-*
3 *tion 5003(2) to carry out this subpart for each fiscal*
4 *year, the Secretary shall allocate among the States—*

5 “(A) *one-half of such amount according to*
6 *the ratio between the school-aged population of*
7 *each State and the school-aged population of all*
8 *the States; and*

9 “(B) *one-half of such amount according to*
10 *the ratio between the amount each State received*
11 *under part A of title I for the preceding year*
12 *and the sum of such amounts received by all the*
13 *States.*

14 “(2) *MINIMUM.*—*For any fiscal year, no State*
15 *shall be allotted under this subsection an amount that*
16 *is less than one-half of 1 percent of the total amount*
17 *allotted to all the States under this subsection.*

18 “(b) *REALLOTMENT OF UNUSED FUNDS.*—*If any State*
19 *does not apply for an allotment under this subpart for a*
20 *fiscal year, the Secretary shall reallocate the amount of the*
21 *State’s allotment to the remaining States in accordance*
22 *with this section.*

23 “(c) *STATE FUNDS.*—

24 “(1) *IN GENERAL.*—*Each State that receives a*
25 *grant under this subpart shall reserve an amount*

1 *equal to the amount allotted to such State under sub-*
2 *section (a), less the amount reserved under para-*
3 *graphs (2) and (3) of this subsection, for each fiscal*
4 *year for its local educational agencies.*

5 “(2) *STATE ADMINISTRATION.*—*A State may use*
6 *not more than 1 percent of the amount made avail-*
7 *able under subsection (a) for the administrative costs*
8 *of carrying out its responsibilities under this subpart.*

9 “(3) *STATE ACTIVITIES.*—*A State may use not*
10 *more than 4 percent of the amount made available*
11 *under subsection (a) for the following activities:*

12 “(A) *Monitoring and evaluation of pro-*
13 *grams and activities assisted under this subpart.*

14 “(B) *Providing capacity building, training,*
15 *and technical assistance under this subpart.*

16 **“SEC. 5122. STATE APPLICATION.**

17 “(a) *IN GENERAL.*—*In order to receive an allotment*
18 *under section 5121(a) for any fiscal year, a State shall sub-*
19 *mit to the Secretary, at such time as the Secretary may*
20 *require, an application that—*

21 “(1) *designates the State educational agency as*
22 *the agency responsible for the administration and su-*
23 *per vision of programs assisted under this subpart;*

24 “(2) *describes the competitive procedures and*
25 *criteria the State will use to ensure that grants under*

1 *this subpart will support quality extended learning*
2 *opportunities;*

3 “(3) *an assurance that the program will pri-*
4 *marily target schools eligible for schoolwide programs*
5 *under section 1114;*

6 “(4) *describes the steps the State will take to en-*
7 *sure that programs implement effective strategies, in-*
8 *cluding providing ongoing technical assistance and*
9 *training, evaluation, and dissemination of promising*
10 *practices;*

11 “(5) *describe how activities funded under this*
12 *subpart will support State academic achievement*
13 *goals in accordance with section 1111;*

14 “(6) *describe how funds under this subpart will*
15 *be coordinated with programs under this Act, and*
16 *other programs; as appropriate, in accordance with*
17 *the provisions of section 8306;*

18 “(7) *provides an assurance that funds under this*
19 *subpart will be used to increase the level of State,*
20 *local, and other non-Federal funds that would, in the*
21 *absence of funds under this subpart, be made avail-*
22 *able for programs and activities authorized under this*
23 *subpart; and in no case supplant such State, local,*
24 *and other non-Federal funds:*

1 “(8) provides an assurance that the application
2 was developed in consultation and coordination with
3 appropriate State officials, including the chief State
4 school officer, the heads of the State health and mental
5 health agencies or their designees, representatives of
6 teachers, parents, students, the business community,
7 and community-based organizations, including reli-
8 gious organizations;

9 “(9) describes the results of the State’s needs and
10 resources assessment for before and after school activi-
11 ties, which shall be based on the results of on-going
12 State evaluation activities;

13 “(10) describes how the State will evaluate the
14 effectiveness of programs and activities carried out
15 under this subpart which shall include at a min-
16 imum—

17 “(A) a description of the performance indi-
18 cators and performance measures that will be
19 used to evaluate programs and activities; and

20 “(B) public dissemination of the evaluations
21 of programs and activities carried out under this
22 subpart; and

23 “(11) provides for timely public notice of intent
24 to file application and an assurance that the applica-

1 *tion will be available for public review after submis-*
2 *sion of the application.*

3 “(b) *GENERAL APPROVAL.*—*A State application sub-*
4 *mitted pursuant to subsection (a) shall be deemed to be ap-*
5 *proved by the Secretary unless the Secretary makes a writ-*
6 *ten determination, prior to the expiration of the 90-day pe-*
7 *riod beginning on the date that the Secretary receives the*
8 *application, that the application is in violation of this sub-*
9 *part.*

10 “(c) *DISAPPROVAL.*—*The Secretary shall not finally*
11 *disapprove a State application, except after giving the*
12 *State notice and opportunity for a hearing.*

13 **“SEC. 5123. COMPETITIVE GRANT PROGRAM.**

14 “(a) *IN GENERAL.*—*A State that receives funds under*
15 *this subpart shall provide the amount made available under*
16 *section 5121 to eligible entities for 21st century community*
17 *learning programs in accordance with this subpart.*

18 “(b) *ELIGIBILITY.*—

19 “(1) *IN GENERAL.*—*To be eligible to receive a*
20 *subgrant under this subpart, an eligible entity desir-*
21 *ing a subgrant shall submit an application to the*
22 *State that contains—*

23 “(A) *a description of the before and after*
24 *school activity to be funded including—*

1 “(i) an assurance that the program
2 will take place in a safe and easily acces-
3 sible facility;

4 “(ii) a description of how students
5 participating in the center will travel safely
6 to and from the community learning center
7 and back home; and

8 “(iii) a description of how the eligible
9 applicant will disseminate information
10 about the project (including its location) to
11 the community in a manner that is under-
12 standable and accessible.

13 “(B) a description of how the activity is ex-
14 pected to improve student academic performance;

15 “(C) a description of how the activity will
16 meet the principles of effectiveness described in
17 section 5124;

18 “(D) an assurance that the program will
19 primarily target students who attend schools eli-
20 gible for schoolwide programs under section
21 1114;

22 “(E) provides an assurance that funds
23 under this subpart will be used to increase the
24 level of State, local, and other non-Federal funds
25 that would, in the absence of funds under this

1 *subpart, be made available for programs and ac-*
2 *tivities authorized under this subpart; and in no*
3 *case supplant such State, local, and other non-*
4 *Federal funds;*

5 *“(F) a description of the partnership with*
6 *local educational agency, a community-based or-*
7 *ganization, and another public entity or private*
8 *organization, if appropriate;*

9 *“(G) a certification that a meaningful as-*
10 *essment has been conducted to determine com-*
11 *munity needs, available resources and capacity*
12 *in the findings of such assessments, and a de-*
13 *scription of the mechanisms used to provide ef-*
14 *fective notice to the community of an intention*
15 *to submit an application under this subpart;*

16 *“(H) a description of the applicants experi-*
17 *ence, or promise of success, in providing edu-*
18 *cational or related activities that will com-*
19 *pliment and enhance the student’s academic*
20 *achievement;*

21 *“(I) an assurance that the applicant will*
22 *develop a plan to continue the activity after*
23 *funding under this subpart ends;*

1 “(J) an assurance that the application and
2 any waiver request will be available for public
3 review after submission of the application; and

4 “(K) such other information and assurances
5 as the State may reasonably require.

6 “(2) *ELIGIBLE ENTITY*.—An eligible entity under
7 this subpart is a local educational agency, commu-
8 nity-based organization, and other public entity or
9 private organization or a consortium of two or more
10 of such groups.

11 “(c) *PEER REVIEW*.—In reviewing local applications
12 under this section, a State shall use a peer review process
13 or other methods of assuring the quality of such applica-
14 tions.

15 “(d) *GEOGRAPHIC DIVERSITY*.—To the extent prac-
16 ticable, a State shall distribute funds equitably among geo-
17 graphic areas within the State.

18 “(e) *DURATION OF AWARDS*.—Grants under this sub-
19 part may be awarded for a period of not less than 3 years
20 and not more than 5 years.

21 “(f) *AMOUNT OF AWARDS*.—A grant awarded under
22 this subpart may not be made in an amount of less than
23 \$50,000.

24 “(g) *PRIORITY*.—In making awards under this sub-
25 part, the State shall give priority to applications submitted

1 *by applicants proposing to target services to students who*
 2 *attend schools that have been identified as in need of im-*
 3 *provement under section 1116.*

4 “(h) *PERMISSIVE LOCAL MATCH.*—

5 “(1) *IN GENERAL.*—*A State may require an eli-*
 6 *gible entity to match funds awarded under this sub-*
 7 *part, except that such match may not exceed the*
 8 *amount of the grant award.*

9 “(2) *SLIDING SCALE.*—*The amount of a match*
 10 *under paragraph (1) shall be established based on a*
 11 *sliding fee scale that takes into account—*

12 “(A) *the relative poverty of the population*
 13 *to be targeted by the eligible entity; and*

14 “(B) *the ability of the eligible entity to ob-*
 15 *tain such matching funds.*

16 “(3) *CONSIDERATION.*—*Notwithstanding this*
 17 *subsection, a State shall not consider an eligible enti-*
 18 *ty’s ability to match funds when determining which*
 19 *eligible entities will receive subgrants under this sub-*
 20 *part.*

21 **“SEC. 5124. LOCAL ACTIVITIES.**

22 “(a) *PRINCIPLES OF EFFECTIVENESS.*—

23 “(1) *IN GENERAL.*—*For a program or activity*
 24 *developed pursuant to this subpart to meet the prin-*

1 *principles of effectiveness, such program or activity*
2 *shall—*

3 *“(A) be based upon an assessment of objec-*
4 *tive data regarding the need for before and after*
5 *school programs and activities in such schools*
6 *and communities;*

7 *“(B) be based upon an established set of*
8 *performance measures aimed at ensuring the*
9 *availability of quality extended learning oppor-*
10 *tunities; and*

11 *“(C) if appropriate, be based upon scientif-*
12 *ically based research that provides evidence that*
13 *the program will help students meet State and*
14 *local performance standards to be used.*

15 *“(2) PERIODIC EVALUATION.—The program or*
16 *activity shall undergo a periodic evaluation to assess*
17 *its progress toward achieving its goal of providing*
18 *quality extended learning opportunities. The results*
19 *shall be used to refine, improve, and strengthen the*
20 *program, and to refine the performance measures. The*
21 *results shall also be made available to the public upon*
22 *request, with public notice of such availability pro-*
23 *vided.*

24 *“(3) WAIVER.—A local educational agency may*
25 *apply to the State for a waiver of the requirement of*

1 *paragraph (1)(C) to allow innovative activities or*
2 *programs that demonstrate substantial likelihood of*
3 *success.*

4 *“(b) SERVICES.—Each eligible entity that receives a*
5 *subgrant under this subpart shall use such funds to establish*
6 *or expand activities in community learning centers that—*

7 *“(1) provide quality extended learning opportu-*
8 *nities to help students, particularly students who at-*
9 *tend low-performing schools, to meet State and local*
10 *student performance standards in the core academic*
11 *subjects, such as reading and mathematics; and*

12 *“(2) provide students with additional activities,*
13 *such as drug and violence prevention programs, art*
14 *and music programs, technology education programs,*
15 *recreational activity, and character education pro-*
16 *grams that are linked to, and reinforce, the regular*
17 *academic program of schools those students attend.*

18 *“(c) AUTHORIZED ACTIVITIES.—Each eligible entity*
19 *that receives a subgrant under this subpart may use such*
20 *funds to carry out activities, such as—*

21 *“(1) before and after school activities that ad-*
22 *vance student achievement, including—*

23 *“(A) remedial education activities and aca-*
24 *demic enrichment learning programs, including*
25 *providing additional assistance to students in*

1 *order to allow them to improve their academic*
2 *achievement;*

3 “(B) *math and science education activities;*

4 “(C) *arts and music education activities;*

5 “(D) *entrepreneurial education programs;*

6 “(E) *tutoring services (including those pro-*
7 *vided by senior citizen volunteers) and men-*
8 *toring programs;*

9 “(F) *recreational activities;*

10 “(G) *telecommunications and technology*
11 *education programs;*

12 “(H) *expanded library service hours;*

13 “(I) *programs that promote parental in-*
14 *volvement; and*

15 “(J) *programs that provide assistance to*
16 *students who have been truant, suspended, or ex-*
17 *pelled to allow them to improve their academic*
18 *achievement; and*

19 “(2) *establishing or enhancing programs or ini-*
20 *tiatives that improve academic achievement.*

21 “(d) *DEFINITION.—For the purpose of this section, a*
22 *‘community learning center’ is an entity that assists stu-*
23 *dents to meet State and local content and student perform-*
24 *ance standards in core academic subjects, such as reading*
25 *and mathematics, by providing them with quality extended*

1 *learning opportunities and related activities (such as drug*
2 *and violence-prevention programs, art and music pro-*
3 *grams, recreational programs, technology education pro-*
4 *grams, and character education programs) that are linked*
5 *to, and reinforce, the regular academic program of schools*
6 *attended by the students served and is operated by a local*
7 *educational agency, community-based organization, other*
8 *public entity or private organization or a consortium of*
9 *two or more such groups. Community learning centers shall*
10 *operate outside school hours, such as before or after school*
11 *or when school is not in session.*

12 **“Subpart 3—National Programs**

13 **“SEC. 5131. FEDERAL ACTIVITIES.**

14 **“(a) PROGRAM AUTHORIZED.—**

15 **“(1) IN GENERAL.—***From funds made available*
16 *to carry out this part under section 5003(3), the Sec-*
17 *retary, in consultation with the Secretary of Health*
18 *and Human Services, the Director of the Office of Na-*
19 *tional Drug Control Policy, and the Attorney Gen-*
20 *eral, shall evaluate the effectiveness of programs and*
21 *activities that prevent violence and the illegal use of*
22 *drugs by youth, that promote safety and discipline for*
23 *students in elementary and secondary schools, and*
24 *that provide before and after school supervision and*

1 *academic enrichment, based on the needs reported by*
2 *States and local educational agencies.*

3 “(2) *COORDINATION.*—*The Secretary shall carry*
4 *out activities described in paragraph (1) directly, or*
5 *through grants, contracts, or cooperative agreements*
6 *with public and private nonprofit and for-profit orga-*
7 *nizations, and individuals, or through agreements*
8 *with other Federal agencies, and shall coordinate such*
9 *activities with other appropriate Federal activities.*

10 “(3) *PROGRAMS.*—*Activities described in para-*
11 *graph (1) may include—*

12 “(A) *demonstrations and rigorous scientif-*
13 *ically based evaluations of innovative approaches*
14 *to drug and violence prevention and before and*
15 *after school activities based on needs reported by*
16 *State and local educational agencies;*

17 “(B) *the provision of information on drug*
18 *abuse education and prevention to the Secretary*
19 *of Health and Human Services for dissemination*
20 *by the clearinghouse for alcohol and drug abuse*
21 *information established under section 501(d)(16)*
22 *of the Public Health Service Act;*

23 “(C) *the provision of information on vio-*
24 *lence prevention and school safety to the Attor-*
25 *ney General for dissemination; and*

1 “(D) continuing technical assistance to chief
2 executive officers, State agencies, and local edu-
3 cational agencies to build capacity to develop
4 and implement high-quality, effective programs
5 consistent with the principles of effectiveness.

6 “(b) PEER REVIEW.—The Secretary shall use a peer
7 review process in reviewing applications for funds under
8 this section.

9 **“Subpart 4—Gun Possession**

10 **“SEC. 5141. GUN-FREE SCHOOL REQUIREMENTS.**

11 “(a) REQUIREMENTS.—

12 “(1) STATE LAW.—Each State receiving funds
13 under this Act shall—

14 “(A) have in effect a State law requiring
15 each local educational agency to expel from
16 school for a period of not less than one year a
17 student who is determined to have possessed a
18 firearm in or at a school or on school grounds
19 under the jurisdiction of a local educational
20 agency in that State, except that such State law
21 shall allow the chief administering officer of such
22 local educational agency to modify such expul-
23 sion requirement for a student on a case-by-case
24 basis; and

1 “(B) require each local educational agency
2 to adopt a policy requiring each elementary and
3 secondary school to refer to the criminal justice
4 or juvenile delinquency system any student who
5 possesses a firearm in school.

6 “(2) CONSTRUCTION.—Nothing in this part shall
7 be construed to prevent a State from allowing a local
8 educational agency that has expelled a student from
9 such student’s regular school setting from providing
10 educational services to such student in an alternative
11 setting.

12 “(b) REPORT TO STATE.—Each local educational
13 agency requesting assistance from the State educational
14 agency that is to be provided from funds made available
15 to the State under this Act shall provide to the State, in
16 the application requesting such assistance—

17 “(1) an assurance that such local educational
18 agency is in compliance with the requirements of sub-
19 section (a); and

20 “(2) a description of the circumstances sur-
21 rounding incidents of possessions and any expulsions
22 imposed under the State law required by subsection
23 (a)(1), including—

24 “(A) the name of the school concerned;

1 “(B) the number of students expelled from
2 such school for firearm possession; and

3 “(C) the type of firearm concerned.

4 “(c) *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 “(d) *DEFINITIONS.*—For the purpose of this subpart—

8 “(1) the term ‘firearm’ has the same meaning
9 given to such term under section 921(a)(3) of title 18,
10 United States Code; and

11 “(2) the term ‘school’ does not include a home
12 school, regardless of whether a home school is treated
13 as a private school under State law.

14 **“Subpart 5—General Provisions**

15 **“SEC. 5151. DEFINITIONS.**

16 “For the purposes of this part, the following terms have
17 the following meanings:

18 “(1) *BEFORE AND AFTER SCHOOL ACTIVITIES.*—

19 The term ‘before and after school activities’ means
20 academic, recreational, and enrichment activities for
21 school-age youth outside of the regular school hours or
22 school year.

23 “(2) *CONTROLLED SUBSTANCE.*—The term ‘con-

24 trolled substance’ means a drug or other substance
25 identified under Schedule I, II, III, IV, or V in sec-

1 *tion 202(c) of the Controlled Substances Act (21*
2 *U.S.C. 812(c)).*

3 “(3) *DRUG.*—*The term ‘drug’ includes controlled*
4 *substances; the illegal use of alcohol and tobacco; and*
5 *the harmful, abusive, or addictive use of substances,*
6 *including inhalants and anabolic steroids.*

7 “(4) *DRUG AND VIOLENCE PREVENTION.*—*The*
8 *term ‘drug and violence prevention’ means—*

9 “(A) *with respect to drugs, prevention, early*
10 *intervention, rehabilitation referral, or education*
11 *related to the illegal use of drugs; and*

12 “(B) *with respect to violence, the promotion*
13 *of school safety, such that students and school*
14 *personnel are free from violent and disruptive*
15 *acts, on school premises, going to and from*
16 *school, and at school-sponsored activities,*
17 *through the creation and maintenance of a school*
18 *environment that is free of weapons and fosters*
19 *individual responsibility and respect for the*
20 *rights of others.*

21 “(5) *NONPROFIT.*—*The term ‘nonprofit,’ as ap-*
22 *plied to a school, agency, organization, or institution*
23 *means a school, agency, organization, or institution*
24 *owned and operated by one or more nonprofit cor-*
25 *porations or associations, no part of the net earnings*

1 *of which inures, or may lawfully inure, to the benefit*
2 *of any private shareholder or individual.*

3 “(6) *SCHOOL-AGED POPULATION.*—*The term*
4 *‘school-aged population’ means the population aged 5*
5 *through 17, as determined by the Secretary on the*
6 *basis of the most recent satisfactory data available*
7 *from the Department of Commerce.*

8 “(7) *SCHOOL BASED MENTAL HEALTH SERVICES*
9 *PROVIDER.*—*The term ‘school based mental health*
10 *services provider’ includes a State licensed or State*
11 *certified school counselor, school psychologist, school*
12 *social worker, or other State licensed or certified men-*
13 *tal health professional qualified under State law to*
14 *provide such services to children and adolescents.*

15 “(8) *SCHOOL PERSONNEL.*—*The term ‘school*
16 *personnel’ includes teachers, principals, administra-*
17 *tors, guidance counselors, social workers, psycholo-*
18 *gists, nurses, librarians, and other support staff who*
19 *are employed by a school or who perform services for*
20 *the school on a contractual basis.*

21 “(9) *STATE.*—*The term ‘State’ means each of the*
22 *50 States, the District of Columbia, and the Common-*
23 *wealth of Puerto Rico.*

1 **“SEC. 5152. MESSAGE AND MATERIALS.**

2 “(a) *‘WRONG AND HARMFUL’ MESSAGE.*—Drug pre-
3 *vention programs supported under this title shall convey*
4 *a clear and consistent message that the illegal use of drugs*
5 *is wrong and harmful.*

6 “(b) *CURRICULUM.*—The Secretary shall not prescribe
7 *the use of specific curricula for programs supported under*
8 *this part.*

9 **“SEC. 5153. PARENTAL CONSENT.**

10 “*Upon receipt of written notification from the parents*
11 *or legal guardians of a student, the local educational agency*
12 *shall withdraw such student from any program or activity*
13 *funded under this title. The local educational agency shall*
14 *make reasonable efforts to inform parents or legal guardians*
15 *of the content of such programs or activities funded under*
16 *this title, other than classroom instruction.*

17 **“SEC. 5154. PROHIBITED USES OF FUNDS.**

18 “*No funds under this part may be used for—*

19 “(1) *construction (except for minor remodeling*
20 *needed to accomplish the purposes of this part); or*

21 “(2) *medical services, drug treatment or rehabili-*
22 *tation, except for pupil services or referral to treat-*
23 *ment for students who are victims of, or witnesses to,*
24 *use of drugs or crime.*

1 **“PART B—ENHANCING EDUCATION THROUGH**
2 **TECHNOLOGY**

3 **“SEC. 5201. SHORT TITLE.**

4 *“This part may be cited as the ‘Enhancing Education*
5 *Through Technology Act of 2001’.*

6 **“SEC. 5202. PURPOSES.**

7 *“The purposes of this part are as follows:*

8 *“(1) To provide assistance to States and local-*
9 *ities for implementing innovative technology initia-*
10 *tives that lead to increased student academic achieve-*
11 *ment and that may be evaluated for effectiveness and*
12 *replicated if successful.*

13 *“(2) To encourage the establishment or expan-*
14 *sion of initiatives, including those involving public-*
15 *private partnerships, designed to increase access to*
16 *technology, particularly in high-need local edu-*
17 *cational agencies.*

18 *“(3) To assist States and localities in the acqui-*
19 *sition, development, interconnection, implementation,*
20 *improvement, and maintenance of an effective edu-*
21 *cational technology infrastructure in a manner that*
22 *expands access to technology for students (particu-*
23 *larly for disadvantaged students) and teachers.*

24 *“(4) To promote initiatives that provide school*
25 *teachers, principals, and administrators with the ca-*
26 *capacity to effectively integrate technology into cur-*

1 *riculum that is aligned with challenging State aca-*
2 *ademic content and student academic achievement*
3 *standards, through such means as high quality profes-*
4 *sional development programs.*

5 *“(5) To enhance the ongoing professional devel-*
6 *opment of teachers, principals, and administrators by*
7 *providing constant access to updated research in*
8 *teaching and learning via electronic means.*

9 *“(6) To support the development of electronic*
10 *networks and other innovative methods, such as dis-*
11 *tance learning, of delivering challenging courses and*
12 *curricula for students who would otherwise not have*
13 *access to such courses and curricula, particularly in*
14 *geographically remote regions.*

15 *“(7) To support the rigorous evaluation of pro-*
16 *grams funded under this part, particularly the im-*
17 *pect of such initiatives on student academic perform-*
18 *ance, and ensure that timely information on the re-*
19 *sults of such evaluations is widely accessible through*
20 *electronic means.*

21 *“(8) To support local efforts for the use of tech-*
22 *nology to promote parent and family involvement in*
23 *education and communication among students, par-*
24 *ents, teachers, principals, and administrators.*

1 **“SEC. 5203. AUTHORIZATION OF APPROPRIATIONS; FUND-**
2 **ING RULE.**

3 *“(a) IN GENERAL.—There are authorized to be appro-*
4 *riated—*

5 *“(1) to carry out subparts 1 and 2 of this part—*

6 *“(A) \$1,000,000,000 for fiscal year 2002;*

7 *and*

8 *“(B) such sums as may be necessary for*

9 *each of fiscal years 2003 through 2006; and*

10 *“(2) to carry out subpart 3 of this part—*

11 *“(A) \$24,500,000 for fiscal year 2002; and*

12 *“(B) such sums as may be necessary for*

13 *each of fiscal years 2003 through 2006.*

14 *“(b) ALLOCATION OF FUNDS BETWEEN NATIONAL AND*

15 *STATE AND LOCAL INITIATIVES.—The amount of funds*

16 *made available under subsection (a) shall be allocated as*

17 *follows:*

18 *“(1) Not less than 95 percent shall be made*

19 *available for State and local technology initiatives*

20 *under subpart 1.*

21 *“(2) Not more than 5 percent may be made*

22 *available for activities of the Secretary under subpart*

23 *2, of which not more than \$15,000,000 may be used*

24 *for the study required by section 5221(a)(1).*

25 **“SEC. 5204. DEFINITIONS.**

26 *“In this part:*

1 “(1) The term ‘distance learning’ means the
2 transmission of educational or instructional program-
3 ming to geographically dispersed individuals and
4 groups via telecommunications.

5 “(2) The term ‘eligible local entity’ means—

6 “(A) a high-need local educational agency;

7 or

8 “(B) an eligible local partnership.

9 “(3) The term ‘eligible local partnership’ means
10 a partnership that includes at least one high-need
11 local educational agency and at least one—

12 “(A) local educational agency that can dem-
13 onstrate that teachers in schools served by that
14 agency are effectively integrating technology and
15 proven teaching practices into instruction, based
16 on scientifically based research, that result in
17 improvement in—

18 “(i) classroom instruction in the core
19 academic subject areas; and

20 “(ii) the preparation of students to
21 meet challenging State academic content
22 and student academic achievement stand-
23 ards;

24 “(B) institution of higher education that is
25 in full compliance with the reporting require-

1 *ments of section 207(f) of the Higher Education*
2 *Act of 1965 (20 U.S.C. 1027(f)) and that has not*
3 *been identified by its State as low-performing*
4 *under section 208 of such Act (20 U.S.C. 1028);*

5 *“(C) for-profit business or organization that*
6 *develops, designs, manufactures, or produces*
7 *technology products or services, or has substan-*
8 *tial expertise in the application of technology; or*

9 *“(D) public or private nonprofit organiza-*
10 *tion with demonstrated experience in the appli-*
11 *cation of educational technology.*

12 *“(4) The term ‘high-need local educational agen-*
13 *cy’ means a local educational agency that—*

14 *“(A) is among the local educational agen-*
15 *cies in the State with the highest numbers or*
16 *percentages of children from families with in-*
17 *comes below the poverty line, as defined by the*
18 *Office of Management and Budget and revised*
19 *annually in accordance with section 673(2) of*
20 *the Community Services Block Grant Act (42*
21 *U.S.C. 9902(2));*

22 *“(B) includes one or more schools identified*
23 *under section 1116; and*

24 *“(C) has a substantial need for assistance*
25 *in acquiring and using technology.*

1 “(2) the Secretary shall reserve $\frac{1}{2}$ of 1 percent
2 to provide assistance under this subpart to the out-
3 lying areas.

4 “(c) *MINIMUM ALLOTMENT.*—The amount of any
5 State’s allotment under subsection (a) for any fiscal year
6 may not be less than $\frac{1}{2}$ of 1 percent of the amount made
7 available under section 5203(b)(1) for such year.

8 “(d) *REALLOTMENT OF UNUSED FUNDS.*—If any
9 State does not apply for an allotment under this subpart
10 for a fiscal year, or does not use its entire allotment for
11 that fiscal year, the Secretary shall reallocate the amount of
12 the State’s allotment, or the unused portion thereof, to the
13 remaining States in accordance with this section.

14 **“SEC. 5212. USE OF ALLOTMENT BY STATE.**

15 “(a) *IN GENERAL.*—Of the amount provided to a State
16 from its allotment under section 5211—

17 “(1) the State may use not more than 5 percent
18 to carry out activities under section 5215; and

19 “(2) subject to subsection (b), not less than 95
20 percent shall be distributed by the State as follows:

21 “(A) 60 percent of such amount shall—

22 “(i) be awarded to local educational
23 agencies that have submitted applications to
24 the State under section 5214 (which, in the
25 case of a local educational agency that is an

1 eligible local entity, may be combined with
2 an application for funds awarded under
3 subparagraph (B)), in an amount that
4 bears the same relationship to the amount
5 made available under section 5211(a) for
6 such year as the amount such local edu-
7 cational agency received under part A of
8 title I for such year bears to the amount re-
9 ceived for such year under such part by all
10 local educational agencies within the State;
11 and

12 “(ii) be used for the activities described
13 in section 5216.

14 “(B) 40 percent of such amount shall be
15 awarded through a State-determined competitive
16 process to eligible local entities that have sub-
17 mitted applications to the State under section
18 5214 (which, in the case of an eligible local enti-
19 ty that is a local educational agency, may be
20 combined with an application for funds provided
21 under subparagraph (A)), to be used to carry out
22 activities consistent with activities described in
23 section 5216.

24 “(b) CONTINUATION OF AWARDS.—Notwithstanding
25 section 3 of the No Child Left Behind Act of 2001, a State

1 *shall make continuation awards on multiyear grants*
2 *awarded by the State under section 3132(a)(2) (as in effect*
3 *on the day preceding the date of enactment of such Act)*
4 *from the funds described in subsection (a)(2) for the shorter*
5 *of—*

6 “(1) *the duration of the original grant period; or*

7 “(2) *two years after the date of enactment of*
8 *such Act.*

9 **“SEC. 5213. STATE APPLICATIONS.**

10 “(a) *IN GENERAL.—To be eligible to receive a grant*
11 *under this subpart, a State shall submit an application to*
12 *the Secretary containing a new or updated statewide, long-*
13 *range strategic educational technology plan (which shall*
14 *consider the educational technology needs of local edu-*
15 *cational agencies), and such other information as the Sec-*
16 *retary may reasonably require, at such time and in such*
17 *manner as the Secretary may specify.*

18 “(b) *CONTENTS.—Each State application submitted*
19 *under this section shall include the following:*

20 “(1) *A description of how the State will use*
21 *funds provided under this subpart to improve the aca-*
22 *demical achievement of all students and to improve the*
23 *capacity of all teachers to provide instruction in the*
24 *State through the use of education technology.*

1 “(2) A description of the State’s goals for using
2 *advanced technology to improve student achievement*
3 *aligned to challenging State academic content and*
4 *student academic achievement standards.*

5 “(3) A description of how the State will take
6 *steps (including through public and private partner-*
7 *ships) to ensure that all students and teachers in the*
8 *State, particularly those residing or teaching in dis-*
9 *tricts served by high-need local educational agencies,*
10 *will have increased access to educational technology.*

11 “(4) A description of—

12 “(A) how the State will ensure that ongoing
13 *integration of technology into instructional strat-*
14 *egies and school curricula in all schools in the*
15 *State so that technology will be fully integrated*
16 *into those schools by December 31, 2006; and*

17 “(B) the process and accountability meas-
18 *ures the State will use for the evaluation of such*
19 *integration, including whether such integra-*
20 *tion—*

21 “(i) has increased the ability of teach-
22 *ers to teach effectively; and*

23 “(ii) has enabled students to meet chal-
24 *lenging State academic content and student*
25 *academic achievement standards.*

1 “(5) A description of how the State will encour-
2 age the development and utilization of innovative
3 strategies for the delivery of specialized or rigorous
4 academic courses and curricula through the use of
5 technology and distance learning, particularly for
6 those areas of the State that would not otherwise have
7 access to such courses and curricula due to geo-
8 graphical isolation or insufficient resources.

9 “(6) An assurance that financial assistance pro-
10 vided under this subpart shall supplement, not sup-
11 plant, State and local funds.

12 “(7) A description of how the State will ensure
13 that every teacher and principal within a school
14 funded under this subpart will be computer-literate
15 and proficient (as determined by the State) by De-
16 cember 31, 2006.

17 “(8) A description of how the State will ensure
18 that each grant under section 5212(a)(2)(B) to an eli-
19 gible local applicant is of sufficient duration, size,
20 scope, and quality to carry out the purposes of this
21 part effectively.

22 “(9) A description of how the State educational
23 agency will provide technical assistance to eligible
24 local applicants, and its capacity for providing such

1 *assistance, including developing public and private*
2 *partnerships under this part.*

3 “(c) *DEEMED APPROVAL.*—*A State application sub-*
4 *mitted to the Secretary under this section shall be deemed*
5 *to be approved by the Secretary unless the Secretary makes*
6 *a written determination, prior to the expiration of the 90-*
7 *day period that begins on the date the Secretary receives*
8 *the complete application, that the application does not rea-*
9 *sonably meet the purposes of this subpart.*

10 “(d) *DISAPPROVAL.*—*The Secretary may issue a final*
11 *disapproval of a State’s application under this subpart*
12 *only after giving the State notice and an opportunity for*
13 *a hearing.*

14 “(e) *DISSEMINATION OF INFORMATION ON STATE AP-*
15 *PLICATIONS.*—*The Secretary shall make information on*
16 *State applications under this subpart widely available to*
17 *schools and the general public, including through dissemi-*
18 *nation on the Internet, in a timely and user-friendly man-*
19 *ner.*

20 **“SEC. 5214. LOCAL APPLICATIONS.**

21 “(a) *IN GENERAL.*—*An applicant seeking to receive*
22 *funds from a State under this subpart shall submit to the*
23 *State an application containing a new or updated long-*
24 *range local strategic educational technology plan consistent*
25 *with the objectives of the statewide education technology*

1 *plan described in section 5213(a), and such other informa-*
2 *tion as the State may reasonably require, at such time, and*
3 *in such manner as the State may specify.*

4 “(b) *CONTENTS OF LOCAL APPLICATION.—Each local*
5 *application described in this section shall include the fol-*
6 *lowing:*

7 “(1) *A description of how the applicant will use*
8 *Federal funds provided under this subpart to improve*
9 *the academic achievement of all students and to im-*
10 *prove the capacity of all teachers to provide instruc-*
11 *tion through the use of education technology.*

12 “(2) *A description of the applicant’s specific*
13 *goals for using advanced technology to improve stu-*
14 *dent achievement aligned to challenging State aca-*
15 *ademic content and student academic achievement*
16 *standards.*

17 “(3) *A description of—*

18 “(A) *how the applicant will take steps to*
19 *ensure that all students and teachers in schools*
20 *served by the local educational agency (particu-*
21 *larly those in high-poverty and high-need*
22 *schools) have increased access to educational*
23 *technology; and*

1 “(B) how such technology will be used to
2 improve the academic achievement for such stu-
3 dents.

4 “(4) A description of how the applicant will pro-
5 mote—

6 “(A) the utilization of teaching strategies
7 and curricula, based on scientifically based re-
8 search, which effectively integrate technology into
9 instruction, leading to improvements in student
10 academic achievement as measured by chal-
11 lenging State academic content and student aca-
12 demic achievement standards; and

13 “(B) sustained and intensive, high-quality
14 professional development consistent with section
15 2033 (as applicable), based on scientifically
16 based research, which increases teacher and prin-
17 cipal capacity to create improved learning envi-
18 ronments through the integration of technology
19 into instruction through proven strategies and
20 improved content as described in subparagraph
21 (A).

22 “(5) A description of how the applicant will in-
23 tegrate technology across the curriculum and a time
24 line for such integration, including a description of
25 how the applicant will make effective use of new and

1 *emerging technologies and teaching practices that are*
2 *linked to such emerging technologies to provide chal-*
3 *lenging content and improved classroom instruction.*

4 *“(6) A description of how the applicant will co-*
5 *ordinate education technology activities funded under*
6 *this subpart, including professional development, with*
7 *any such activities provided under other Federal,*
8 *State, and local programs, including those authorized*
9 *under title I, title II, title IV, and the Individuals*
10 *with Disabilities Education Act (20 U.S.C. 1400 et*
11 *seq.) and the Carl D. Perkins Vocational and Tech-*
12 *anical Education Act of 1998 (20 U.S.C. 2301 et seq.).*

13 *“(7) A description of the accountability measures*
14 *and process the applicant will use for the evaluation*
15 *of the extent to which funds provided under this sub-*
16 *part were effective in integrating technology into*
17 *school curriculum, increasing the ability of teachers to*
18 *teach, and enabling students to meet challenging State*
19 *academic content and student academic achievement*
20 *standards.*

21 *“(8) A description of how the applicant will en-*
22 *courage the development and utilization of innovative*
23 *strategies for the delivery of specialized or rigorous*
24 *academic courses and curricula through the use of*
25 *technology and distance learning, particularly for*

1 *those areas that would not otherwise have access to*
2 *such courses and curricula due to geographical isola-*
3 *tion or insufficient resources.*

4 “(9) *A description of what steps the applicant*
5 *has taken, or will take, to comply with section*
6 *5205(a)(1).*

7 “(10) *If requested by the State—*

8 “(A) *a description of how the applicant will*
9 *use funds provided under this subpart in a man-*
10 *ner that is consistent with any statewide edu-*
11 *cation technology priorities that may be estab-*
12 *lished by the State consistent with this subpart;*
13 *and*

14 “(B) *an assurance that any technology ob-*
15 *tained with funds provided under this subpart*
16 *will have compatibility and interconnectivity*
17 *with technology obtained with funds provided*
18 *previously under title III (as in effect on the day*
19 *preceding the date of enactment of the No Child*
20 *Left Behind Act of 2001), as appropriate.*

21 **“SEC. 5215. STATE ACTIVITIES.**

22 “(a) *IN GENERAL.—From funds made available under*
23 *section 5212(a)(1), a State shall carry out activities and*
24 *assist local efforts to carry out the purposes of this subpart,*
25 *which may include the following activities:*

1 “(1) *Developing, or assisting applicants in the*
2 *development and utilization of, innovative strategies*
3 *to deliver rigorous academic programs through the use*
4 *of technology and distance learning, and providing*
5 *other technical assistance to such applicants through-*
6 *out the State, with a priority to high-need local edu-*
7 *cational agencies.*

8 “(2) *Establishing or supporting public-private*
9 *initiatives, such as interest-free or reduced-cost loans*
10 *for the acquisition of educational technology for high-*
11 *need local educational agencies and students attend-*
12 *ing schools served by such agencies.*

13 “(3) *Assisting applicants in providing sustained*
14 *and intensive, high-quality professional development*
15 *based on scientifically based research in the integra-*
16 *tion of advanced technologies (including emerging*
17 *technologies) into curriculum and in using those tech-*
18 *nologies to create new learning environments, includ-*
19 *ing training in the use of technology to—*

20 “(A) *access data and resources to develop*
21 *curricula and instructional materials;*

22 “(B) *enable teachers—*

23 “(i) *to use the Internet to communicate*
24 *with parents, other teachers, principals, and*
25 *administrators; and*

1 “(ii) to retrieve Internet-based learning
2 resources; and

3 “(C) lead to improvements in classroom in-
4 struction in the core academic subject areas,
5 which effectively prepare students to meet chal-
6 lenging State academic content and student aca-
7 demic achievement standards.

8 “(4) Assisting applicants in providing all stu-
9 dents (including students with disabilities and stu-
10 dents with limited English proficiency) and teachers
11 with access to educational technology.

12 “(5) Establishing or expanding access to tech-
13 nology in areas served by high-need local educational
14 agencies, with special emphasis on access provided
15 through technology centers in partnership with librari-
16 es and with the support of the private sector.

17 “(6) Developing enhanced performance measure-
18 ment systems to determine the effectiveness of edu-
19 cation technology programs funded under this sub-
20 part, particularly in determining the extent to which
21 education technology funded under this subpart has
22 been successfully integrated into teaching strategies
23 and school curriculum, has increased the ability of
24 teachers to teach, and has enabled students to meet

1 *challenging State academic content and student aca-*
2 *demie achievement standards.*

3 *“(7) Collaborating with other States on distance*
4 *learning, including making advanced courses avail-*
5 *able to students who would otherwise not have access*
6 *to such courses.*

7 *“(b) LIMITATION ON ADMINISTRATIVE COSTS.—Of the*
8 *5 percent of the State’s allotment under section 5211 which*
9 *may be used to carry out activities under this section, not*
10 *more than 40 percent may be used by the State for adminis-*
11 *trative costs.*

12 **“SEC. 5216. LOCAL ACTIVITIES.**

13 *“(a) PROFESSIONAL DEVELOPMENT.—A recipient of*
14 *funds made available under section 5212(a)(2)(A) shall use*
15 *not less than 20 percent of such funds to provide sustained*
16 *and intensive, high-quality professional development, con-*
17 *sistent with section 2033 (as applicable), based on scientif-*
18 *ically based research in the integration of advanced tech-*
19 *nologies (including emerging technologies) into curriculum*
20 *and in using those technologies to create new learning envi-*
21 *ronments, including professional development in the use of*
22 *technology to—*

23 *“(1) access data and resources to develop cur-*
24 *ricula and instructional materials;*

25 *“(2) enable teachers—*

1 “(i) to use the Internet to communicate
2 with parents, other teachers, principals, and ad-
3 ministrators; and

4 “(ii) to retrieve Internet-based learning re-
5 sources; and

6 “(3) lead to improvements in classroom instruc-
7 tion in the core academic subject areas, which effec-
8 tively prepare students to meet challenging State aca-
9 demic content and student academic achievement
10 standards.

11 “(b) *WAIVER.*—Subsection (a) does not apply to a re-
12 cipient of funds under section 5212(a)(2)(A) that dem-
13 onstrates, to the satisfaction of the State, that such recipient
14 already provides sustained and intensive, high-quality pro-
15 fessional development based on scientifically based research
16 in the integration of technology (including emerging tech-
17 nologies) into the curriculum.

18 “(c) *OTHER ACTIVITIES.*—In addition to the activities
19 described in subsection (a), a recipient of funds distributed
20 by a State under section 5212(a)(2)(A) shall use such funds
21 to carry out other activities consistent with this subpart,
22 which may include the following:

23 “(1) Adapting or expanding existing and new
24 applications of technology to enable teachers to in-
25 crease student academic achievement through the use

1 *of teaching practices and advanced technologies that*
2 *are based on scientifically based research and are de-*
3 *signed to prepare students to meet challenging State*
4 *academic content and student academic achievement*
5 *standards, and for developing and utilizing innova-*
6 *tive strategies to deliver rigorous academic programs.*

7 *“(2) Expanding, acquiring, implementing, ap-*
8 *plying, and maintaining education technology as a*
9 *means to improve the academic achievement of all*
10 *students.*

11 *“(3) The establishment or expansion of initia-*
12 *tives, particularly those involving public-private part-*
13 *nerships, designed to increase access to technology for*
14 *students and teachers, with special emphasis on the*
15 *access of high-need local educational agencies to tech-*
16 *nology.*

17 *“(4) Using technology to promote parent and*
18 *family involvement, and support communications be-*
19 *tween students, parents, and teachers.*

20 *“(5) Acquiring proven and effective curricula*
21 *that include integrated technology and are designed to*
22 *help students achieve challenging State academic con-*
23 *tent and student academic achievement standards.*

24 *“(6) Using technology to collect, manage, and*
25 *analyze data to inform school improvement efforts.*

1 “(7) *Implementing enhanced performance meas-*
2 *urement systems to determine the effectiveness of edu-*
3 *cation technology programs funded under this sub-*
4 *part, particularly in determining the extent to which*
5 *education technology funded under this subpart has*
6 *been successfully integrated into teaching strategies*
7 *and school curriculum, has increased the ability of*
8 *teachers to teach, and has enabled students to meet*
9 *challenging State academic content and student aca-*
10 *ademic achievement standards.*

11 “(8) *Preparing one or more teachers in elemen-*
12 *tary and secondary schools as technology leaders who*
13 *are provided with the means to serve as experts and*
14 *train other teachers in the effective use of technology.*

15 “(9) *Establishing or expanding access to tech-*
16 *nology in areas served by high-need local educational*
17 *agencies, with special emphasis for access provided*
18 *through technology centers in partnership with librar-*
19 *ies and with the support of the private sector.*

20 **“Subpart 2—National Technology Activities**

21 **“SEC. 5221. NATIONAL ACTIVITIES.**

22 “(a) *IN GENERAL.*—Using funds made available under
23 *section 5203(b)(2), the Secretary—*

24 “(1) *shall—*

1 “(A) conduct an independent, long-term
2 study, utilizing scientifically based research
3 methods and control groups, on the effect of edu-
4 cational technology on improving student aca-
5 demic achievement;

6 “(B) include in the study an identification
7 of uses of educational technology (including how
8 teachers can integrate technology into the cur-
9 ricula) that have a measurable positive impact
10 on student achievement;

11 “(C) establish an independent review panel
12 to advise the Secretary on methodological and
13 other issues that arise in conducting this long-
14 term study; and

15 “(D) submit to the Congress interim re-
16 ports, when appropriate, and a final report, to
17 be submitted not later than 6 months before the
18 end of fiscal year 2006, on the findings of the
19 study;

20 “(2) may fund national technology initiatives
21 that are supported by scientifically based research
22 and utilize technology in education, through the com-
23 petitive award of grants or contracts, pursuant to a
24 peer review process, to States, local educational agen-
25 cies, eligible local entities, institutions of higher edu-

1 *cation, public agencies, and private nonprofit or for-*
2 *profit agencies; and*

3 *“(3) may provide technical assistance (directly*
4 *or through the competitive award of grants or con-*
5 *tracts) to States, local educational agencies, and other*
6 *recipients of funds under this part in order to assist*
7 *such States, local educational agencies, and other re-*
8 *cipients to achieve the purposes of this part.*

9 *“(b) NATIONAL TECHNOLOGY INITIATIVES.—*

10 *“(1) USE OF FUNDS.—In funding national tech-*
11 *nology initiatives under subsection (a)(2), the Sec-*
12 *retary—*

13 *“(A) shall place a priority on projects*
14 *that—*

15 *“(i) develop innovative models using*
16 *electronic networks or other forms of dis-*
17 *tance learning to provide challenging*
18 *courses that are otherwise not readily avail-*
19 *able to students in a particular school dis-*
20 *trict, particularly in rural areas; or*

21 *“(ii) increase access to technology to*
22 *students served by high-need local edu-*
23 *cational agencies; and*

24 *“(B) shall, in order to identify effective uses*
25 *of educational technology that have a measurable*

1 *positive impact on student achievement and as*
2 *specified in paragraph (3)—*

3 “(i) *develop tools and provide resources*
4 *and support, including technical assistance,*
5 *for recipients of funds under subsection*
6 *(a)(2) to effectively evaluate their activities;*
7 *and*

8 “(ii) *disseminate the evaluations made*
9 *under paragraph (2)(A)(ii).*

10 “(2) *REQUIREMENTS FOR RECIPIENTS OF*
11 *FUNDS.—*

12 “(A) *APPLICATION.—In order to receive a*
13 *grant or contract under subsection (a)(2), an en-*
14 *tity shall submit an application to the Secretary*
15 *(at such time and in such form as the Secretary*
16 *may require), and shall include in the applica-*
17 *tion—*

18 “(i) *a description of the project pro-*
19 *posed to be carried out with the grant or*
20 *contract and how it would carry out the*
21 *purposes of subsection (a)(2); and*

22 “(ii) *a detailed plan for an inde-*
23 *pendent evaluation, supported by scientif-*
24 *ically based research principles, of the*
25 *project to determine the impact on the aca-*

1 *demographic achievement of students served under*
2 *such project, as measured by challenging*
3 *State academic content and student aca-*
4 *demographic achievement standards.*

5 “(B) *NON-FEDERAL SHARE.*—

6 “(i) *IN GENERAL.*—Subject to clauses
7 (ii) and (iii), the Secretary may require
8 any recipient of a grant or contract under
9 subsection (a)(2) to share in the cost of the
10 activities assisted under such grant or con-
11 tract, which may be in the form of cash or
12 in-kind contributions, fairly valued.

13 “(ii) *INCREASE.*—The Secretary may
14 increase the non-Federal share required of a
15 recipient of a grant or contract under sub-
16 section (a)(2) after the first year such re-
17 cipient receives funds under such grant or
18 contract.

19 “(iii) *MAXIMUM.*—The non-Federal
20 share required under this subsection may
21 not exceed 50 percent of the cost of the ac-
22 tivities assisted under a grant or contract
23 under this subpart.

24 “(iv) *NOTICE.*—The Secretary shall
25 publish, in the Federal Register, the non-

1 *Federal share required under this subpara-*
2 *graph.*

3 “(3) *EVALUATION AND DISSEMINATION.*—*The*
4 *Secretary shall make information on each project*
5 *funded with a grant or contract under subsection*
6 *(a)(2) widely available to schools and the general*
7 *public, including through dissemination on the Inter-*
8 *net, in a timely and user-friendly manner. This in-*
9 *formation shall, at a minimum, include—*

10 “(A) *upon the awarding of such a grant or*
11 *contract under subsection (a)(2), the identifica-*
12 *tion of the grant or contract recipient, the*
13 *amount of the grant or contract, the stated goals*
14 *of the grant or contract, the methods by which*
15 *the grant or contract will be evaluated in meet-*
16 *ing such stated goals, and the timeline for meet-*
17 *ing such goals;*

18 “(B) *not later than 3 months after the com-*
19 *pletion of the first year of the project period, in-*
20 *formation on the progress of the grant or con-*
21 *tract recipient in carrying out the grant or con-*
22 *tract, including a detailed description of the use*
23 *of the funds provided, the extent to which the*
24 *stated goals have been reached, and the results*
25 *(or progress of) the evaluation of the project; and*

1 “(C) not later than 3 months after the com-
2 pletion of the second year of the project period
3 (and updated thereafter as appropriate), a fol-
4 lowup to the information described in subpara-
5 graph (B).

6 **“Subpart 3—Ready to Learn, Ready to Teach**

7 **“SEC. 5231. READY TO LEARN TELEVISION.**

8 “(a) PROGRAM AUTHORIZED.—

9 “(1) IN GENERAL.—The Secretary shall award
10 grants to or enter into contracts or cooperative agree-
11 ments with eligible entities described in paragraph
12 (3) to—

13 “(A) develop, produce, and distribute edu-
14 cational and instructional video programming
15 for preschool and elementary school children and
16 their parents in order to facilitate student aca-
17 demic achievement;

18 “(B) facilitate the development (directly or
19 through contracts with producers of children and
20 family educational television programming) of
21 educational programming for preschool and ele-
22 mentary school children and accompanying sup-
23 port materials and services that directly promote
24 the effective use of such programming;

1 “(C) facilitate the development of program-
2 ming and digital content especially designed for
3 nationwide distribution over digital broadcasting
4 channels and the Internet, containing Ready to
5 Learn-based children’s programming and re-
6 sources for parents and caregivers;

7 “(D) enable such entities to contract with
8 other entities (such as public telecommunications
9 entities) so that programs under this section are
10 disseminated and distributed by the most appro-
11 priate distribution technologies to the widest pos-
12 sible audience appropriate to be served by the
13 programming; and

14 “(E) develop and disseminate training and
15 support materials, including interactive pro-
16 grams and programs adaptable to distance
17 learning technologies which are designed to—

18 “(i) promote school readiness; and

19 “(ii) promote the effective use of program-
20 ming developed under subparagraphs (B) and
21 (C) among parents, Head Start providers, Even
22 Start and providers of family literacy services,
23 child care providers, early childhood development
24 personnel, and elementary school teachers, public
25 libraries, and after school program personnel

1 *caring for preschool and elementary school chil-*
2 *dren.*

3 “(2) *AVAILABILITY.*—*In making grants, con-*
4 *tracts, or cooperative agreements under this sub-*
5 *section, the Secretary shall ensure that recipients in-*
6 *crease the effective use of the programming under this*
7 *section by making it widely available with support*
8 *materials, as appropriate, to young children, their*
9 *parents, child care workers, Head Start providers,*
10 *Even Start and providers of family literacy services.*

11 “(3) *ELIGIBLE ENTITIES DESCRIBED.*—*In this*
12 *section, an ‘eligible entity’ means a nonprofit entity*
13 *(including a public telecommunications entity) which*
14 *is able—*

15 “(A) *to demonstrate a capacity for the de-*
16 *velopment and national distribution of edu-*
17 *cational and instructional television program-*
18 *ming of high quality which is accessible by a*
19 *large majority of disadvantaged preschool and el-*
20 *ementary school children; and*

21 “(B) *to demonstrate—*

22 “(i) *a capacity to contract with the*
23 *producers of children’s television program-*
24 *ming for the purpose of developing edu-*
25 *cational television programming of high*

1 *quality which is accessible by a large major-*
2 *ity of disadvantaged preschool and elemen-*
3 *tary school children, and*

4 “(i) *consistent with the entity’s mis-*
5 *sion and nonprofit nature, a capacity to ne-*
6 *gotiate such contracts in a manner which*
7 *returns to the entity an appropriate share*
8 *of any ancillary income from sales of any*
9 *program-related products.*

10 “(4) *CAP ON ADMINISTRATIVE COSTS.—An entity*
11 *receiving a grant, contract, or cooperative agreement*
12 *from the Secretary under this subsection may not use*
13 *more than 5 percent of the amounts received under*
14 *the grant, contract, or cooperative agreement for the*
15 *expenses of administering the grant, contract, or coop-*
16 *erative agreement.*

17 “(5) *COORDINATION OF ACTIVITIES.—An entity*
18 *receiving a grant, contract, or cooperative agreement*
19 *from the Secretary under this subsection shall work*
20 *with the Secretary and the Secretary of Health and*
21 *Human Services to—*

22 “(A) *maximize the utilization by preschool*
23 *and elementary school children of the program-*
24 *ming under this section and to make such pro-*

1 *gramming widely available to federally funded*
2 *programs serving such populations; and*

3 “(B) *coordinate with Federal programs that*
4 *have major training components for early child-*
5 *hood development (including Head Start, Even*
6 *Start, family literacy services, and State train-*
7 *ing activities funded under the Child Care Devel-*
8 *opment Block Grant Act of 1990 (42 U.S.C.*
9 *9858 et seq.)) regarding the availability and uti-*
10 *lization of materials developed with funds pro-*
11 *vided under this section to enhance parent and*
12 *child care provider skills in early childhood de-*
13 *velopment and education.*

14 “(b) *APPLICATIONS.—Any entity desiring a grant,*
15 *contract, or cooperative agreement under subsection (a)*
16 *shall submit an application to the Secretary at such time,*
17 *in such manner, and accompanied by such information as*
18 *the Secretary may reasonably require.*

19 “(c) *REPORT AND EVALUATION.—*

20 “(1) *ANNUAL REPORT BY GRANT RECIPIENTS TO*
21 *SECRETARY.—Each entity receiving funds under this*
22 *section shall prepare and submit to the Secretary an*
23 *annual report which contains such information as the*
24 *Secretary may require. At a minimum, the report*
25 *shall describe the program activities undertaken with*

1 *funds received under this section, including informa-*
2 *tion regarding—*

3 *“(A) the programming that has been devel-*
4 *oped directly or indirectly by the entity and the*
5 *target population of the programs developed;*

6 *“(B) the support and training materials*
7 *that have been developed to accompany the pro-*
8 *gramming and the method by which such mate-*
9 *rials are distributed to consumers and users of*
10 *the programming;*

11 *“(C) the means by which the programming*
12 *has been distributed, including the distance*
13 *learning technologies that have been utilized to*
14 *make programming available and the geographic*
15 *distribution achieved through such technologies;*
16 *and*

17 *“(D) the initiatives undertaken by the enti-*
18 *ty to develop public-private partnerships to se-*
19 *cure non-Federal support for the development*
20 *and distribution and broadcast of educational*
21 *and instructional programming.*

22 *“(2) REPORT TO CONGRESS.—The Secretary*
23 *shall prepare and submit to the relevant committees*
24 *of Congress a biannual report on the activities funded*

1 *and carried out under this section, and shall include*
2 *in the report—*

3 “(A) *a summary of the programming devel-*
4 *oped using funds provided under this section;*
5 *and*

6 “(B) *a description of the training materials*
7 *developed using funds provided under this sec-*
8 *tion, the manner in which outreach has been*
9 *conducted to inform parents and child care pro-*
10 *viders of the availability of such materials, and*
11 *the manner in which such materials have been*
12 *distributed.*

13 “(d) *FUNDING RULE.—Not less than 60 percent of the*
14 *amounts authorized to be appropriated under section 5233*
15 *for any fiscal year shall be used to carry out subparagraphs*
16 *(B) and (C) of subsection (a)(1).*

17 **“SEC. 5232. TELECOMMUNICATIONS PROGRAM.**

18 “(a) *IN GENERAL.—The Secretary may carry out any*
19 *of the following activities:*

20 “(1) *Awarding grants to a nonprofit tele-*
21 *communications entity (or a partnership of such enti-*
22 *ties) for the purpose of carrying out a national tele-*
23 *communications-based program to improve the teach-*
24 *ing of core academic subjects and to assist elementary*

1 *and secondary school teachers in preparing all stu-*
2 *dents to achieve State academic content standards.*

3 *“(2) Awarding grants to or entering into con-*
4 *tracts or cooperative agreements with a local public*
5 *telecommunications entity to develop, produce, and*
6 *distribute educational and instructional video pro-*
7 *gramming which is designed for use by elementary*
8 *and secondary school students, created for or adapt-*
9 *able to State academic content standards, and capable*
10 *of distribution through digital broadcasting and*
11 *school digital networks.*

12 *“(b) APPLICATIONS.—*

13 *“(1) IN GENERAL.—Any telecommunications en-*
14 *tity or partnership of such entities desiring a grant*
15 *under this section shall submit an application to the*
16 *Secretary.*

17 *“(2) SPECIFIC REQUIREMENTS FOR NATIONAL*
18 *TELECOMMUNICATIONS-BASED PROGRAM.—Each ap-*
19 *plication for a grant under subsection (a)(1) shall—*

20 *“(A) demonstrate that the applicant will*
21 *use the existing publicly funded telecommuni-*
22 *cations infrastructure, the Internet, and school*
23 *digital networks (where available) to deliver*
24 *video, voice, and data in an integrated service to*
25 *train teachers in the use of materials and learn-*

1 *ing technologies for achieving State academic*
2 *content standards;*

3 *“(B) assure that the program for which as-*
4 *sistance is sought will be conducted in coopera-*
5 *tion with States as appropriate, local edu-*
6 *cational agencies, and State or local nonprofit*
7 *public telecommunications entities;*

8 *“(C) assure that a significant portion of the*
9 *benefits available for elementary and secondary*
10 *schools from the program for which assistance is*
11 *sought will be available to schools of local edu-*
12 *cational agencies which have a high percentage*
13 *of children counted for the purpose of part A of*
14 *title I; and*

15 *“(D) contain such additional assurances as*
16 *the Secretary may reasonably require.*

17 *“(c) APPROVAL OF APPLICATIONS; NUMBER OF DEM-*
18 *ONSTRATION SITES.—In approving applications under this*
19 *section, the Secretary shall assure that—*

20 *“(1) the national telecommunications-based pro-*
21 *gram under subsection (a)(1) is conducted at elemen-*
22 *tary and secondary school sites in at least 15 States;*
23 *and*

1 “(2) grants under subsection (a)(2) are awarded
2 on a competitive basis and for a period of 3 years to
3 entities which—

4 “(A) enter into multiyear collaborative ar-
5 rangements for content development with State
6 educational agencies, local educational agencies,
7 institutions of higher education, businesses, or
8 other agencies and organizations, and

9 “(B) contribute non-Federal matching funds
10 (including funds provided for transitions to dig-
11 ital broadcasting as well as in-kind contribu-
12 tions) to the activities assisted with the grant in
13 an amount not less than 100 percent of the
14 amount of the grant.

15 **“PART C—CHARACTER EDUCATION**

16 **“SEC. 5301. CHARACTER EDUCATION PROGRAM.**

17 “(a) PROGRAM AUTHORIZED.—

18 “(1) IN GENERAL.—The Secretary may make
19 grants to State educational agencies, local educational
20 agencies, or consortia of such agencies for the design
21 and implementation of character education programs
22 that—

23 “(A) can be integrated into State academic
24 content standards for the core academic subjects;
25 and

1 “(B) can be carried out in conjunction with
2 other educational reform efforts.

3 “(2) *DURATION.*—Each grant under this section
4 shall be made for a period not to exceed 5 years, of
5 which the grant recipient may not use more than 1
6 year for planning and program design.

7 “(b) *CONTRACTS UNDER PROGRAM.*—

8 “(1) *EVALUATION.*—Each agency or consortium
9 receiving assistance under this section may contract
10 with outside sources, including institutions of higher
11 education and private and nonprofit organizations
12 (including religious organizations), for the purposes
13 of—

14 “(A) evaluating the program for which the
15 assistance is made available;

16 “(B) measuring the integration of such pro-
17 gram into the curriculum and teaching methods
18 of schools where the program is carried out; and

19 “(C) measuring the success of such program
20 in fostering the elements of character selected by
21 the recipient under subsection (c)(1).

22 “(2) *MATERIALS AND PROGRAM DEVELOP-*
23 *MENT.*—Each agency or consortium receiving assist-
24 ance under this section may contract with outside
25 sources, including institutions of higher education

1 *and private and nonprofit organizations (including*
2 *religious organizations), for assistance in—*

3 “(A) *developing secular curricula, mate-*
4 *rials, teacher training, and other activities re-*
5 *lated to character education; and*

6 “(B) *integrating secular character edu-*
7 *cation into the curriculum and teaching methods*
8 *of schools where the program is carried out.*

9 “(c) *ELEMENTS OF CHARACTER.—*

10 “(1) *SELECTION.—*

11 “(A) *IN GENERAL.—Each agency or consor-*
12 *tium receiving assistance under this section may*
13 *select the elements of character that will be*
14 *taught under the program for which the assist-*
15 *ance is made available.*

16 “(B) *CONSIDERATION OF VIEWS.—In select-*
17 *ing elements of character under paragraph (1),*
18 *the agency or consortium shall consider the views*
19 *of the parents or guardians of the students to be*
20 *taught under the program.*

21 “(2) *EXAMPLE ELEMENTS.—Elements of char-*
22 *acter selected under this subsection may include any*
23 *of the following:*

24 “(A) *Trustworthiness.*

25 “(B) *Respect.*

1 “(C) *Responsibility.*

2 “(D) *Fairness.*

3 “(E) *Caring.*

4 “(F) *Citizenship.*

5 “(G) *Giving.*

6 “(d) *APPLICATION.—*

7 “(1) *IN GENERAL.—Each agency or consortium*
8 *seeking assistance under this section shall submit an*
9 *application to the Secretary at such time and in such*
10 *manner as the Secretary may require.*

11 “(2) *REQUIRED INFORMATION.—Each applica-*
12 *tion for assistance under this section shall include in-*
13 *formation that—*

14 “(A) *demonstrates that the program for*
15 *which the assistance is sought has clear goals*
16 *and objectives that are based on scientifically*
17 *based research;*

18 “(B) *describes the activities that will be car-*
19 *ried out with the assistance and how such activi-*
20 *ties will meet the goals and objectives described*
21 *in paragraph (1); and*

22 “(C) *describes how the program for which*
23 *the assistance is sought will be linked to other ef-*
24 *forts to improve educational achievement, includ-*
25 *ing—*

1 “(i) broader educational reforms that
2 are being instituted by the applicant or its
3 partners; and

4 “(ii) applicable State academic content
5 standards for student achievement.

6 “(e) *SELECTION OF RECIPIENTS.*—

7 “(1) *PEER REVIEW.*—

8 “(A) *IN GENERAL.*—*In selecting agencies or*
9 *consortia to receive assistance under this section*
10 *from among the applicants for such assistance,*
11 *the Secretary shall use a peer review process that*
12 *includes the participation of experts in the field*
13 *of character education.*

14 “(B) *USE OF FUNDS.*—*The Secretary may*
15 *use funds appropriated under this section for the*
16 *cost of carrying out peer reviews under this*
17 *paragraph.*

18 “(2) *SELECTION CRITERIA.*—*Each selection*
19 *under paragraph (1) shall be made on the basis of the*
20 *quality of the application submitted, taking into con-*
21 *sideration such factors as—*

22 “(A) *the extent of parental, student, and*
23 *community involvement in the program; and*

24 “(B) *the likelihood that the goals of the pro-*
25 *gram will be realistically achieved.*

1 “(3) *EQUITABLE DISTRIBUTION.*—*In making se-*
2 *lections under this subsection, the Secretary shall en-*
3 *sure, to the extent practicable under paragraph (2),*
4 *that the programs assisted under this section are eq-*
5 *uitably distributed among the geographic regions of*
6 *the United States, and among urban, suburban, and*
7 *rural areas.*

8 “(f) *EVALUATIONS.*—

9 “(1) *IN GENERAL.*—*As a condition of receiving*
10 *assistance under this section, the Secretary shall re-*
11 *quire each agency or consortium receiving such assist-*
12 *ance to transmit to the Secretary, not later than 5*
13 *years after such receipt, a report containing an eval-*
14 *uation of each program assisted.*

15 “(2) *ATTAINMENT OF GOALS AND OBJECTIVES.*—
16 *In conducting an evaluation referred to in paragraph*
17 *(1), each agency or consortium shall evaluate the de-*
18 *gree to which each program for which assistance was*
19 *made available attained the goals and objectives for*
20 *the program as described in the application for assist-*
21 *ance submitted under subsection (d).*

22 “(3) *DISSEMINATION.*—*The Secretary shall—*

23 “(A) *make each evaluation received under*
24 *this subsection publicly available; and*

1 “(B) provide public notice (through such
2 means as the Internet, the media, and public
3 agencies) of the availability of each such evalua-
4 tion after it is received by the Secretary.

5 “(g) *MATCHING FUNDS.*—As a condition of receiving
6 assistance under this section, the Secretary may require
7 that each agency or consortium receiving such assistance
8 provide matching funds from non-Federal sources.

9 **“SEC. 5302. AUTHORIZATION OF APPROPRIATIONS.**

10 *“There are authorized to be appropriated to carry out*
11 *this part \$25,000,000 for fiscal year 2002 and such sums*
12 *as may be necessary for each of fiscal years 2003 through*
13 *2006.”.*

14 **“PART D—ELEMENTARY AND SECONDARY**
15 **SCHOOL COUNSELING PROGRAMS**

16 **“SEC. 5401. ELEMENTARY AND SECONDARY SCHOOL COUN-**
17 **SELING PROGRAMS.**

18 “(a) *FINDINGS.*—Congress finds as follows:

19 “(1) *The Surgeon General reported in January*
20 *2001 that 1 in 10 children suffer from mental ill-*
21 *nesses severe enough to impair development and fewer*
22 *than 1 in 5 children get treatment for mental ill-*
23 *nesses.*

24 “(2) *The Surgeon General reported that the bur-*
25 *den of suffering by children with mental health needs*

1 *and their families has created a health crisis in this*
2 *country. Growing numbers of children are suffering*
3 *needlessly because their emotional, behavioral, and de-*
4 *velopmental needs are not being met by the very insti-*
5 *tutions and systems that were created to take care of*
6 *them.*

7 *“(3) As a result of the concern about the failure*
8 *of the healthcare system to reach children and adoles-*
9 *cents with mental illnesses, there is currently great*
10 *interest in developing new models for the delivery of*
11 *mental health and counseling services that can reach*
12 *underserved groups efficiently.*

13 *“(4) Schools are a sensible point of intervention*
14 *because of their central position in many children’s*
15 *lives and development, especially when families are*
16 *unable to assume a leading role.*

17 *“(5) School-based mental health and counseling*
18 *services allow for the identification of children in*
19 *need of treatment much earlier in their development.*

20 *“(6) Establishing mental health and counseling*
21 *services in schools provides access to underserved*
22 *youth with or at risk of emotional or behavioral prob-*
23 *lems.*

24 *“(7) The Surgeon General’s 2000 report on youth*
25 *violence concludes that effective treatment can divert*

1 *a significant proportion of delinquent and violent*
2 *youths from future violence and crime.*

3 *“(8) Mental health and counseling services can*
4 *play an important role in violence prevention on all*
5 *levels, including preventing problem behaviors from*
6 *developing; identifying and serving specific, at-risk*
7 *populations; and reducing the deleterious effects of vi-*
8 *olence on victims and witnesses.*

9 *“(9) An evaluation of the model program for the*
10 *elementary school counseling demonstration program*
11 *established pursuant to this section prior to the date*
12 *of enactment of the Elementary and Secondary Coun-*
13 *seling Improvement Act of 2001 found that the num-*
14 *ber of referrals to the principal’s office decreased by*
15 *nearly half, the use of force, weapons, and threatening*
16 *of others also decreased, school suspensions were re-*
17 *duced, and students felt safer.*

18 *“(10) The report produced by the Institute of*
19 *Medicine, ‘Schools and Health: Our Nation’s Invest-*
20 *ment’, recommended a student-to-school counselor*
21 *ratio of 250:1, student-to-school psychologist ratio of*
22 *1000:1, and a student-to-school social worker ratio of*
23 *800:1. The United States average student-to-counselor*
24 *ratio is 551:1. Ratios for school psychologists and*

1 *school social workers also exceed the recommended lev-*
2 *els.*

3 “(b) *GRANTS AUTHORIZED.*—

4 “(1) *IN GENERAL.*—*The Secretary may use funds*
5 *provided under this section to award grants to local*
6 *educational agencies to enable such agencies to estab-*
7 *lish or expand elementary and secondary school coun-*
8 *seling programs which meet the requirements of sub-*
9 *section (c).*

10 “(2) *PRIORITY.*—*In awarding grants under this*
11 *section, the Secretary shall give special consideration*
12 *to applications describing programs which—*

13 “(A) *demonstrate the greatest need for new*
14 *or additional counseling services among children*
15 *in the schools served by the applicant, in part,*
16 *by providing information on current ratios of*
17 *students to school counselors, students to school*
18 *social workers, and students to school psycholo-*
19 *gists;*

20 “(B) *propose the most promising and inno-*
21 *vative approaches for initiating or expanding*
22 *school counseling; and*

23 “(C) *show the greatest potential for replica-*
24 *tion and dissemination.*

1 “(3) *EQUITABLE DISTRIBUTION.*—*In awarding*
2 *grants under this section, the Secretary shall ensure*
3 *an equitable geographic distribution among the re-*
4 *gions of the United States and among urban, subur-*
5 *ban, and rural local educational agencies.*

6 “(4) *DURATION.*—*A grant under this section*
7 *shall be awarded for a period not to exceed 3 years.*

8 “(5) *MAXIMUM GRANT.*—*A grant awarded under*
9 *this program shall not exceed \$400,000 for any fiscal*
10 *year.*

11 “(6) *SUPPLEMENT.*—*Assistance made available*
12 *under this section shall be used to supplement, and*
13 *may not supplant, other Federal, State, or local funds*
14 *used for providing school-based counseling and mental*
15 *health services to students.*

16 “(c) *REQUIREMENTS FOR COUNSELING PROGRAMS.*—
17 *Each program funded under this section shall—*

18 “(1) *be comprehensive in addressing the coun-*
19 *seling and educational needs of all students;*

20 “(2) *use a developmental, preventive approach to*
21 *counseling;*

22 “(3) *increase the range, availability, quantity,*
23 *and quality of counseling services in the elementary*
24 *and secondary schools of the local educational agency;*

1 “(4) expand counseling services through qualified
2 school counselors, school psychologists, school social
3 workers, and child and adolescent psychiatrists;

4 “(5) use innovative approaches to increase chil-
5 dren’s understanding of peer and family relation-
6 ships, work and self, decisionmaking, or academic
7 and career planning, or to improve peer interaction;

8 “(6) provide counseling services in settings that
9 meet the range of needs of students;

10 “(7) include inservice training, including train-
11 ing for teachers in appropriate identification and
12 intervention techniques for disciplining and teaching
13 students at risk of violent behavior, by school coun-
14 selors, school psychologists, school social workers, and
15 child and adolescent psychiatrists;

16 “(8) involve parents of participating students in
17 the design, implementation, and evaluation of a coun-
18 seling program;

19 “(9) involve community groups, social service
20 agencies, or other public or private entities in collabo-
21 rative efforts to enhance the program;

22 “(10) evaluate annually the effectiveness and
23 outcomes of the counseling services and activities as-
24 sisted under this section;

1 “(11) ensure a team approach to school coun-
2 seling in the elementary and secondary schools of the
3 local educational agency by working toward ratios
4 recommended by the American School Health Associa-
5 tion of one school counselor to 250 students, one school
6 social worker to 800 students, and one school psychol-
7 ogist to 1,000 students; and

8 “(12) ensure that school counselors, school psy-
9 chologists, school social workers, or child and adoles-
10 cent psychiatrists paid from funds made available
11 under this section spend a majority of their time at
12 the school in activities directly related to the coun-
13 seling process.

14 “(d) *LIMITATION ON ADMINISTRATIVE COSTS.*—Not
15 more than 3 percent of the amounts made available under
16 this section in any fiscal year may be used for administra-
17 tive costs to carry out this section.

18 “(e) *DEFINITIONS.*—For purposes of this section—

19 “(1) the term ‘school counselor’ means an indi-
20 vidual who has documented competence in counseling
21 children and adolescents in a school setting and
22 who—

23 “(A) possesses State licensure or certifi-
24 cation granted by an independent professional
25 regulatory authority;

1 “(B) in the absence of such State licensure
2 or certification, possesses national certification
3 in school counseling or a specialty of counseling
4 granted by an independent professional organi-
5 zation; or

6 “(C) holds a minimum of a master’s degree
7 in school counseling from a program accredited
8 by the Council for Accreditation of Counseling
9 and Related Educational Programs or the equiv-
10 alent;

11 “(2) the term ‘school psychologist’ means an in-
12 dividual who—

13 “(A) possesses a minimum of 60 graduate
14 semester hours in school psychology from an in-
15 stitution of higher education and has completed
16 1,200 clock hours in a supervised school psy-
17 chology internship, of which 600 hours shall be
18 in the school setting;

19 “(B) possesses State licensure or certifi-
20 cation in the State in which the individual
21 works; or

22 “(C) in the absence of such State licensure
23 or certification, possesses national certification
24 by the National School Psychology Certification
25 Board;

1 “(3) the term ‘school social worker’ means an in-
2 dividual who—

3 “(A) holds a master’s degree in social work
4 from a program accredited by the Council on So-
5 cial Work Education; and

6 “(B) is licensed or certified by the State in
7 which services are provided; or

8 “(C) in the absence of such State licensure
9 or certification, possesses a national credential
10 or certification as a ‘school social work spe-
11 cialist’ granted by an independent professional
12 organization; and

13 “(4) the term ‘child and adolescent psychiatrist’
14 means an individual who—

15 “(A) possesses State medical licensure; and

16 “(B) has completed residency training pro-
17 grams in general and child and adolescent psy-
18 chiatry.

19 “(f) *REPORT.*—Not later than 1 year after assistance
20 is made available under this section, the Secretary shall
21 make publicly available the information from applicants re-
22 garding the ratios of students to school counselors, students
23 to school social workers, and students to school psycholo-
24 gists.

1 “(g) *AUTHORIZATION OF APPROPRIATIONS.*—*There*
2 *are authorized to be appropriated to carry out this section*
3 *such sums as may be necessary for each of fiscal years 2002*
4 *through 2006.*

5 **“PART E—MENTORING PROGRAMS**

6 **“SEC. 5501. DEFINITIONS.**

7 *“In this part, the following definitions apply:*

8 “(1) *CHILD WITH GREATEST NEED.*—*The term*
9 *‘child with greatest need’ means a child at risk of*
10 *educational failure, dropping out of school, or involve-*
11 *ment in criminal or delinquent activities, or that has*
12 *lack of strong positive adult role models.*

13 “(2) *MENTOR.*—*The term ‘mentor’ means an in-*
14 *dividual who works with a child to provide a positive*
15 *role model for the child, to establish a supportive rela-*
16 *tionship with the child, and to provide the child with*
17 *academic assistance and exposure to new experiences*
18 *and examples of opportunity that enhance the ability*
19 *of the child to become a responsible adult.*

20 “(3) *STATE.*—*The term ‘State’ means each of the*
21 *several States, the District of Columbia, the Common-*
22 *wealth of Puerto Rico, the Virgin Islands, Guam,*
23 *American Samoa, and the Commonwealth of the*
24 *Northern Mariana Islands.*

1 **“SEC. 5502. PURPOSES.**

2 *“The purposes of this part are to make assistance*
3 *available to promote mentoring programs for children with*
4 *greatest need—*

5 *“(1) to assist such children in receiving support*
6 *and guidance from a caring adult;*

7 *“(2) to improve the academic performance of*
8 *such children;*

9 *“(3) to improve interpersonal relationships be-*
10 *tween such children and their peers, teachers, other*
11 *adults, and family members;*

12 *“(4) to reduce the dropout rate of such children;*
13 *and*

14 *“(5) to reduce juvenile delinquency and involve-*
15 *ment in gangs by such children.*

16 **“SEC. 5503. GRANT PROGRAM.**

17 *“(a) IN GENERAL.—In accordance with this section,*
18 *the Secretary may make grants to eligible entities to assist*
19 *such entities in establishing and supporting mentoring pro-*
20 *grams and activities that—*

21 *“(1) are designed to link children with greatest*
22 *need (particularly such children living in rural areas,*
23 *high crime areas, or troubled home environments, or*
24 *such children experiencing educational failure) with*
25 *responsible adults, who—*

1 “(A) have received training and support in
2 mentoring;

3 “(B) have been screened using appropriate
4 reference checks, child and domestic abuse record
5 checks, and criminal background checks; and

6 “(C) are interested in working with youth;
7 and

8 “(2) are intended to achieve 1 or more of the fol-
9 lowing goals:

10 “(A) Provide general guidance to children
11 with greatest need.

12 “(B) Promote personal and social responsi-
13 bility among children with greatest need.

14 “(C) Increase participation by children
15 with greatest need in, and enhance their ability
16 to benefit from, elementary and secondary edu-
17 cation.

18 “(D) Discourage illegal use of drugs and al-
19 cohol, violence, use of dangerous weapons, pro-
20 miscuous behavior, and other criminal, harmful,
21 or potentially harmful activity by children with
22 greatest need.

23 “(E) Encourage children with greatest need
24 to participate in community service and commu-
25 nity activities.

1 “(F) *Encourage children with greatest need*
2 *to set goals for themselves or to plan for their fu-*
3 *tures, including encouraging such children to*
4 *make graduation from secondary school a goal*
5 *and to make plans for postsecondary education*
6 *or training.*

7 “(G) *Discourage involvement of children*
8 *with greatest need in gangs.*

9 “(b) *ELIGIBLE ENTITIES.—Each of the following is an*
10 *entity eligible to receive a grant under subsection (a):*

11 “(1) *A local educational agency.*

12 “(2) *A nonprofit, community-based organization.*

13 “(3) *A partnership between an agency referred to*
14 *in paragraph (1) and an organization referred to in*
15 *paragraph (2).*

16 “(c) *USE OF FUNDS.—*

17 “(1) *IN GENERAL.—Each entity receiving a*
18 *grant under this section shall use the grant funds for*
19 *activities that establish or implement a mentoring*
20 *program, including—*

21 “(A) *hiring of mentoring coordinators and*
22 *support staff;*

23 “(B) *providing for the professional develop-*
24 *ment of mentoring coordinators and support*
25 *staff;*

1 “(C) recruitment, screening, and training of
2 adult mentors;

3 “(D) reimbursement of schools, if appro-
4 priate, for the use of school materials or supplies
5 in carrying out the program;

6 “(E) dissemination of outreach materials;

7 “(F) evaluation of the program using sci-
8 entifically based methods; and

9 “(G) such other activities as the Secretary
10 may reasonably prescribe by rule.

11 “(2) *PROHIBITED USES.*—Notwithstanding para-
12 graph (1), an entity receiving a grant under this sec-
13 tion may not use the grant funds—

14 “(A) to directly compensate mentors;

15 “(B) to obtain educational or other mate-
16 rials or equipment that would otherwise be used
17 in the ordinary course of the entity’s operations;

18 “(C) to support litigation of any kind; or

19 “(D) for any other purpose reasonably pro-
20 hibited by the Secretary by rule.

21 “(d) *TERM OF GRANT.*—Each grant made under this
22 section shall be available for expenditure for a period of
23 3 years.

1 “(e) *APPLICATION.*—*Each eligible entity seeking a*
2 *grant under this section shall submit to the Secretary an*
3 *application that includes—*

4 “(1) *a description of the mentoring plan the ap-*
5 *plicant proposes to carry out with such grant;*

6 “(2) *information on the children expected to be*
7 *served by the mentoring program for which such*
8 *grant is sought;*

9 “(3) *a description of the mechanism that appli-*
10 *cant will use to match children with mentors based*
11 *on the needs of the children;*

12 “(4) *an assurance that no mentor will be as-*
13 *signed to mentor so many children that the assign-*
14 *ment would undermine either the mentor’s ability to*
15 *be an effective mentor or the mentor’s ability to estab-*
16 *lish a close relationship (a one-on-one relationship,*
17 *where practicable) with each mentored child;*

18 “(5) *an assurance that mentoring programs will*
19 *provide children with a variety of experiences and*
20 *support, including—*

21 “(A) *emotional support;*

22 “(B) *academic assistance; and*

23 “(C) *exposure to experiences that children*
24 *might not otherwise encounter on their own;*

1 “(6) an assurance that mentoring programs will
2 be monitored to ensure that each child assigned a
3 mentor benefits from that assignment and that there
4 will be a provision for the assignment of a new men-
5 tor if the relationship between the original mentor is
6 not beneficial to the child;

7 “(7) information on the method by which men-
8 tors and children will be recruited to the mentor pro-
9 gram;

10 “(8) information on the method by which pro-
11 spective mentors will be screened;

12 “(9) information on the training that will be
13 provided to mentors; and

14 “(10) information on the system that the appli-
15 cant will use to manage and monitor information re-
16 lating to the program’s reference checks, child and do-
17 mestic abuse record checks, and criminal background
18 checks and to its procedure for matching children
19 with mentors.

20 “(f) SELECTION.—

21 “(1) COMPETITIVE BASIS.—In accordance with
22 this subsection, the Secretary shall select grant recipi-
23 ents from among qualified applicants on a competi-
24 tive basis.

1 “(2) *PRIORITY.*—*In selecting grant recipients*
2 *under paragraph (1), the Secretary shall give priority*
3 *to each applicant that—*

4 “(A) *serves children with greatest need liv-*
5 *ing in rural areas, high crime areas, or troubled*
6 *home environments, or who attend schools with*
7 *violence problems;*

8 “(B) *provides background screening of men-*
9 *tors, training of mentors, and technical assist-*
10 *ance in carrying out mentoring programs;*

11 “(C) *proposes a mentoring program under*
12 *which each mentor will be assigned to not more*
13 *children than the mentor can serve effectively; or*

14 “(D) *proposes a school-based mentoring pro-*
15 *gram.*

16 “(3) *OTHER CONSIDERATIONS.*—*In selecting*
17 *grant recipients under paragraph (1), the Secretary*
18 *shall also consider—*

19 “(A) *the degree to which the location of the*
20 *programs proposed by each applicant contributes*
21 *to a fair distribution of programs with respect to*
22 *urban and rural locations;*

23 “(B) *the quality of the mentoring programs*
24 *proposed by each applicant, including—*

1 “(i) the resources, if any, the applicant
2 will dedicate to providing children with op-
3 portunities for job training or postsec-
4 ondary education;

5 “(ii) the degree to which parents,
6 teachers, community-based organizations,
7 and the local community have participated,
8 or will participate, in the design and im-
9 plementation of the applicant’s mentoring
10 program;

11 “(iii) the degree to which the applicant
12 can ensure that mentors will develop long-
13 standing relationships with the children
14 they mentor;

15 “(iv) the degree to which the applicant
16 will serve children with greatest need in the
17 4th, 5th, 6th, 7th, and 8th grades; and

18 “(v) the degree to which the program
19 will continue to serve children from the 4th
20 grade through graduation from secondary
21 school; and

22 “(C) the capability of each applicant to ef-
23 fectively implement its mentoring program.

24 “(4) GRANT TO EACH STATE.—Notwithstanding
25 any other provision of this subsection, in selecting

1 *grant recipients under paragraph (1), the Secretary*
2 *shall select not less than 1 grant recipient from each*
3 *State for which there is a qualified applicant.*

4 “(g) *MODEL SCREENING GUIDELINES.*—

5 “(1) *IN GENERAL.*—*Based on model screening*
6 *guidelines developed by the Office of Juvenile Pro-*
7 *grams of the Department of Justice, the Secretary*
8 *shall develop and distribute to program participants*
9 *specific model guidelines for the screening of mentors*
10 *who seek to participate in programs to be assisted*
11 *under this part.*

12 “(2) *BACKGROUND CHECKS.*—*The guidelines de-*
13 *veloped under this subsection shall include, at a min-*
14 *imum, a requirement that potential mentors be sub-*
15 *ject to reference checks, child and domestic abuse*
16 *record checks, and criminal background checks.*

17 **“SEC. 5504. STUDY BY GENERAL ACCOUNTING OFFICE.**

18 “(a) *IN GENERAL.*—*The Comptroller General of the*
19 *United States shall conduct a study to identify successful*
20 *school-based mentoring programs, and the elements, poli-*
21 *cies, or procedures of such programs that can be replicated.*

22 “(b) *REPORT.*—*Not later than 3 years after the date*
23 *of enactment of the Mentoring for Success Act, the Comp-*
24 *troller General shall submit a report to the Secretary and*

1 *Congress containing the results of the study conducted*
 2 *under this section.*

3 “(c) *USE OF INFORMATION.—The Secretary shall use*
 4 *information contained in the report referred to in sub-*
 5 *section (b)—*

6 “(1) *to improve the quality of existing mentoring*
 7 *programs assisted under this part and other men-*
 8 *toring programs assisted under this Act; and*

9 “(2) *to develop models for new programs to be*
 10 *assisted or carried out under this Act.*

11 **“SEC. 5505. AUTHORIZATION OF APPROPRIATIONS.**

12 “*There are authorized to be appropriated to carry out*
 13 *section 5503 \$50,000,000 for fiscal year 2002 and such*
 14 *sums as may be necessary for each of fiscal years 2003*
 15 *through 2006.”.*

16 ***TITLE VI—IMPACT AID PROGRAM***

17 ***SEC. 601. PAYMENTS UNDER SECTION 8002 WITH RESPECT***

18 ***TO FISCAL YEARS IN WHICH INSUFFICIENT***

19 ***FUNDS ARE APPROPRIATED.***

20 (a) *FOUNDATION PAYMENTS FOR PRE-1995 RECIPI-*
 21 *ENTS.—Section 8002(h)(1) (20 U.S.C. 7702(h)(1)) is*
 22 *amended—*

23 (1) *in subparagraph (A), by striking “and was*
 24 *eligible to receive a payment under section 2 of the*
 25 *Act of September 30, 1950” and inserting “and that*

1 *filed, or has been determined pursuant to statute to*
2 *have filed a timely application, and met, or has been*
3 *determined pursuant to statute to meet, the eligibility*
4 *requirements of section 2(a)(1)(C) of the Act of Sep-*
5 *tember 30, 1950”; and*

6 (2) *in subparagraph (B), by striking “(or if the*
7 *local educational agency was not eligible to receive a*
8 *payment under such section 2 for fiscal year 1994”*
9 *and inserting “(or if the local educational agency did*
10 *not meet, or has not been determined pursuant to*
11 *statute to meet, the eligibility requirements of section*
12 *2(a)(1)(C) of the Act of September 30, 1950 for fiscal*
13 *year 1994”.*

14 (b) *PAYMENTS FOR 1995 RECIPIENTS.—Section*
15 *8002(h)(2) (20 U.S.C. 7702(h)(2)) is amended—*

16 (1) *in subparagraph (A), by adding at the end*
17 *before the period “, or whose application for fiscal*
18 *year 1995 was determined pursuant to statute to be*
19 *timely filed for purposes of payments for subsequent*
20 *fiscal years”; and*

21 (2) *in subparagraph (B)(ii), by striking “for*
22 *each local educational agency that received a payment*
23 *under this section for fiscal year 1995” and inserting*
24 *“for each local educational agency described in sub-*
25 *paragraph (A)”.*

1 (c) *REMAINING FUNDS.*—Section 8002(h)(4)(B) (20
2 U.S.C. 7702(h)(4)(B)) is amended—

3 (1) by striking “(in the same manner as percent-
4 age shares are determined for local educational agen-
5 cies under paragraph (2)(B)(ii))” and inserting “(by
6 dividing the maximum amount that the agency is eli-
7 gible to receive under subsection (b) by the total of the
8 maximum amounts for all such agencies)”; and

9 (2) by striking “, except that for the purpose of
10 calculating a local educational agency’s assessed value
11 of the Federal property” and inserting “, except that,
12 for purposes of calculating a local educational agen-
13 cy’s maximum amount under subsection (b)”.

14 (d) *APPLICATION FOR PAYMENT.*—Notwithstanding
15 any other provision of law, the Secretary shall treat as
16 timely filed an application under section 8002 (20 U.S.C.
17 7702) from Academy School District 20, Colorado, for a
18 payment for fiscal year 1999, and shall process that appli-
19 cation from funds appropriated for that section for fiscal
20 year 2001.

21 **SEC. 602. CALCULATION OF PAYMENT UNDER SECTION 8003**
22 **FOR SMALL LOCAL EDUCATIONAL AGENCIES.**

23 Section 8003(b)(3)(B)(iv) (20 U.S.C.
24 7703(b)(3)(B)(iv)) is amended by inserting after “of the

1 *State in which the agency is located” the following: “or less*
2 *than the average per pupil expenditure of all the States”.*

3 **SEC. 603. CONSTRUCTION.**

4 *(a) SCHOOL FACILITY EMERGENCY AND MODERNIZA-*
5 *TION GRANTS.—Section 8007(b) (20 U.S.C. 7707(b)) is*
6 *amended to read as follows:*

7 *“(b) SCHOOL FACILITY EMERGENCY AND MODERNIZA-*
8 *TION GRANTS AUTHORIZED.—*

9 *“(1) IN GENERAL.—From 60 percent of the*
10 *amount appropriated for each fiscal year under sec-*
11 *tion 8014(e), the Secretary—*

12 *“(A) shall award emergency grants in ac-*
13 *cordance with this subsection to eligible local*
14 *educational agencies to enable the agencies to*
15 *carry out emergency repairs of school facilities;*
16 *and*

17 *“(B) shall award modernization grants in*
18 *accordance with this subsection to eligible local*
19 *educational agencies to enable the agencies to*
20 *carry out the modernization of school facilities.*

21 *“(2) PRIORITY.—In approving applications from*
22 *local educational agencies for emergency grants and*
23 *modernization grants under this subsection, the Sec-*
24 *retary shall give priority to applications for emer-*
25 *gency grants and, among such applications for emer-*

1 *gency grants, shall give priority to those applications*
2 *of local educational agencies based on the severity of*
3 *the emergency.*

4 “(3) *ELIGIBILITY REQUIREMENTS.—*

5 “(A) *EMERGENCY GRANTS.—A local edu-*
6 *cational agency is eligible to receive an emer-*
7 *gency grant under this subsection only if—*

8 “(i) *the agency (or in the case of a*
9 *local educational agency that does not have*
10 *the authority to tax or issue bonds, the*
11 *agency’s fiscal agent)—*

12 “(I) *has no practical capacity to*
13 *issue bonds;*

14 “(II) *has minimal capacity to*
15 *issue bonds and is at 75 percent of the*
16 *agency’s limit of bonded indebtedness;*
17 *or*

18 “(III) *does not meet the require-*
19 *ments of subclauses (I) and (II) but is*
20 *eligible to receive funds under section*
21 *8003(b)(2) for the fiscal year; and*

22 “(ii) *the agency is eligible to receive*
23 *assistance under subsection (a) for the fiscal*
24 *year and has a school facility emergency, as*
25 *determined by the Secretary, that poses a*

1 *health or safety hazard to the students and*
2 *school personnel assigned to the school facil-*
3 *ity.*

4 “(B) *MODERNIZATION GRANTS.—A local*
5 *educational agency is eligible to receive a mod-*
6 *ernization grant under this subsection only if—*

7 “(i) *the agency (or in the case of a*
8 *local educational agency that does not have*
9 *the authority to tax or issue bonds, the*
10 *agency’s fiscal agent) meets the require-*
11 *ments of subclause (I), (II), or (III) of sub-*
12 *paragraph (A)(i);*

13 “(ii) *the agency is eligible to receive*
14 *assistance under section 8002 for the fiscal*
15 *year and has an assessed value of real prop-*
16 *erty per student that may be taxed for*
17 *school purposes that is less than the average*
18 *of the assessed value of real property per*
19 *student that may be taxed for school pur-*
20 *poses in the State in which the local edu-*
21 *cational agency is located; and*

22 “(iii) *the agency has facility needs re-*
23 *sulting from actions of the Federal Govern-*
24 *ment, such as enrollment increases due to*
25 *the expansion of Federal activities, housing*

1 *privatization, or the acquisition of Federal*
2 *property.*

3 “(C) *RULE OF CONSTRUCTION.*—*For pur-*
4 *poses of subparagraph (A)(i), a local educational*
5 *agency—*

6 “(i) *has no practical capacity to issue*
7 *bonds if the total assessed value of real*
8 *property that may be taxed for school pur-*
9 *poses is less than \$25,000,000; and*

10 “(ii) *has minimal capacity to issue*
11 *bonds if the total assessed value of real*
12 *property that may be taxed for school pur-*
13 *poses is not less than \$25,000,000 but not*
14 *more than \$50,000,000.*

15 “(4) *AWARD CRITERIA.*—*In awarding emergency*
16 *grants and modernization grants under this sub-*
17 *section, the Secretary shall consider the following fac-*
18 *tors:*

19 “(A) *The ability of the local educational*
20 *agency to respond to the emergency, or to pay for*
21 *the modernization project, as the case may be, as*
22 *measured by—*

23 “(i) *the agency’s level of bonded indebt-*
24 *edness;*

1 “(ii) the assessed value of real property
2 per student that may be taxed for school
3 purposes compared to the average of the as-
4 sessed value of real property per student
5 that may be taxed for school purposes in the
6 State in which the agency is located;

7 “(iii) the agency’s total tax rate for
8 school purposes (or, if applicable, for cap-
9 ital expenditures) compared to the average
10 total tax rate for school purposes (or the av-
11 erage capital expenditure tax rate, if appli-
12 cable) in the State in which the agency is
13 located; and

14 “(iv) funds that are available to the
15 agency, from any other source, including
16 section 8007(a), that may be used for cap-
17 ital expenditures.

18 “(B) The percentage of property in the
19 agency that is nontaxable due to the presence of
20 the Federal Government.

21 “(C) The number and percentages of chil-
22 dren described in subparagraphs (A), (B), (C),
23 and (D) of section 8003(a)(1) served in the
24 school facility with the emergency or served in

1 *the school facility proposed for modernization, as*
2 *the case may be.*

3 “(D) *In the case of an emergency grant, the*
4 *severity of the emergency, as measured by the*
5 *threat that the condition of the school facility*
6 *poses to the health, safety, and well-being of stu-*
7 *dents.*

8 “(E) *In the case of a modernization*
9 *grant—*

10 “(i) *the severity of the need for mod-*
11 *ernization, as measured by such factors*
12 *as—*

13 “(I) *overcrowding, as evidenced by*
14 *the use of portable classrooms; or*

15 “(II) *the agency’s inability to*
16 *maximize the use of technology or offer*
17 *a curriculum in accordance with con-*
18 *temporary State standards due to the*
19 *physical limitations of the current*
20 *school facility; and*

21 “(ii) *the age of the school facility pro-*
22 *posed for modernization.*

23 “(5) *OTHER AWARD PROVISIONS.—*

24 “(A) *GENERAL PROVISIONS.—*

1 “(i) *LIMITATIONS ON AMOUNT OF*
2 *FUNDS.—*

3 “(I) *IN GENERAL.—The amount of*
4 *funds provided under an emergency*
5 *grant or a modernization grant award-*
6 *ed under this subsection to a local edu-*
7 *cational agency that meets the require-*
8 *ments of subclause (II) or (III) of*
9 *paragraph (3)(A)(i)—*

10 “(aa) *shall not exceed 50 per-*
11 *cent of the total cost of the project*
12 *to be assisted under this sub-*
13 *section; and*

14 “(bb) *shall not exceed*
15 *\$3,000,000 during any 5-year pe-*
16 *riod.*

17 “(II) *IN-KIND CONTRIBUTIONS.—*
18 *A local educational agency may use in-*
19 *kind contributions to meet the match-*
20 *ing requirement of subclause (I)(aa).*

21 “(ii) *PROHIBITIONS ON USE OF*
22 *FUNDS.—A local educational agency may*
23 *not use funds provided under an emergency*
24 *grant or modernization grant awarded*
25 *under this subsection for—*

1 “(I) a project for a school facility
2 for which the agency does not have full
3 title or other interest; or

4 “(II) stadiums or other facilities
5 primarily used for athletic contests, ex-
6 hibitions, or other events for which ad-
7 mission is charged to the general pub-
8 lic.

9 “(iii) SUPPLEMENT NOT SUPPLANT.—
10 A local educational agency shall use funds
11 provided under an emergency grant or mod-
12 ernization grant awarded under this sub-
13 section only to supplement the amount of
14 funds that would, in the absence of the Fed-
15 eral funds provided under the grant, be
16 made available from non-Federal sources to
17 carry out emergency repairs of school facili-
18 ties or to carry out the modernization of
19 school facilities, as the case may be, and not
20 to supplant such funds.

21 “(B) EMERGENCY GRANTS.—

22 “(i) PROHIBITION ON USE OF
23 FUNDS.—A local educational agency that is
24 awarded an emergency grant under this
25 subsection may not use amounts under the

1 *grant for the complete or partial replace-*
2 *ment of an existing school facility unless*
3 *such replacement is less expensive or more*
4 *cost-effective to correct the identified emer-*
5 *gency.*

6 “(ii) *CARRY-OVER OF CERTAIN APPLI-*
7 *CATIONS.—In the case of a local educational*
8 *agency that applies for an emergency grant*
9 *under this subsection for a fiscal year and*
10 *does not receive the grant for the fiscal year,*
11 *the Secretary—*

12 “(I) *shall, upon the request of the*
13 *agency, treat the application as an ap-*
14 *plication for an emergency grant*
15 *under this subsection for the subsequent*
16 *fiscal year in accordance with the pri-*
17 *ority requirements of paragraph (2);*
18 *and*

19 “(II) *shall allow the agency to*
20 *amend or otherwise update the appli-*
21 *cation, as appropriate.*

22 “(6) *APPLICATION.—A local educational agency*
23 *that desires to receive an emergency grant or a mod-*
24 *ernization grant under this subsection shall submit*
25 *an application to the Secretary at such time, in such*

1 manner, and accompanied by such information as the
2 Secretary may require. Each application shall con-
3 tain the following:

4 “(A) The information described in clauses
5 (i) through (iv) of paragraph (4)(A) and sub-
6 paragraphs (B) and (C) of paragraph (4).

7 “(B) In the case of an application for an
8 emergency grant—

9 “(i) a description of the school facility
10 deficiency that poses a health or safety haz-
11 ard to the occupants of the facility and a
12 description of how the deficiency will be re-
13 paired; and

14 “(ii) a signed statement from an ap-
15 propriate local official certifying that a de-
16 ficiency in the school facility threatens the
17 health or safety of the occupants of the facil-
18 ity or that prevents the use of all or a por-
19 tion of the building.

20 “(C) In the case of an application for a
21 modernization grant—

22 “(i) an explanation of the need for the
23 school facility modernization project; and

1 “(ii) the date on which original con-
2 struction of the facility to be modernized
3 was completed.

4 “(D) A description of the project for which
5 a grant under this subsection would be used, in-
6 cluding a cost estimate for the project.

7 “(E) A description of the interest in, or au-
8 thority over, the school facility involved, such as
9 an ownership interest or a lease arrangement.

10 “(F) Such other information and assur-
11 ances as the Secretary may reasonably require.

12 “(7) REPORT.—

13 “(A) IN GENERAL.—Not later than January
14 1 of each year, the Secretary shall prepare and
15 submit to the appropriate congressional commit-
16 tees a report that contains a justification for
17 each grant awarded under this subsection for the
18 prior fiscal year.

19 “(B) DEFINITION.—In this paragraph, the
20 term ‘appropriate congressional committees’
21 means—

22 “(i) the Committee on Appropriations
23 and the Committee on Education and the
24 Workforce of the House of Representatives;
25 and

1 “(i) the Committee on Appropriations
2 and the Committee on Health, Education,
3 Labor and Pensions of the Senate.”.

4 (b) *AUTHORIZATION OF APPROPRIATIONS.*—Section
5 8014(e) (20 U.S.C. 7714(e)) is amended by striking “for
6 each of the three succeeding fiscal years” and inserting “for
7 fiscal year 2001, \$150,000,000 for fiscal year 2002, and
8 such sums as may be necessary for each of the four suc-
9 ceeding fiscal years”.

10 **SEC. 604. STATE CONSIDERATION OF PAYMENTS IN PRO-**
11 **VIDING STATE AID.**

12 Section 8009(b)(1) (20 U.S.C. 7709(b)(1)) is amended
13 by inserting after “section 8003(a)(2)(B)” the following:
14 “and, with respect to a local educational agency that re-
15 ceives a payment under section 8003(b)(2), the amount in
16 excess of the amount that the agency would receive if the
17 agency were deemed to be an agency eligible to receive a
18 payment under section 8003(b)(1) and not section
19 8003(b)(2)”.

20 **SEC. 605. AUTHORIZATION OF APPROPRIATIONS.**

21 Section 8014 (20 U.S.C. 7714) is amended by striking
22 “three succeeding fiscal years” each place it appears and
23 inserting “six succeeding fiscal years”.

1 **SEC. 606. REPEAL OF EXISTING TITLE VI; TRANSFER AND**
2 **REDESIGNATION OF PROGRAM.**

3 (a) *REPEAL OF EXISTING TITLE VI.*—Title VI (20
4 U.S.C. 7301 et seq.) is repealed.

5 (b) *TRANSFER AND REDESIGNATION OF PROGRAM.*—
6 (1) *Title VIII (20 U.S.C. 7701 et seq.)*—

7 (A) is transferred from the current placement of
8 the title and inserted after title V; and

9 (B) is redesignated as title VI.

10 (2) *Title VI (as redesignated by paragraph (1)(B))* is
11 amended—

12 (A) by redesignating sections 8001 through 8005
13 (20 U.S.C. 7701–7705) as sections 6001 through
14 6005, respectively; and

15 (B) by redesignating sections 8007 through 8014
16 (20 U.S.C. 7707–7714) as sections 6006 through
17 6013, respectively.

18 (c) *CONFORMING AMENDMENTS.*—(1) *Title VI (as re-*
19 *designated by subsection (b))* is amended by striking
20 “8002”, “8003”, “8004”, “8005”, “8008”, “8009”, “8011”,
21 “8013”, and “8014” each place such terms appear and in-
22 serting “6002”, “6003”, “6004”, “6005”, “6007”, “6008”,
23 “6010”, “6012”, and “6013”, respectively.

24 (2) *Section 6005 (as redesignated by subsection (b))*
25 *is amended in the heading by striking “8002 AND 8003”*
26 *and inserting “6002 AND 6003”.*

1 (3) *Section 6009(c)(1) (as redesignated by subsection*
 2 *(b)) is amended in the heading by striking “8003” and in-*
 3 *serting “6003”.*

4 (d) *SAVINGS PROVISION.—Funds appropriated for*
 5 *title VIII of the Elementary and Secondary Education Act*
 6 *of 1965 (as in effect on the day before the date of the enact-*
 7 *ment of this Act) shall be available for use under title VI*
 8 *of such Act, as added by this section.*

9 **TITLE VII—ACCOUNTABILITY**

10 **SEC. 701. FLEXIBILITY AND ACCOUNTABILITY.**

11 *Title VII is amended to read as follows:*

12 **“TITLE VII—FLEXIBILITY AND**
 13 **ACCOUNTABILITY**

14 **“PART A—STATE ACCOUNTABILITY FOR**
 15 **IMPROVING ACADEMIC ACHIEVEMENT**

16 **“SEC. 7101. STATE FINANCIAL AWARDS.**

17 “(a) *IN GENERAL.—Beginning in the 2002–2003*
 18 *school year, the Secretary shall make in accordance with*
 19 *this section financial awards, to be known as ‘Achievement*
 20 *in Education Awards’, to States that have made significant*
 21 *progress in improving educational achievement.*

22 “(b) *CRITERIA OF PROGRESS.—For the purposes of*
 23 *subsection (a), the Secretary shall judge progress using each*
 24 *of the following criteria, giving the greatest weight to the*
 25 *criterion described in paragraph (1):*

1 “(1) *The progress of the State’s students from*
2 *economically disadvantaged families and students*
3 *from racial and ethnic minority groups—*

4 “(A) *on the assessments administered by the*
5 *State under section 1111; and*

6 “(B) *beginning in the 2003–2004 school*
7 *year, on assessments of 4th and 8th grade read-*
8 *ing and mathematics under—*

9 “(i) *the State assessments carried out*
10 *as part of the National Assessment of Edu-*
11 *cational Progress under section 411 of the*
12 *National Education Statistics Act of 1994*
13 *(20 U.S.C. 9010); or*

14 “(ii) *an assessment selected by the*
15 *State that—*

16 “(I) *is administered annually;*

17 “(II) *yields high quality data that*
18 *are valid and reliable;*

19 “(III) *meets widely recognized*
20 *professional and technical standards,*
21 *including specific and rigorous test se-*
22 *curity procedures;*

23 “(IV) *is developed by an entity*
24 *independent from each State and local*
25 *government agency in the State in a*

1 *manner that protects against any con-*
2 *flict of interest ;*

3 “(V) *has no test questions that are*
4 *identical to the test questions used by*
5 *the assessment used to meet the State*
6 *assessment requirements under section*
7 *1111;*

8 “(VI) *provides results in such a*
9 *form that they may be expressed in*
10 *terms of achievement levels that are*
11 *consistent with the achievement levels*
12 *(basic, proficient, and advanced) set*
13 *forth in section 1111;*

14 “(VII) *provides results in such a*
15 *form that they may be disaggregated,*
16 *at a minimum, according to income*
17 *level and major racial and ethnic*
18 *group; and*

19 “(VIII) *is administered to all stu-*
20 *dents or to a representative sample of*
21 *students in the 4th and 8th grades*
22 *statewide, with a sample size that is*
23 *sufficiently large to produce statis-*
24 *tically significant estimates of state-*
25 *wide student achievement.*

1 “(2) *The overall improvement in the achievement*
2 *of all of the State’s students, as measured by—*

3 “(A) *the assessments administered by the*
4 *State under section 1111; and*

5 “(B) *beginning in the 2003–2004 school*
6 *year, the assessments described in paragraph*
7 *(1)(B).*

8 “(3) *The progress of the State in improving the*
9 *English proficiency of students who enter school with*
10 *limited English proficiency.*

11 “(c) *OTHER CONSIDERATIONS.—In judging a State’s*
12 *progress under subsection (a), the Secretary may also con-*
13 *sider—*

14 “(1) *the progress of the State in increasing the*
15 *percentage of students who graduate from secondary*
16 *schools; and*

17 “(2) *the progress of the State in increasing the*
18 *percentage of students who take advanced coursework*
19 *(such as Advanced Placement or International Bacca-*
20 *laureate courses) and who pass the exams associated*
21 *with such coursework.*

22 “(d) *AMOUNT.—The Secretary shall determine the*
23 *amount of an award under subsection (a) based on—*

24 “(1) *the school-age population of the State; and*

1 “(2) *the degree of progress shown by a State with*
2 *respect to the criteria set forth in subsections (b) and*
3 *(c).*

4 “(e) *USE OF FUNDS.—*

5 “(1) *IN GENERAL.—A State receiving a financial*
6 *award under this section shall use the proceeds of*
7 *such award only to make financial awards to public*
8 *elementary and secondary schools in the State that*
9 *have made the most significant progress with respect*
10 *to the criteria described in subsection (b).*

11 “(2) *USE BY SCHOOLS.—In consultation with*
12 *the school’s teachers, the principal of each elementary*
13 *or secondary school that receives a financial award*
14 *from a State under this section shall use the proceeds*
15 *of such award at the school for any educational pur-*
16 *pose permitted under State law.*

17 “(3) *RESPONSIBLE STATE AGENCY.—The State*
18 *educational agency for each State shall be the agency*
19 *responsible for making awards under this subsection.*

20 “(f) *PEER REVIEW.—In selecting States for awards*
21 *under subsection (a), the Secretary shall use a peer-review*
22 *process.*

23 “(g) *COSTS OF INDEPENDENT ASSESSMENTS.—*

24 “(1) *IN GENERAL.—Subject to paragraph (2), the*
25 *Secretary shall make grants to States to offset the*

1 *costs of administering assessments administered by*
2 *the States to meet the requirements of (b)(1)(B)(ii).*

3 “(2) *LIMITATIONS.*—*Grants made by the Sec-*
4 *retary in any year to a State under paragraph (1)—*

5 “(A) *may be awarded only to offset the costs*
6 *of a single administration of an assessment de-*
7 *scribed in such paragraph in the State for that*
8 *year; and*

9 “(B) *may not exceed the costs of admin-*
10 *istering in the State for that year the State as-*
11 *sessments that would be carried out under the*
12 *National Assessment of Educational Progress de-*
13 *scribed in subsection (b)(1)(B).*

14 “(3) *ALLOCATION.*—*The Secretary may deter-*
15 *mine the appropriate methodology of allocating*
16 *grants to States under this subsection.*

17 **“SEC. 7102. STATE SANCTIONS.**

18 “(a) *FAILURE TO MAKE PROGRESS.*—

19 “(1) *LOSS OF ADMINISTRATIVE FUNDS.*—*The*
20 *Secretary shall reduce, by 30 percent, the amount of*
21 *funding that a State may reserve for State adminis-*
22 *tration under the State formula grant programs au-*
23 *thorized by this Act if the Secretary determines that,*
24 *for 2 consecutive years—*

1 “(A) the State’s students from economically
2 disadvantaged families and students from racial
3 and ethnic minority groups failed to make ade-
4 quate yearly progress on the assessments admin-
5 istered by the State under section 1111; and

6 “(B) the State’s students from economically
7 disadvantaged families and students from racial
8 and ethnic minority groups failed to make meas-
9 urable progress in reading and mathematics, as
10 measured by the 4th and 8th grade assessments
11 described in subsection (b)(1)(B).

12 “(2) *FURTHER REDUCTIONS.*—In each of the first 2
13 years after the years described in paragraph (1), the Sec-
14 retary may increase the reduction described in such para-
15 graph by any amount not more than a total of an addi-
16 tional 45 percent.

17 “(b) *OTHER FAILURES.*—In addition to any action
18 taken under subsection (a)(1) or (a)(2), the Secretary shall
19 reduce, by 20 percent, the amount of funding that a State
20 may reserve for State administration under the State for-
21 mula grant programs authorized by this Act if the Sec-
22 retary determines that, for 2 consecutive years, the State
23 failed to make adequate yearly progress—

1 “(1) with respect to the achievement of children
2 with limited English proficiency under section
3 1111(b)(2)(C)(iii)(II)(dd); or

4 “(2) with respect to the acquisition of English
5 language proficiency by children with limited English
6 proficiency under section 1111(b)(2)(C)(iii)(III).

7 “(c) *USE OF FUNDS FOR IMPROVEMENT.*—

8 “(1) *IN GENERAL.*—*The Secretary shall require*
9 *that any funds reduced under this section be allocated*
10 *by the State to local educational agencies in the State*
11 *for school improvement purposes described in section*
12 *1116.*

13 “(2) *TREATMENT OF FUNDS.*—*Funds described*
14 *in paragraph (1) shall not count toward the amounts*
15 *that are required to be reserved by a State for school*
16 *improvement under section 1003.*

17 **“SEC. 7103. DEVELOPMENT OF STATE STANDARDS AND AS-**
18 **SESSMENTS.**

19 “(a) *IN GENERAL.*—*The Secretary shall make finan-*
20 *cial awards to States to enable the States—*

21 “(1) *to pay the costs of the development of the*
22 *additional State assessments and standards required*
23 *by section 1111(b), including the costs of working in*
24 *voluntary partnerships with other States, at the sole*
25 *discretion of each such State, in developing such as-*

1 *assessments and standards if a State chooses to do so;*
2 *and*

3 “(2) *if a State has developed the assessments and*
4 *standards referred to in paragraph (1), to administer*
5 *such assessments or to carry out other activities de-*
6 *scribed in this title and other activities related to en-*
7 *sureing accountability for results in the State’s schools*
8 *and local educational agencies, such as—*

9 “(A) *developing academic content and*
10 *achievement standards and aligned assessments*
11 *in other subjects not required by Section 1111;*

12 “(B) *developing assessments of English lan-*
13 *guage proficiency necessary to comply with sec-*
14 *tion 1111(b)(7);*

15 “(C) *assuring the continued validity and*
16 *reliability of State assessments;*

17 “(D) *refining State assessments to ensure*
18 *their continued alignment with the State’s aca-*
19 *ademic content standards and to improve the*
20 *alignment of curricula and instruction mate-*
21 *rials;*

22 “(E) *providing for multiple measures to in-*
23 *crease the reliability and validity of student and*
24 *school classifications;*

1 “(F) strengthening the capacity of local
2 educational agencies and schools to provide all
3 students the opportunity to increase educational
4 achievement;

5 “(G) expanding the range of accommoda-
6 tions available to students with limited English
7 proficiency and students with disabilities to im-
8 prove the rates of inclusion of such students; and

9 “(H) improving the dissemination of infor-
10 mation on student achievement and school per-
11 formance to parents and the community.

12 “(b) BONUSES.—The Secretary shall make a one-time
13 bonus payment to each State that completes the development
14 of the assessments described in subsection (a) ahead of the
15 deadline set forth in section 1111.

16 **“SEC. 7104. FUNDING.**

17 “(a) AUTHORIZATION OF APPROPRIATIONS.—

18 “(1) AWARDS AND BONUS PAYMENTS.—For the
19 purposes of making awards under section 7101 and
20 bonus payments under section 7103(b), there are au-
21 thorized to be appropriated \$40,000,000 for fiscal
22 year 2002 and such sums as may be necessary for
23 each of fiscal years 2003 through 2006.

24 “(2) GRANTS FOR INDEPENDENT ASSESSMENTS;
25 ADMINISTRATION OF STATE ASSESSMENTS UNDER

1 *NAEP.—For the purposes of making grants to offset*
2 *the costs of independent assessments under section*
3 *7101(g) and for the purposes of administering the*
4 *State assessments carried out under the National As-*
5 *essment of Educational Progress referred to in sec-*
6 *tion 7101(b)(1)(B)(i), there are authorized to be ap-*
7 *propriated to the Secretary \$69,000,000 for fiscal*
8 *year 2002 and such sums as may be necessary for*
9 *each of fiscal years 2003 through 2006.*

10 *“(3) DEVELOPMENT AND ADMINISTRATION OF*
11 *STATE STANDARDS AND ASSESSMENTS.—For the pur-*
12 *poses of carrying out subsection 7103(a), there are au-*
13 *thorized to be appropriated \$400,000,000 for fiscal*
14 *year 2002 and such sums as may be necessary for*
15 *each of the fiscal years 2003 through 2005.*

16 *“(b) ALLOCATION OF APPROPRIATED FUNDS.—From*
17 *each of the amounts appropriated under subsection (a), the*
18 *Secretary shall allocate to the States—*

19 *“(1) 50 percent based on the relative number of*
20 *children aged 5 to 17 in each State; and*

21 *“(2) 50 percent allocated equally among the*
22 *States.*

1 **“PART B—FUNDING FLEXIBILITY FOR STATE AND**
2 **LOCAL EDUCATIONAL AGENCIES**

3 **“SEC. 7201. SHORT TITLE.**

4 *“This part may be cited as the ‘State and Local Trans-*
5 *ferability Act’.*

6 **“SEC. 7202. PURPOSE.**

7 *“The purpose of this part is to allow States and local*
8 *educational agencies the flexibility—*

9 *“(1) to target Federal funds to Federal programs*
10 *that most effectively address the unique needs of*
11 *States and localities; and*

12 *“(2) to transfer Federal funds allocated to other*
13 *activities to allocations for activities authorized under*
14 *title I programs.*

15 **“SEC. 7203. TRANSFERABILITY OF FUNDS.**

16 *“(a) TRANSFERS BY STATES.—*

17 *“(1) IN GENERAL.—In accordance with this*
18 *part, a State may transfer up 50 percent of the non-*
19 *administrative State funds allocated to the State for*
20 *use for State-level activities under each of the fol-*
21 *lowing provisions to 1 or more of the State’s alloca-*
22 *tions under any other of such provisions:*

23 *“(A) Part A of Title II.*

24 *“(B) Subpart 1 of part A of title IV.*

25 *“(C) Part A or B of title V.*

1 “(2) *SUPPLEMENTAL FUNDS FOR TITLE I.—In*
2 *accordance with this part, a State may transfer any*
3 *funds allocated to the State under a provision listed*
4 *in paragraph (1) to its allocation under title I.*

5 “(b) *TRANSFERS BY LOCAL EDUCATIONAL AGEN-*
6 *CIES.—*

7 “(1) *AUTHORITY TO TRANSFER FUNDS.—*

8 “(A) *IN GENERAL.—In accordance with this*
9 *part, a local educational agency (except a local*
10 *educational agency identified for improvement*
11 *under section 1116(c)(2) or subject to corrective*
12 *action under section 1116(c)(9)) may transfer*
13 *not more than 50 percent of the funds allocated*
14 *to it under each of the provisions listed in para-*
15 *graph (2) for a fiscal year to 1 or more of its*
16 *allocations for such fiscal year under any other*
17 *provision listed in paragraph (2).*

18 “(B) *AGENCIES IDENTIFIED FOR IMPROVE-*
19 *MENT.—A local educational agency identified for*
20 *improvement under section 1116(c)(2) may*
21 *transfer in accordance with this part not more*
22 *than 30 percent of the funds allocated to it under*
23 *each of the provisions listed in paragraph (2)—*

24 “(i) *to its allocation for school im-*
25 *provement under section 1003;*

1 “(ii) to any other allocation if such
2 transferred funds are used only for local
3 educational agency improvement activities
4 consistent with section 1116(d).

5 “(C) SUPPLEMENTAL FUNDS FOR TITLE
6 I.—In accordance with this part, a local edu-
7 cational agency may transfer funds allocated to
8 such agency under a provision listed in para-
9 graph (2) to its allocation under title I.

10 “(2) APPLICABLE PROVISIONS.—A local edu-
11 cational agency may transfer funds under subpara-
12 graph (A) or (B) from allocations made under each
13 of the following provisions:

14 “(A) Title II.

15 “(B) Subpart 1 of Part A of title IV.

16 “(C) Part A of title V or section 5212(2)(A).

17 “(c) NO TRANSFER OF TITLE I FUNDS.—A State or
18 a local educational agency may not transfer under this part
19 to any other program any funds allocated to it under title
20 I.

21 “(d) MODIFICATION OF PLANS AND APPLICATIONS; NO-
22 TIFICATION.—

23 “(1) STATE TRANSFERS.—Each State that makes
24 a transfer of funds under this section shall—

1 “(A) *modify to account for such transfer*
2 *each State plan, or application submitted by the*
3 *State, to which such funds relate;*

4 “(B) *not later than 30 days after the date*
5 *of such transfer, submit a copy of such modified*
6 *plan or application to the Secretary; and*

7 “(C) *not later than 30 days before the effec-*
8 *tive date of such transfer, notify the Secretary of*
9 *such transfer.*

10 “(2) *LOCAL TRANSFERS.—Each local educational*
11 *agency that makes a transfer under this section*
12 *shall—*

13 “(A) *modify to account for such transfer*
14 *each local plan, or application submitted by the*
15 *agency, to which such funds relate;*

16 “(B) *not later than 30 days after the date*
17 *of such transfer, submit a copy of such modified*
18 *plan or application to the State; and*

19 “(C) *not later than 30 days before the effec-*
20 *tive date of such transfer, notify the State of such*
21 *transfer.*

22 “(e) *APPLICABLE RULES.—*

23 “(1) *IN GENERAL.—Except as otherwise provided*
24 *in this part, funds transferred under this section are*
25 *subject to each of the rules and requirements applica-*

1 *ble to the funds allocated by the Secretary under the*
 2 *provision to which the transferred funds are trans-*
 3 *ferred.*

4 “(2) *CONSULTATION.—Each State educational*
 5 *agency or local educational agency that transfers*
 6 *funds under this section shall conduct consultations*
 7 *in accordance with section 8503(c), if such transfer*
 8 *transfers funds from a program that provides for the*
 9 *participation of students, teachers, or other edu-*
 10 *cational personnel, from private schools.”.*

11 ***TITLE VIII—GENERAL***
 12 ***PROVISIONS***

13 ***SEC. 801. GENERAL PROVISIONS.***

14 *The Elementary and Secondary Education Act of*
 15 *1965, as amended by this Act, is further amended by adding*
 16 *at the end of title VII the following:*

17 ***“TITLE VIII—GENERAL***
 18 ***PROVISIONS***

19 ***“PART A—DEFINITIONS***

20 ***“SEC. 8101. DEFINITIONS.***

21 *“Except as otherwise provided, for the purposes of this*
 22 *Act, the following terms have the following meanings:*

23 *“(1) Average daily attendance—*

1 “(A) *Except as provided otherwise by State*
2 *law or this paragraph, the term ‘average daily*
3 *attendance’ means—*

4 “(i) *the aggregate number of days of*
5 *attendance of all students during a school*
6 *year; divided by*

7 “(ii) *the number of days school is in*
8 *session during such school year.*

9 “(B) *The Secretary shall permit the conver-*
10 *sion of average daily membership (or other simi-*
11 *lar data) to average daily attendance for local*
12 *educational agencies in States that provide State*
13 *aid to local educational agencies on the basis of*
14 *average daily membership or such other data.*

15 “(C) *If the local educational agency in*
16 *which a child resides makes a tuition or other*
17 *payment for the free public education of the child*
18 *in a school located in another school district, the*
19 *Secretary shall, for purposes of this Act—*

20 “(i) *consider the child to be in attend-*
21 *ance at a school of the agency making such*
22 *payment; and*

23 “(ii) *not consider the child to be in at-*
24 *tendance at a school of the agency receiving*
25 *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 for
4 a child with disabilities, as defined in paragraph
5 (5), the Secretary shall, for the purposes of this
6 Act, consider such child to be in attendance at
7 a school of the agency making such payment.

8 “(2) *AVERAGE PER-PUPIL EXPENDITURE.*—The
9 term ‘average per-pupil expenditure’ means, in the
10 case of a State or of the United States—

11 “(A) without regard to the source of
12 funds—

13 “(i) the aggregate current expenditures,
14 during the third fiscal year preceding the
15 fiscal year for which the determination is
16 made (or, if satisfactory data for that year
17 are not available, during the most recent
18 preceding fiscal year for which satisfactory
19 data are available) of all local educational
20 agencies in the State or, in the case of the
21 United States for all States (which, for the
22 purpose of this paragraph, means the 50
23 States and the District of Columbia); plus

1 “(ii) any direct current expenditures
2 by the State for the operation of such agen-
3 cies; 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 complete
11 school years.

12 “(4) *CHILD*.—The term ‘child’ means any person
13 within the age limits for which the State provides free
14 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 (including deafness), speech or lan-
19 guage impairments, visual impairments (includ-
20 ing blindness), serious emotional disturbance
21 (hereinafter referred to as ‘emotional disturb-
22 ance’), orthopedic impairments, autism, trau-
23 matic brain injury, other health impairments, or
24 specific learning disabilities; 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 services
10 to individuals in the community.

11 “(7) *CONSOLIDATED LOCAL APPLICATION*.—The
12 term ‘consolidated local application’ means an appli-
13 cation submitted by a local educational agency pursu-
14 ant 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 14305.

18 “(9) *CONSOLIDATED STATE APPLICATION*.—The
19 term ‘consolidated State application’ means an appli-
20 cation submitted by a State educational agency pur-
21 suant to section 14302.

22 “(10) *CONSOLIDATED STATE PLAN*.—The term
23 ‘consolidated State plan’ means a plan submitted by
24 a State educational agency pursuant to section
25 14302.

1 “(11) COUNTY.—The term ‘county’ means one of
2 the divisions of a State used by the Secretary of Com-
3 merce in compiling and reporting data regarding
4 counties.

5 “(12) COVERED PROGRAM.—The term ‘covered
6 program’ means each of the programs authorized
7 by—

8 “(A) part A of title I;

9 “(B) part B of title I;

10 “(C) part C of title I;

11 “(D) part D of title I;

12 “(E) part F of title I;

13 “(F) part G of title I;

14 “(G) part A of title II;

15 “(H) part A of title III;

16 “(I) part A of title V;

17 “(J) part B of title V; and

18 “(K) part A of title IV:

19 “(13) CURRENT EXPENDITURES.—The term ‘cur-
20 rent expenditures’ means expenditures for free public
21 education—

22 “(A) including expenditures for administra-
23 tion, instruction, attendance, pupil transpor-
24 tation services, operation and maintenance of
25 plant, fixed charges, and net expenditures to

1 *cover deficits for food services and student body*
2 *activities; but*

3 *“(B) not including expenditures for commu-*
4 *nity services, capital outlay, and debt service, or*
5 *any expenditures made from funds received*
6 *under title I and part A of title IV.*

7 *“(14) DEPARTMENT.—The term ‘Department’*
8 *means the Department of Education.*

9 *“(15) EDUCATIONAL SERVICE AGENCY.—The*
10 *term ‘educational service agency’ means a regional*
11 *public multiservice agency authorized by State statute*
12 *to develop, manage, and provide services or programs*
13 *to local educational agencies.*

14 *“(16) EFFECTIVE SCHOOLS PROGRAM.—The term*
15 *‘effective schools program’ means a school-based pro-*
16 *gram that may encompass preschool through sec-*
17 *ondary school levels and that has the objectives of—*

18 *“(A) promoting school-level planning, in-*
19 *structional improvement, and staff development;*

20 *“(B) increasing the academic achievement*
21 *levels of all children and particularly education-*
22 *ally disadvantaged children; and*

23 *“(C) achieving as ongoing conditions in the*
24 *school the following factors identified through*

1 *scientifically based research as distinguishing ef-*
2 *fective from ineffective schools:*

3 “(i) *Strong and effective administra-*
4 *tive and instructional leadership that cre-*
5 *ates consensus on instructional goals and*
6 *organizational capacity for instructional*
7 *problem solving.*

8 “(ii) *Emphasis on the acquisition of*
9 *basic and advanced academic skills.*

10 “(iii) *A safe and orderly school envi-*
11 *ronment that allows teachers and pupils to*
12 *focus their energies on academic achieve-*
13 *ment.*

14 “(iv) *Continuous review of students*
15 *and programs to evaluate the effects of in-*
16 *struction.*

17 “(17) *ELEMENTARY SCHOOL.—The term ‘elemen-*
18 *tary school’ means a nonprofit institutional day or*
19 *residential school, including a public elementary*
20 *charter school, that provides elementary education, as*
21 *determined under State law.*

22 “(18) *ESSENTIAL COMPONENTS OF READING IN-*
23 *STRUCTION.—The term ‘essential components of read-*
24 *ing instruction’ means explicit and systematic in-*
25 *struction in—*

1 “(A) *phonemic awareness*;

2 “(B) *phonics*;

3 “(C) *vocabulary development*;

4 “(D) *reading fluency*; and

5 “(E) *reading comprehension strategies*.

6 “(19) *FAMILY LITERACY SERVICES*.—*The term*
7 *‘family literacy services’ means services provided to*
8 *participants on a voluntary basis that are of suffi-*
9 *cient intensity in terms of hours, and of sufficient du-*
10 *ration, to make sustainable changes in a family, and*
11 *that integrate all of the following activities:*

12 “(A) *Interactive literacy activities between*
13 *parents and their children.*

14 “(B) *Training for parents regarding how to*
15 *be the primary teacher for their children and full*
16 *partners in the education of their children.*

17 “(C) *Parent literacy training that leads to*
18 *economic self-sufficiency.*

19 “(D) *An age-appropriate education to pre-*
20 *pare children for success in school and life expe-*
21 *riences.*

22 “(20) *FREE PUBLIC EDUCATION*.—*The term ‘free*
23 *public education’ means education that is provided—*

1 “(A) at public expense, under public super-
2 vision and direction, and without tuition charge;
3 and

4 “(B) as elementary or secondary school edu-
5 cation as determined under applicable State law,
6 except that such term does not include any edu-
7 cation provided beyond grade 12.

8 “(21) FULLY QUALIFIED.—The term ‘fully quali-
9 fied’—

10 “(A) when used with respect to a public ele-
11 mentary or secondary school teacher means that
12 the teacher has obtained State certification as a
13 teacher (including certification obtained through
14 alternative routes to certification) or passed the
15 State teacher licensing exam and holds a license
16 to teach in such State, except that when used
17 with respect to any teacher teaching in a public
18 charter school, means that the teacher meets the
19 requirements set forth in the State’s public char-
20 ter school law; and

21 “(B) when used with respect to—

22 “(i) an elementary school teacher,
23 means that the teacher holds a bachelor’s de-
24 gree and demonstrates knowledge and teach-
25 ing skills in reading, writing, mathematics,

1 *science, and other areas of the elementary*
2 *school curriculum; and*

3 “(ii) a middle or secondary school
4 teacher, means that the teacher holds a
5 bachelor’s degree and demonstrates a high
6 level of competency in all subject areas in
7 which he or she teaches through—

8 “(I) a passing level of perform-
9 ance on a rigorous State or local aca-
10 demic subject areas test; or

11 “(II) completion of an academic
12 major in each of the subject areas in
13 which he or she provides instruction.

14 “(22) *GIFTED AND TALENTED.*—The term ‘gifted
15 and talented’, when used with respect to students,
16 children or youth, means students, children or youth
17 who give evidence of high performance capability in
18 areas such as intellectual, creative, artistic, or leader-
19 ship capacity, or in specific academic fields, and who
20 require services or activities not ordinarily provided
21 by the school in order to fully develop such capabili-
22 ties.

23 “(23) *INSTITUTION OF HIGHER EDUCATION.*—
24 The term ‘institution of higher education’ has the

1 *meaning given that term in section 101 of the Higher*
2 *Education Act of 1965.*

3 “(24) *LIMITED ENGLISH PROFICIENT STU-*
4 *DENT.—The term ‘limited English proficient student’*
5 *means an individual aged 5 through 17 enrolled in*
6 *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 lan-*
20 *guage is a language other than English, and*
21 *who comes from an environment where a*
22 *language other than English is dominant;*
23 *and*

24 “(B) *who has sufficient difficulty speaking,*
25 *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 pro-*
4 *ficient level of performance on State assess-*
5 *ments described in section 1111(b)(4) in*
6 *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 institu-*
21 *tion or agency having administrative control and di-*
22 *rection 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 Affairs*
25 *but only to the extent that such inclusion makes such*

1 *school eligible for programs for which specific eligi-*
2 *bility is not provided to such school in another provi-*
3 *sion of law and such school does not have a student*
4 *population that is smaller than the student popu-*
5 *lation of the local educational agency receiving assist-*
6 *ance under this Act with the smallest student popu-*
7 *lation, except that such school shall not be subject to*
8 *the jurisdiction of any State educational agency other*
9 *than the Bureau of Indian Affairs.*

10 *“(D) The term includes educational service agen-*
11 *cies and consortia of such agencies.*

12 *“(26) MENTORING.—The term ‘mentoring’ means*
13 *a program in which an adult works with a child or*
14 *youth on a 1-to-1 basis, establishing a supportive re-*
15 *lationship, providing academic assistance, and intro-*
16 *ducing the child or youth to new experiences that en-*
17 *hance the child or youth’s ability to excel in school*
18 *and become a responsible citizen.*

19 *“(27) NATIVE AMERICAN AND NATIVE AMERICAN*
20 *LANGUAGE.—The terms ‘Native American’ and ‘Na-*
21 *tive American language’ shall have the same meaning*
22 *given such terms in section 103 of the Native Amer-*
23 *ican Languages Act of 1990.*

24 *“(28) OTHER STAFF.—The term ‘other staff’*
25 *means pupil services personnel, librarians, career*

1 *guidance and counseling personnel, education aides,*
2 *and other instructional and administrative personnel.*

3 “(29) *OUTLYING AREA.*—*The term ‘outlying*
4 *area’ means the United States Virgin Islands, Guam,*
5 *American Samoa, and the Commonwealth of the*
6 *Northern Mariana Islands, and through fiscal year*
7 *2003 and for the purpose of any discretionary grant*
8 *program, includes the freely associated states of the*
9 *Republic of the Marshall Islands, the Federated States*
10 *of Micronesia, and the Republic of Palau.*

11 “(30) *PARENT.*—*The term ‘parent’ includes a*
12 *legal guardian, or other person standing in loco*
13 *parentis (such as a grandparent or stepparent with*
14 *whom the child lives, or a person who is legally re-*
15 *sponsible for the child’s welfare).*

16 “(31) *PUPIL SERVICES PERSONNEL; PUPIL SERV-*
17 *ICES.*—(A) *The term ‘pupil services personnel’ means*
18 *school counselors, school social workers, school psy-*
19 *chologists, and other qualified professional personnel*
20 *involved in providing assessment, diagnosis, coun-*
21 *seling, educational, therapeutic, and other necessary*
22 *services (including related services as such term is de-*
23 *finied in section 602(22) of the Individuals with Dis-*
24 *abilities Education Act) as part of a comprehensive*
25 *program to meet student needs.*

1 “(B) *The term ‘pupil services’ means the services*
2 *provided by pupil services personnel.*

3 “(32) *READING.—The term ‘reading’ means a*
4 *complex system of deriving meaning from print that*
5 *requires all of the following:*

6 “(A) *Skills and knowledge to understand*
7 *how phonemes, or speech sounds are connected in*
8 *print.*

9 “(B) *Ability to decode unfamiliar words.*

10 “(C) *Ability to read fluently.*

11 “(D) *Sufficient background information*
12 *and vocabulary to foster reading comprehensions.*

13 “(E) *Development of appropriate active*
14 *strategies to construct meaning from print.*

15 “(F) *Development and maintenance of a*
16 *motivation to read.*

17 “(33) *RIGOROUS DIAGNOSTIC READING AND*
18 *SCREENING ASSESSMENT TOOLS.—The term ‘rigorous*
19 *diagnostic reading and screening assessment tools’*
20 *means a diagnostic reading assessment that—*

21 “(A) *is valid, reliable, and grounded on sci-*
22 *entifically based reading research;*

23 “(B) *measures progress in developing pho-*
24 *nemic awareness and phonics skills, vocabulary,*
25 *reading fluency, and reading comprehension;*

1 “(C) identifies students who may be at risk
2 for reading failure or who are having difficulty
3 reading; and

4 “(D) are used to improve instruction.

5 “(34) SCIENTIFICALLY BASED RESEARCH.—The
6 term ‘scientifically based research’—

7 “(A) means the application of rigorous, sys-
8 tematic, and objective procedures to obtain valid
9 knowledge relevant to education activities and
10 programs; and

11 “(B) shall include research that—

12 “(i) employs systematic, empirical
13 methods that draw on observation or experi-
14 ment;

15 “(ii) involves rigorous data analyses
16 that are adequate to test the stated
17 hypotheses and justify the general conclu-
18 sions drawn;

19 “(iii) relies on measurements or obser-
20 vational methods that provide valid data
21 across evaluators and observers and across
22 multiple measurements and observations;

23 “(iv) is evaluated using randomized
24 experiments in which individuals, entities,
25 programs, or activities are randomly as-

1 *signed to different variations (including a*
2 *control condition) to compare the relative*
3 *effects of the variations; and*

4 *“(v) has been accepted by a peer-re-*
5 *viewed journal or approved by a panel of*
6 *independent experts through a comparably*
7 *rigorous, objective, and scientific review.*

8 “(35) *SECONDARY SCHOOL.*—*The term ‘sec-*
9 *ondary school’ means a nonprofit institutional day or*
10 *residential school, including a public secondary char-*
11 *ter school, that provides secondary education, as de-*
12 *termined under State law, except that such term does*
13 *not include any education beyond grade 12.*

14 “(36) *SECRETARY.*—*The term ‘Secretary’ means*
15 *the Secretary of Education.*

16 “(37) *STATE.*—*The term ‘State’ means each of*
17 *the 50 States, the District of Columbia, the Common-*
18 *wealth of Puerto Rico, and each of the outlying areas.*

19 “(38) *STATE EDUCATIONAL AGENCY.*—*The term*
20 *‘State educational agency’ means the agency pri-*
21 *marily responsible for the State supervision of public*
22 *elementary and secondary schools.*

23 “(39) *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 Indian*
8 *Affairs, a school operated under a contract or grant with*
9 *the Bureau of Indian Affairs in consortia with another con-*
10 *tract or grant school or tribal or community organization,*
11 *or a Bureau of Indian Affairs school in consortia with an*
12 *institution of higher education, a contract or grant school*
13 *and tribal or community organization shall be given the*
14 *same consideration as a local educational agency.*

15 **“PART B—FLEXIBILITY IN THE USE OF**
16 **ADMINISTRATIVE AND OTHER FUNDS**

17 **“SEC. 8201. CONSOLIDATION OF STATE ADMINISTRATIVE**
18 **FUNDS FOR ELEMENTARY AND SECONDARY**
19 **EDUCATION PROGRAMS.**

20 *“(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—*

21 *“(1) IN GENERAL.—A State educational agency*
22 *may consolidate the amounts specifically made avail-*
23 *able to such agency for State administration under*
24 *one or more of the programs under paragraph (2) if*
25 *such State educational agency can demonstrate that*

1 *the majority of such agency’s resources are derived*
2 *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 con-*
11 *solidates administrative funds under this section shall not*
12 *be required to keep separate records, by individual program,*
13 *to account for costs relating to the administration of pro-*
14 *grams included in the consolidation under subsection (a).*

15 “(d) *REVIEW.—To determine the effectiveness of State*
16 *administration under this section, the Secretary may peri-*
17 *odically review the performance of State educational agen-*
18 *cies in using consolidated administrative funds under this*
19 *section and take such steps as the Secretary finds appro-*
20 *priate to ensure the effectiveness of such administration.*

21 “(e) *UNUSED ADMINISTRATIVE FUNDS.—If a State*
22 *educational agency does not use all of the funds available*
23 *to such agency under this section for administration, such*
24 *agency may use such funds during the applicable period*

1 *of availability as funds available under one or more pro-*
2 *grams included in the consolidation under subsection (a).*

3 **“SEC. 8202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.**

4 *“A State educational agency that also serves as a local*
5 *educational agency, in such agency’s applications or plans*
6 *under this Act, shall describe how such agency will elimi-*
7 *nate duplication in the conduct of administrative functions.*

8 **“SEC. 8203. CONSOLIDATION OF FUNDS FOR LOCAL ADMIN-**
9 **ISTRATION.**

10 *“(a) GENERAL AUTHORITY.—In accordance with regu-*
11 *lations of the Secretary and for any fiscal year, a local edu-*
12 *cational agency, with the approval of its State educational*
13 *agency, may consolidate and use for the administration of*
14 *one or more programs under this Act (or such other pro-*
15 *grams as the Secretary shall designate) not more than the*
16 *percentage, established in each such program, of the total*
17 *available for the local educational agency under such pro-*
18 *grams.*

19 *“(b) STATE PROCEDURES.—Within one-year from the*
20 *date of enactment of the No Child Left Behind Act of 2001,*
21 *a State educational agency shall, in collaboration with local*
22 *educational agencies in the State, establish procedures for*
23 *responding to requests from local educational agencies to*
24 *consolidate administrative funds under subsection (a) and*
25 *for establishing limitations on the amount of funds under*

1 *such programs that may be used for administration on a*
2 *consolidated basis.*

3 “(c) *CONDITIONS.*—*A local educational agency that*
4 *consolidates administrative funds under this section for any*
5 *fiscal year shall not use any other funds under the programs*
6 *included in the consolidation for administration for that*
7 *fiscal year.*

8 “(d) *USES OF ADMINISTRATIVE FUNDS.*—*A local edu-*
9 *cational agency that consolidates administrative funds*
10 *under this section may use such consolidated funds for the*
11 *administration of such programs and for uses, at the school*
12 *district and school levels, comparable to those described in*
13 *section 8201(b)(2).*

14 “(e) *RECORDS.*—*A local educational agency that con-*
15 *solidates administrative funds under this section shall not*
16 *be required to keep separate records, by individual program,*
17 *to account for costs relating to the administration of such*
18 *programs included in the consolidation.*

19 **“SEC. 8204. CONSOLIDATED SET-ASIDE FOR DEPARTMENT**
20 **OF THE INTERIOR FUNDS.**

21 “(a) *GENERAL AUTHORITY.*—

22 “(1) *TRANSFER.*—*The Secretary shall transfer to*
23 *the Department of the Interior, as a consolidated*
24 *amount for covered programs, the Indian education*
25 *programs under subpart 1 of part B of title III, and*

1 *the education for homeless children and youth pro-*
2 *gram under subtitle B of title VII of the Stewart B.*
3 *McKinney Homeless Assistance Act, the amounts al-*
4 *lotted to the Department of the Interior under those*
5 *programs.*

6 “(2) *AGREEMENT.—(A) The Secretary and the*
7 *Secretary of the Interior shall enter into an agree-*
8 *ment, consistent with the requirements of the pro-*
9 *grams specified in paragraph (1), for the distribution*
10 *and use of those program funds under terms that the*
11 *Secretary determines best meet the purposes of those*
12 *programs.*

13 “(B) *The agreement shall—*

14 “(i) *set forth the plans of the Secretary of*
15 *the Interior for the use of the amount transferred*
16 *and the performance measures to assess program*
17 *effectiveness, including measurable goals and ob-*
18 *jectives; and*

19 “(ii) *be developed in consultation with In-*
20 *dian tribes.*

21 “(b) *ADMINISTRATION.—The Department of the Inte-*
22 *rior may use not more than 1.5 percent of the funds consoli-*
23 *dated under this section for such department’s costs related*
24 *to the administration of the funds transferred under this*
25 *section.*

1 **“PART C—COORDINATION OF PROGRAMS; CON-**
2 **SOLIDATED STATE AND LOCAL PLANS AND**
3 **APPLICATIONS**

4 **“SEC. 8301. PURPOSE.**

5 *“The purposes of this part are to improve teaching and*
6 *learning through greater coordination between programs*
7 *and to provide greater flexibility to State and local authori-*
8 *ties by allowing the consolidation of State and local plans,*
9 *applications, and reporting.*

10 **“SEC. 8302. OPTIONAL CONSOLIDATED STATE PLANS OR AP-**
11 **PLICATIONS.**

12 *“(a) GENERAL AUTHORITY.—*

13 *“(1) SIMPLIFICATION.—In order to simplify ap-*
14 *plication requirements and reduce the burden for*
15 *States under this Act, the Secretary, in accordance*
16 *with subsection (b), shall establish procedures and cri-*
17 *teria under which a State educational agency, in con-*
18 *sultation with the State’s Governor, may submit a*
19 *consolidated State plan or a consolidated State appli-*
20 *cation meeting the requirements of this section for—*

21 *“(A) any programs under this Act in which*
22 *the State participates; and*

23 *“(B) such other programs as the Secretary*
24 *may designate.*

25 *“(2) CONSOLIDATED APPLICATIONS AND*
26 *PLANS.—A State educational agency, in consultation*

1 *with the State’s Governor, that submits a consolidated*
2 *State plan or a consolidated State application under*
3 *this section shall not be required to submit a separate*
4 *State plan or application for a program included in*
5 *the consolidated State plan or application.*

6 “(b) *COLLABORATION.*—

7 “(1) *IN GENERAL.*—*In establishing criteria and*
8 *procedures under this section, the Secretary shall col-*
9 *laborate with Governors, State educational agencies*
10 *and, as appropriate, with other State agencies, local*
11 *educational agencies, public and private nonprofit*
12 *agencies, organizations, and institutions, private*
13 *schools, and representatives of parents, students, and*
14 *teachers.*

15 “(2) *CONTENTS.*—*Through the collaborative*
16 *process described in paragraph (1), the Secretary*
17 *shall establish, for each program under the Act to*
18 *which this section applies, the descriptions, informa-*
19 *tion, assurances, and other material required to be in-*
20 *cluded in a consolidated State plan or consolidated*
21 *State application.*

22 “(3) *NECESSARY MATERIALS.*—*The Secretary*
23 *shall require only descriptions, information, assur-*
24 *ances, and other materials that are absolutely nec-*

1 *essary for the consideration of the consolidated State*
2 *plan or consolidated State application.*

3 **“SEC. 8303. CONSOLIDATED REPORTING.**

4 *“In order to simplify reporting requirements and re-*
5 *duce reporting burdens, the Secretary shall establish proce-*
6 *dures and criteria under which a State educational agency,*
7 *in consultation with the State’s Governor, may submit a*
8 *consolidated State annual report. Such report shall contain*
9 *information about the programs included in the report, in-*
10 *cluding the State’s performance under those programs, and*
11 *other matters as the Secretary determines, such as moni-*
12 *toring activities. Such a report shall take the place of sepa-*
13 *rate individual annual reports for the programs subject to*
14 *it.*

15 **“SEC. 8304. GENERAL APPLICABILITY OF STATE EDU-**
16 **CATIONAL AGENCY ASSURANCES.**

17 *“(a) ASSURANCES.—A State educational agency, in*
18 *consultation with the State’s Governor, that submits a con-*
19 *solidated State plan or consolidated State application*
20 *under this Act, whether separately or under section 8302,*
21 *shall have on file with the Secretary a single set of assur-*
22 *ances, applicable to each program for which such plan or*
23 *application is submitted, 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 each
5 such program and title to property acquired with
6 program funds will be in a public agency, in a non-
7 profit private agency, institution, or organization, or
8 in an Indian tribe if the law authorizing the program
9 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 methods
15 of administering each such program, including—

16 “(A) the enforcement of any obligations im-
17 posed by law on agencies, institutions, organiza-
18 tions, and other recipients responsible for car-
19 rying 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 any*
4 *evaluation of each such program conducted by or for*
5 *the Secretary or other Federal officials;*

6 “(5) *the State will use such fiscal control and*
7 *fund accounting procedures as will ensure proper dis-*
8 *bursement of, and accounting for, Federal funds paid*
9 *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 program;*
14 *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 rea-*
21 *sonable opportunity for public comment on the plan*
22 *or application and has considered such comment.*

23 “(b) *GEPA PROVISION.—Section 441 of the General*
24 *Education Provisions Act shall not apply to programs*
25 *under this Act.*

1 **“SEC. 8305. CONSOLIDATED LOCAL PLANS OR APPLICA-**
2 **TIONS.**

3 “(a) *GENERAL AUTHORITY.*—A local educational
4 agency receiving funds under more than one program under
5 this Act may submit plans or applications to the Governor
6 and State educational agency under such programs on a
7 consolidated basis.

8 “(b) *REQUIRED CONSOLIDATED PLANS OR APPLICA-*
9 *TIONS.*—A State that has an approved consolidated State
10 plan or application under section 8302 may require local
11 educational agencies in the State receiving funds under
12 more than one program included in the consolidated State
13 plan or consolidated State application to submit consoli-
14 dated local plans or applications under such programs, but
15 may not require such agencies to submit separate plans.

16 “(c) *COLLABORATION.*—A Governor and State edu-
17 cational agency shall collaborate with local educational
18 agencies in the State in establishing procedures for the sub-
19 mission of the consolidated State plans or consolidated
20 State applications under this section.

21 “(d) *NECESSARY MATERIALS.*—The State shall require
22 only descriptions, information, assurances, and other mate-
23 rial that are absolutely necessary for the consideration of
24 the local educational agency plan or application.

1 **“SEC. 8306. OTHER GENERAL ASSURANCES.**

2 “(a) *ASSURANCES.*—*Any applicant other than a State*
3 *that submits a plan or application under this Act, shall*
4 *have on file with the State a single set of assurances, appli-*
5 *cable to each program for which a plan or application is*
6 *submitted, that provides that—*

7 “(1) *each such program will be administered in*
8 *accordance with all applicable statutes, regulations,*
9 *program plans, and applications;*

10 “(2)(A) *the control of funds provided under each*
11 *such program and title to property acquired with*
12 *program funds will be in a public agency or in a*
13 *nonprofit private agency, institution, organization, or*
14 *Indian tribe, if the law authorizing the program pro-*
15 *vides for assistance to such entities; and*

16 “(B) *the public agency, nonprofit private agen-*
17 *cy, institution, or organization, or Indian tribe will*
18 *administer such funds and property to the extent re-*
19 *quired by the authorizing statutes;*

20 “(3) *the applicant will adopt and use proper*
21 *methods of administering each such program, includ-*
22 *ing—*

23 “(A) *the enforcement of any obligations im-*
24 *posed by law on agencies, institutions, organiza-*
25 *tions, and other recipients responsible for car-*
26 *rying out each program; and*

1 “(B) the correction of deficiencies in pro-
2 gram operations that are identified through au-
3 dits, monitoring, or evaluation;

4 “(4) the applicant will cooperate in carrying out
5 any evaluation of each such program conducted by or
6 for the State educational agency, the Secretary or
7 other Federal officials;

8 “(5) the applicant will use such fiscal control
9 and fund accounting procedures as will ensure proper
10 disbursement of, and accounting for, Federal funds
11 paid to such applicant under each such program;

12 “(6) the applicant will—

13 “(A) make reports to the Governor and
14 State educational agency and the Secretary as
15 may be necessary to enable such agency and the
16 Secretary to perform their duties under each
17 such program; and

18 “(B) maintain such records, provide such
19 information, and afford access to the records as
20 the Governor and State educational agency or
21 the Secretary may find necessary to carry out
22 the State’s or the Secretary’s duties; and

23 “(7) before the application was submitted, the
24 applicant afforded a reasonable opportunity for pub-

1 “(B) describes the purpose and overall ex-
2 pected results of waiving each such requirement;

3 “(C) describes, for each school year, specific,
4 measurable, educational goals for the State edu-
5 cational agency and for each local educational
6 agency, Indian tribe, or school that would be af-
7 fected by the waiver; and

8 “(D) explains why the waiver will assist the
9 State educational agency and each affected local
10 educational agency, Indian tribe, or school in
11 reaching such goals.

12 “(2) *ADDITIONAL INFORMATION.*—Such re-
13 quests—

14 “(A) may provide for waivers of require-
15 ments applicable to State educational agencies,
16 local educational agencies, Indian tribes, and
17 schools; and

18 “(B) shall be developed and submitted—

19 “(i)(I) by local educational agencies
20 (on behalf of such agencies and schools) to
21 State educational agencies; and

22 “(II) by State educational agencies (on
23 behalf of, and based upon the requests of,
24 local educational agencies) to the Secretary;
25 or

1 “(ii) by Indian tribes (on behalf of
2 schools operated by such tribes) to the Sec-
3 retary.

4 “(3) GENERAL REQUIREMENTS.—

5 “(A) In the case of a waiver request sub-
6 mitted by a State educational agency acting in
7 its own behalf, the State educational agency
8 shall—

9 “(i) provide all interested local edu-
10 cational agencies in the State with notice
11 and a reasonable opportunity to comment
12 on the request;

13 “(ii) submit the comments to the Sec-
14 retary; and

15 “(iii) provide notice and information
16 to the public regarding the waiver request
17 in the manner that the applying agency
18 customarily provides similar notices and
19 information to the public.

20 “(B) In the case of a waiver request sub-
21 mitted by a local educational agency that re-
22 ceives funds under this Act—

23 “(i) such request shall be reviewed by
24 the State educational agency and be accom-

1 panied by the comments, if any, of such
2 State educational agency; and

3 “(ii) notice and information regarding
4 the waiver request shall be provided to the
5 public by the agency requesting the waiver
6 in the manner that such agency customarily
7 provides similar notices and information to
8 the public.

9 “(c) *RESTRICTIONS.*—The Secretary shall not waive
10 under this section any statutory or regulatory requirements
11 relating to—

12 “(1) the allocation or distribution of funds to
13 States, local educational agencies, or other recipients
14 of funds under this Act;

15 “(2) maintenance of effort;

16 “(3) comparability of services;

17 “(4) use of Federal funds to supplement, not sup-
18 plant, non-Federal funds;

19 “(5) equitable participation of private school stu-
20 dents and teachers;

21 “(6) parental participation and involvement;

22 “(7) applicable civil rights requirements;

23 “(8) the requirement for a charter school under
24 part B of title IV; or

25 “(9) the prohibitions regarding—

1 “(A) *State aid in section 8502;*

2 “(B) *use of funds for religious worship or*
3 *instruction in section 8507; and*

4 “(C) *activities in section 8513.*

5 “(d) *DURATION AND EXTENSION OF WAIVER.—*

6 “(1) *IN GENERAL.—Except as provided in para-*
7 *graph (2), the duration of a waiver approved by the*
8 *Secretary under this section may be for a period not*
9 *to exceed 5 years.*

10 “(2) *EXTENSION.—The Secretary may extend the*
11 *period described in paragraph (1) if the Secretary de-*
12 *termines that—*

13 “(A) *the waiver has been effective in ena-*
14 *bling the State or affected recipients to carry out*
15 *the activities for which the waiver was requested*
16 *and the waiver has contributed to improved stu-*
17 *dent performance; and*

18 “(B) *such extension is in the public interest.*

19 “(e) *REPORTS.—*

20 “(1) *LOCAL WAIVER.—A local educational agen-*
21 *cy that receives a waiver under this section shall at*
22 *the end of the second year for which a waiver is re-*
23 *ceived under this section, and each subsequent year,*
24 *submit a report to the State educational agency*
25 *that—*

1 “(A) describes the uses of such waiver by
2 such agency or by schools;

3 “(B) describes how schools continued to pro-
4 vide assistance to the same populations served by
5 the programs for which waivers are requested;
6 and

7 “(C) evaluates the progress of such agency
8 and of schools in improving the quality of in-
9 struction or the academic performance of stu-
10 dents.

11 “(2) STATE WAIVER.—A State educational agen-
12 cy that receives reports required under paragraph (1)
13 shall annually submit a report to the Secretary that
14 is based on such reports and contains such informa-
15 tion as the Secretary may require.

16 “(3) INDIAN TRIBE WAIVER.—An Indian tribe
17 that receives a waiver under this section shall annu-
18 ally submit a report to the Secretary that—

19 “(A) describes the uses of such waiver by
20 schools operated by such tribe; and

21 “(B) evaluates the progress of such schools
22 in improving the quality of instruction or the
23 academic performance of students.

24 “(4) REPORT TO CONGRESS.—Beginning in fis-
25 cal year 2002 and each subsequent year, the Secretary

1 *shall submit to the Committee on Education and the*
2 *Workforce of the House of Representatives and the*
3 *Committee on Health, Education, Labor and Pen-*
4 *sions of the Senate a report—*

5 “(A) *summarizing the uses of waivers by*
6 *State educational agencies, local educational*
7 *agencies, Indian tribes, and schools; and*

8 “(B) *describing whether such waivers—*

9 “(i) *increased the quality of instruc-*
10 *tion to students; or*

11 “(ii) *improved the academic perform-*
12 *ance of students.*

13 “(f) *TERMINATION OF WAIVERS.—The Secretary shall*
14 *terminate a waiver under this section if the Secretary deter-*
15 *mines, after notice and an opportunity for a hearing, that*
16 *the performance of the State or other recipient affected by*
17 *the waiver has been inadequate to justify a continuation*
18 *of the waiver or if the waiver is no longer necessary to*
19 *achieve its original purposes.*

20 “(g) *PUBLICATION.—A notice of the Secretary’s deci-*
21 *sion to grant each waiver under subsection (a) shall be pub-*
22 *lished in the Federal Register and the Secretary shall pro-*
23 *vide for the dissemination of such notice to State edu-*
24 *cational agencies, interested parties, including educators,*

1 *parents, students, advocacy and civil rights organizations,*
2 *and the public.*

3 **“PART E—UNIFORM PROVISIONS**

4 **“SEC. 8501. MAINTENANCE OF EFFORT.**

5 *“(a) IN GENERAL.—A local educational agency may*
6 *receive funds under a covered program for any fiscal year*
7 *only if the State educational agency finds that either the*
8 *combined fiscal effort per student or the aggregate expendi-*
9 *tures of such agency and the State with respect to the provi-*
10 *sion of free public education by such agency for the pre-*
11 *ceding fiscal year was not less than 90 percent of such com-*
12 *bined fiscal effort or aggregate expenditures for the second*
13 *preceding fiscal year.*

14 *“(b) REDUCTION IN CASE OF FAILURE TO MEET.—*

15 *“(1) IN GENERAL.—The State educational agen-*
16 *cy shall reduce the amount of the allocation of funds*
17 *under a covered program in any fiscal year in the*
18 *exact proportion to which a local educational agency*
19 *fails to meet the requirement of subsection (a) of this*
20 *section by falling below 90 percent of both the com-*
21 *bined fiscal effort per student and aggregate expendi-*
22 *tures (using the measure most favorable to such local*
23 *agency).*

1 “(2) *SPECIAL RULE.*—No such lesser amount
2 shall be used for computing the effort required under
3 subsection (a) of this section for subsequent years.

4 “(c) *WAIVER.*—The Secretary may waive the require-
5 ments of this section if the Secretary determines that such
6 a waiver would be equitable due to—

7 “(1) *exceptional or uncontrollable circumstances*
8 *such as a natural disaster; or*

9 “(2) *a precipitous decline in the financial re-*
10 *sources of the local educational agency.*

11 **“SEC. 8502. PROHIBITION REGARDING STATE AID.**

12 *“A State shall not take into consideration payments*
13 *under this Act (other than under title VI) in determining*
14 *the eligibility of any local educational agency in such State*
15 *for State aid, or the amount of State aid, with respect to*
16 *free public education of children.*

17 **“SEC. 8503. PARTICIPATION BY PRIVATE SCHOOL CHIL-**
18 **DREN AND TEACHERS.**

19 “(a) *PRIVATE SCHOOL PARTICIPATION.*—

20 “(1) *IN GENERAL.*—*Except as otherwise provided*
21 *in this Act, to the extent consistent with the number*
22 *of eligible children in areas served by a State edu-*
23 *cational agency, local educational agency, educational*
24 *service agency, consortium of such agencies, or an-*
25 *other entity receiving financial assistance under a*

1 *program specified in subsection (b), who are enrolled*
2 *in private elementary and secondary schools in areas*
3 *served by such agency, consortium or entity, such*
4 *agency, consortium or entity shall, after timely and*
5 *meaningful consultation with appropriate private*
6 *school officials, provide such children and their teach-*
7 *ers or other educational personnel, on an equitable*
8 *basis, special educational services or other benefits*
9 *that address their needs under such program.*

10 *“(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL*
11 *SERVICES OR BENEFITS.—Educational services or*
12 *other benefits, including materials and equipment,*
13 *provided under this section, shall be secular, neutral,*
14 *and nonideological.*

15 *“(3) SPECIAL RULE.—Educational services and*
16 *other benefits provided under this section for such pri-*
17 *ivate school children, teachers, and other educational*
18 *personnel shall be equitable in comparison to services*
19 *and other benefits for public school children, teachers,*
20 *and other educational personnel participating in such*
21 *program and shall be provided in a timely manner.*

22 *“(4) EXPENDITURES.—Expenditures for edu-*
23 *cational services and other benefits provided under*
24 *this section to eligible private school children, their*
25 *teachers, and other educational personnel serving such*

1 *children shall be equal, taking into account the num-*
2 *ber and educational needs of the children to be served,*
3 *to the expenditures for participating public school*
4 *children.*

5 “(5) *PROVISION OF SERVICES.*—*Such agency,*
6 *consortium or entity described in subsection (a)(1) of*
7 *this section may provide such services directly or*
8 *through contracts with public and private agencies,*
9 *organizations, and institutions.*

10 “(b) *APPLICABILITY.*—

11 “(1) *IN GENERAL.*—*This section applies to pro-*
12 *grams under—*

13 “(A) *part B, subpart 1 of title I;*

14 “(B) *part C of title I;*

15 “(C) *part A of title II;*

16 “(D) *part A of title III.*

17 “(E) *part A of title V; and*

18 “(F) *part B of title V;*

19 “(2) *DEFINITION.*—*For the purposes of this sec-*
20 *tion, the term ‘eligible children’ means children eligi-*
21 *ble for services under a program described in para-*
22 *graph (1).*

23 “(c) *CONSULTATION.*—

24 “(1) *IN GENERAL.*—*To ensure timely and mean-*
25 *ingful consultation, a State educational agency, local*

1 *educational agency, educational service agency, con-*
2 *sortium of such agencies or entity shall consult with*
3 *appropriate private school officials during the design*
4 *and development of the programs under this Act, on*
5 *issues such as—*

6 *“(A) how the children’s needs will be identi-*
7 *fied;*

8 *“(B) what services will be offered;*

9 *“(C) how, where, and by whom the services*
10 *will be provided;*

11 *“(D) how the services will be assessed and*
12 *how the results of the assessment will be used to*
13 *improve such services;*

14 *“(E) the size and scope of the equitable serv-*
15 *ices to be provided to the eligible private school*
16 *children, teachers, and other educational per-*
17 *sonnel and the amount of funds available for*
18 *such services; and*

19 *“(F) how and when the agency, consortium,*
20 *or entity will make decisions about the delivery*
21 *of services, including a thorough consideration*
22 *and analysis of the views of the private school of-*
23 *ficials on the provision of contract services*
24 *through potential third party providers.*

1 “(2) *DISAGREEMENT.*—*If the agency, consortium*
2 *or entity disagrees with the views of the private school*
3 *officials on the provision of services through a con-*
4 *tract, the agency, consortium, or entity shall provide*
5 *in writing to such private school officials an analysis*
6 *of the reasons why the local educational agency has*
7 *chosen not to use a contractor.*

8 “(3) *TIMING.*—*Such consultation shall occur be-*
9 *fore the agency, consortium, or entity makes any deci-*
10 *sion that affects the opportunities of eligible private*
11 *school children, teachers, and other educational per-*
12 *sonnel to participate in programs under this Act, and*
13 *shall continue throughout the implementation and as-*
14 *essment of activities under this section.*

15 “(4) *DISCUSSION REQUIRED.*—*Such consultation*
16 *shall include a discussion of service delivery mecha-*
17 *nisms that the agency, consortium, or entity could use*
18 *to provide equitable services to eligible private school*
19 *children, teachers, administrators, and other staff.*

20 “(d) *PUBLIC CONTROL OF FUNDS.*—

21 “(1) *IN GENERAL.*—*The control of funds used to*
22 *provide services under this section, and title to mate-*
23 *rials, equipment, and property purchased with such*
24 *funds, shall be in a public agency for the uses and*

1 *purposes provided in this Act, and a public agency*
2 *shall administer such funds and property.*

3 “(2) *PROVISION OF SERVICES.—*

4 “(A) *The provision of services under this*
5 *section shall be provided—*

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

7 *or*

8 “(ii) *through contract by such public*
9 *agency with an individual, association,*
10 *agency, organization, or other entity.*

11 “(B) *In the provision of such services, such*
12 *employee, person, association, agency, organiza-*
13 *tion or other entity shall be independent of such*
14 *private school and of any religious organization,*
15 *and such employment or contract shall be under*
16 *the control and supervision of such public agen-*
17 *cy.*

18 “(C) *Funds used to provide services under*
19 *this section shall not be commingled with non-*
20 *Federal funds.*

21 **“SEC. 8504. STANDARDS FOR BY-PASS.**

22 *“If, by reason of any provision of law, a State edu-*
23 *cational agency, local educational agency, educational serv-*
24 *ice agency, consortium, or other entity of such agencies, is*
25 *prohibited from providing for the participation in pro-*

1 *grams of children enrolled in, or teachers or other edu-*
2 *cational personnel from, private elementary and secondary*
3 *schools, on an equitable basis, or if the Secretary determines*
4 *that such agency consortium or entity has substantially*
5 *failed or is unwilling to provide for such participation, as*
6 *required by section 8503, the Secretary shall—*

7 “(1) *waive the requirements of that section for*
8 *such agency, consortium, or entity;*

9 “(2) *arrange for the provision of equitable serv-*
10 *ices to such children, teachers, or other educational*
11 *personnel through arrangements that shall be subject*
12 *to the requirements of this section and of sections*
13 *8503, 8505, and 8506; and*

14 “(3) *in making the determination, consider one*
15 *or more factors, including the quality, size, scope, lo-*
16 *cation of the program and the opportunity of private*
17 *school children, teachers, and other educational per-*
18 *sonnel to participate.*

19 **“SEC. 8505. COMPLAINT PROCESS FOR PARTICIPATION OF**
20 **PRIVATE SCHOOL CHILDREN.**

21 “(a) *PROCEDURES FOR COMPLAINTS.—The Secretary*
22 *shall develop and implement written procedures for receiv-*
23 *ing, investigating, and resolving complaints from parents,*
24 *teachers, or other individuals and organizations concerning*
25 *violations of section 8503 by a State educational agency,*

1 *local educational agency, educational service agency, con-*
 2 *sortium of such agencies or entity. Such individual or orga-*
 3 *nization shall submit such complaint to the State edu-*
 4 *cational agency for a written resolution by the State edu-*
 5 *cational agency within a reasonable period of time.*

6 “(b) *APPEALS TO SECRETARY.*—*Such resolution may*
 7 *be appealed by an interested party to the Secretary not later*
 8 *than 30 days after the State educational agency resolves*
 9 *the complaint or fails to resolve the complaint within a rea-*
 10 *sonable period of time. Such appeal shall be accompanied*
 11 *by a copy of the State educational agency’s resolution, and*
 12 *a complete statement of the reasons supporting the appeal.*
 13 *The Secretary shall investigate and resolve each such appeal*
 14 *not later than 120 days after receipt of the appeal.*

15 **“SEC. 8506. BY-PASS DETERMINATION PROCESS.**

16 “(a) *REVIEW.*—

17 “(1) *IN GENERAL.*—

18 “(A) *The Secretary shall not take any final*
 19 *action under section 8504 until the State edu-*
 20 *cational agency, local educational agency, edu-*
 21 *catinal service agency, consortium of such agen-*
 22 *cies or entity affected by such action has had an*
 23 *opportunity, for not less than 45 days after re-*
 24 *ceiving written notice thereof, to submit written*

1 *objections and to appear before the Secretary to*
2 *show cause why that action should not be taken.*

3 “(B) *Pending final resolution of any inves-*
4 *tigation or complaint that could result in a de-*
5 *termination under this section, the Secretary*
6 *may withhold from the allocation of the affected*
7 *State or local educational agency the amount es-*
8 *timated by the Secretary to be necessary to pay*
9 *the cost of those services.*

10 “(2) *PETITION FOR REVIEW.—*

11 “(A) *If such affected agency consortium or*
12 *entity is dissatisfied with the Secretary’s final*
13 *action after a proceeding under paragraph (1),*
14 *such agency consortium or entity may, within*
15 *60 days after notice of such action, file with the*
16 *United States court of appeals for the circuit in*
17 *which such State is located a petition for review*
18 *of that action.*

19 “(B) *A copy of the petition shall be forth-*
20 *with transmitted by the clerk of the court to the*
21 *Secretary.*

22 “(C) *The Secretary upon receipt of the copy*
23 *of the petition shall file in the court the record*
24 *of the proceedings on which the Secretary based*

1 *this action, as provided in section 2112 of title*
2 *28, United States Code.*

3 “(3) *FINDINGS OF FACT.*—

4 “(A) *The findings of fact by the Secretary,*
5 *if supported by substantial evidence, shall be*
6 *conclusive, but the court, for good cause shown,*
7 *may remand the case to the Secretary to take*
8 *further evidence and the Secretary may then*
9 *make new or modified findings of fact and may*
10 *modify the Secretary’s previous action, and shall*
11 *file in the court the record of the further pro-*
12 *ceedings.*

13 “(B) *Such new or modified findings of fact*
14 *shall likewise be conclusive if supported by sub-*
15 *stantial evidence.*

16 “(4) *JURISDICTION.*—

17 “(A) *Upon the filing of such petition, the*
18 *court shall have jurisdiction to affirm the action*
19 *of the Secretary or to set such action aside, in*
20 *whole or in part.*

21 “(B) *The judgment of the court shall be sub-*
22 *ject to review by the Supreme Court of the*
23 *United States upon certiorari or certification as*
24 *provided in section 1254 of title 28, United*
25 *States Code.*

1 “(b) *DETERMINATION.*—Any determination by the
2 Secretary under this section shall continue in effect until
3 the Secretary determines, in consultation with such agency,
4 consortium or entity and representatives of the affected pri-
5 vate school children, teachers, or other educational personnel
6 that there will no longer be any failure or inability on the
7 part of such agency or consortium to meet the applicable
8 requirements of section 8503 or any other provision of this
9 Act.

10 “(c) *PAYMENT FROM STATE ALLOTMENT.*—When the
11 Secretary arranges for services pursuant to this section, the
12 Secretary shall, after consultation with the appropriate
13 public and private school officials, pay the cost of such serv-
14 ices, including the administrative costs of arranging for
15 those services, from the appropriate allocation or allocations
16 under this Act.

17 “(d) *PRIOR DETERMINATION.*—Any by-pass deter-
18 mination by the Secretary under this Act as in effect on
19 the day preceding the date of enactment of the No Child
20 Left Behind Act of 2001 shall remain in effect to the extent
21 the Secretary determines that such determination is con-
22 sistent with the purpose of this section.

1 **“SEC. 8507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS**
2 **WORSHIP OR INSTRUCTION.**

3 *“Nothing contained in this Act shall be construed to*
4 *authorize the making of any payment under this Act for*
5 *religious worship or instruction.*

6 **“SEC. 8508. APPLICABILITY.**

7 *“Nothing in this Act shall be construed to affect home*
8 *schools, whether or not a home school is treated as a home*
9 *school or a private school under State law (consistent with*
10 *section 8509), nor shall any home schooled student be re-*
11 *quired to participate in any assessment referenced in this*
12 *Act.*

13 **“SEC. 8509. PRIVATE SCHOOLS.**

14 *“Nothing in this Act shall be construed to affect any*
15 *private school that does not receive funds or services under*
16 *this Act nor shall any student who attends a private school*
17 *that does not receive funds or services under this Act be*
18 *required to participate in any assessment referenced in this*
19 *Act.*

20 **“SEC. 8510. PRIVACY OF ASSESSMENT RESULTS.**

21 *“Any results from individual assessments referenced in*
22 *this Act which become part of the education records of the*
23 *student shall have the protections as provided in section 444*
24 *of the General Education Provisions Act.*

1 **“SEC. 8511. GENERAL PROVISION REGARDING NON-**
2 **RECIPIENT NONPUBLIC SCHOOLS.**

3 *“Nothing in this Act, or any other Act administered*
4 *by the Department, shall be construed to permit, allow, en-*
5 *courage, or authorize any Federal control over any aspect*
6 *of any private, religious, or home school, whether or not*
7 *a home school is treated as a private school or home school*
8 *under State law. This section shall not be construed to bar*
9 *private, religious, or home schools from participation in*
10 *programs or services under this Act.*

11 **“SEC. 8512. SCHOOL PRAYER.**

12 *“As a condition for receipt of funds under this Act,*
13 *a local educational agency shall certify in writing to the*
14 *Secretary that no policy of the agency prevents or otherwise*
15 *denies participation in constitutionally protected prayer in*
16 *public schools.*

17 **“SEC. 8513. GENERAL PROHIBITIONS.**

18 *“(a) PROHIBITION.—None of the funds authorized*
19 *under this Act shall be used—*

20 *“(1) to develop or distribute materials, or oper-*
21 *ate programs or courses of instruction directed at*
22 *youth that are designed to promote or encourage, sex-*
23 *ual activity, whether homosexual or heterosexual;*

24 *“(2) to distribute or to aid in the distribution by*
25 *any organization of legally obscene materials to mi-*
26 *nors on school grounds;*

1 “(3) to provide sex education or HIV prevention
2 education in schools unless such instruction is age ap-
3 propriate and emphasizes the health benefits of absti-
4 nence; or

5 “(4) to operate a program of contraceptive dis-
6 tribution in schools.

7 “(b) LOCAL CONTROL.—Nothing in this section shall
8 be construed to—

9 “(1) authorize an officer or employee of the Fed-
10 eral Government to direct, review, or control a State,
11 local educational agency, or schools’ instructional
12 content, curriculum, and related activities;

13 “(2) limit the application of the General Edu-
14 cation Provisions Act (20 U.S.C.A. 1221 et seq.);

15 “(3) require the distribution of scientifically or
16 medically false or inaccurate materials or to prohibit
17 the distribution of scientifically or medically true or
18 accurate materials; or

19 “(4) create any legally enforceable right.

20 **“SEC. 8514. PROHIBITION ON FEDERAL MANDATES, DIREC-**
21 **TION, AND CONTROL.**

22 “(a) GENERAL PROHIBITION.—Officers and employees
23 of the Federal Government are prohibited from mandating,
24 directing, or controlling a State, local educational agency,
25 or school’s curriculum, program of instruction, or allocation

1 *of State or local resources, or mandating a State or any*
2 *subdivision thereof to spend any funds or incur any costs*
3 *not paid for under this Act.*

4 “(b) *PROHIBITION OF FEDERAL MANDATES, DIREC-*
5 *TION, OR CONTROL.—Nothing in this Act shall be construed*
6 *to authorize an officer or employee of the Federal Govern-*
7 *ment to mandate, direct, or control a State, local edu-*
8 *cational agency, or school’s specific instructional content or*
9 *academic achievement standards and assessments, cur-*
10 *riculum, or program of instruction as a condition of eligi-*
11 *bility to receive funds under this Act.*

12 “(c) *EQUALIZED SPENDING.—Nothing in this Act*
13 *shall be construed to mandate equalized spending per pupil*
14 *for a State, local educational agency, or school.*

15 “(d) *BUILDING STANDARDS.—Nothing in this Act*
16 *shall be construed to mandate national school building*
17 *standards for a State, local agency, or school.*

18 **“SEC. 8515. RULEMAKING.**

19 *“The Secretary shall issue regulations under this Act*
20 *only to the extent that such regulations are necessary to*
21 *ensure that there is compliance with the specific require-*
22 *ments and assurances required by this Act.*

23 **“SEC. 8516. REPORT.**

24 *“The Secretary shall report to the Congress not later*
25 *than 180 days after the date of enactment of the No Child*

1 *Left Behind Act of 2001 regarding how the Secretary shall*
2 *ensure that audits conducted by Department employees of*
3 *activities assisted under this Act comply with changes to*
4 *this Act made by the No Child Left Behind Act of 2001,*
5 *particularly with respect to permitting children with simi-*
6 *lar educational needs to be served in the same educational*
7 *settings, where appropriate.*

8 **“SEC. 8517. REQUIRED APPROVAL OR CERTIFICATION PRO-**
9 **HIBITED.**

10 *“(a) IN GENERAL.—Notwithstanding any other provi-*
11 *sion of Federal law, no State shall be required to have aca-*
12 *demic content standards or student academic achievement*
13 *standards approved or certified by the Federal Government,*
14 *in order to receive assistance under this Act.*

15 *“(b) CONSTRUCTION.—Nothing in this section shall be*
16 *construed to affect requirements under title I of this Act.*

17 **“SEC. 8518. PROHIBITION ON ENDORSEMENT OF CUR-**
18 **RICULUM.**

19 *“Notwithstanding any other prohibition of Federal*
20 *law, no funds provided to the Department of Education or*
21 *to any applicable program may be used by the Department*
22 *to endorse, approve, or sanction any curriculum designed*
23 *to be used in an elementary or secondary school.*

1 **“SEC. 8519. RULE OF CONSTRUCTION ON PERSONALLY**
2 **IDENTIFIABLE INFORMATION.**

3 *“Nothing in this Act shall be construed to permit the*
4 *development of a national database of personally identifi-*
5 *able information on individuals involved in studies or in*
6 *data collection efforts under this Act.*

7 **“SEC. 8520. SEVERABILITY.**

8 *“If any provision of this Act is held invalid, the re-*
9 *mainder of this Act shall be unaffected thereby.*

10 **“PART F—SENSE OF CONGRESS**

11 **“SEC. 8601. PAPERWORK REDUCTION.**

12 *“(a) FINDINGS.—The Congress finds that—*

13 *“(1) instruction and other classroom activities*
14 *provide the greatest opportunity for students, espe-*
15 *cially at-risk and disadvantaged students, to attain*
16 *high standards and achieve academic success;*

17 *“(2) one of the greatest obstacles to establishing*
18 *an effective, classroom-centered education system is*
19 *the cost of paperwork compliance;*

20 *“(3) paperwork places a burden on teachers and*
21 *administrators who must complete Federal and State*
22 *forms to apply for Federal funds and absorbs time*
23 *and money which otherwise would be spent on stu-*
24 *dents;*

25 *“(4) the Education at a Crossroads Report re-*
26 *leased in 1998 by the Education Subcommittee on*

1 *Oversight and Investigations states that requirements*
2 *by the Department of Education result in more than*
3 *48,600,000 hours of paperwork per year; and*

4 *“(5) paperwork distracts from the mission of*
5 *schools, encumbers teachers, and administrators with*
6 *nonacademic responsibilities, and competes with*
7 *teaching and classroom activities which promote*
8 *learning and achievement.*

9 *“(b) SENSE OF CONGRESS.—It is the sense of Congress*
10 *that Federal and State educational agencies should reduce*
11 *the paperwork requirements placed on schools, teachers,*
12 *principles, and other administrators.*

13 **“SEC. 8602. PROHIBITION ON MANDATORY NATIONAL CER-**
14 **TIFICATION OF TEACHERS AND PARAPROFES-**
15 **SIONALS.**

16 *“(a) PROHIBITION ON MANDATORY TESTING OR CER-*
17 *TIFICATION.—Notwithstanding any other provision of law,*
18 *the Secretary is prohibited from using Federal funds to*
19 *plan, develop, implement, or administer any mandatory*
20 *national teacher or paraprofessional test or certification.*

21 *“(b) PROHIBITION ON WITHHOLDING FUNDS.—The*
22 *Secretary is prohibited from withholding funds from any*
23 *State or local educational agency if such State or local edu-*
24 *cational agency fails to adopt a specific method of teacher*
25 *or paraprofessional certification.*

1 **“SEC. 8603. PROHIBITION ON FEDERALLY SPONSORED**
2 **TESTING.**

3 *“Notwithstanding any other provision of Federal law,*
4 *no funds provided under this Act to the Secretary or to the*
5 *recipient of any award may be used to develop, pilot test,*
6 *field test, implement, administer, or distribute any feder-*
7 *ally sponsored national test in reading, mathematics, or*
8 *any other subject, unless specifically and explicitly author-*
9 *ized by law.*

10 **“SEC. 8604. SENSE OF CONGRESS REGARDING MEMORIALS.**

11 *“It is the sense of Congress that—*

12 *“(1) the saying of a prayer, the reading of a*
13 *scripture, or the performance of religious music, as*
14 *part of a memorial service that is held on the campus*
15 *of a public elementary or secondary school in order*
16 *to honor the memory of any person slain on that*
17 *campus is not objectionable under this Act; and*

18 *“(2) the design and construction of any memo-*
19 *rial which includes religious symbols, motifs, or*
20 *sayings that is placed on the campus of a public ele-*
21 *mentary or secondary school in order to honor the*
22 *memory of any person slain on that campus is not*
23 *objectionable under this Act.*

“PART G—EVALUATIONS**2 “SEC. 8651. EVALUATIONS.**

3 “(a) *RESERVATION OF FUNDS.—Except as provided in*
4 *subsections (b) and (c), the Secretary may reserve not more*
5 *than 0.5 percent of the amount appropriated to carry out*
6 *each categorical program and demonstration project au-*
7 *thorized under this Act—*

8 “(1) *to conduct—*

9 “(A) *comprehensive evaluations of the pro-*
10 *gram or project; and*

11 “(B) *studies of the effectiveness of the pro-*
12 *grams or project and its administrative impact*
13 *on schools and local educational agencies;*

14 “(2) *to evaluate the aggregate short- and long-*
15 *term effects and cost efficiencies across Federal pro-*
16 *grams assisted or authorized under this Act and re-*
17 *lated Federal preschool, elementary and secondary*
18 *programs under any other Federal law; and*

19 “(3) *to increase the usefulness of evaluations of*
20 *grant recipients in order to ensure the continuous*
21 *progress of the program or project by improving the*
22 *quality, timeliness, efficiency, and utilization of in-*
23 *formation relating to performance under the program*
24 *or project.*

1 “(b) *TITLE I EXCLUDED.*—*The Secretary may not re-*
 2 *serve under subsection (a) funds appropriated to carry out*
 3 *any program authorized under title I.*

4 “(c) *EVALUATION ACTIVITIES AUTHORIZED ELSE-*
 5 *WHERE.*—*If, under any other provision of this Act (other*
 6 *than title I), funds are authorized to be reserved or used*
 7 *for evaluation activities with respect to a program or*
 8 *project, the Secretary may not reserve additional funds*
 9 *under this section for the evaluation of such program or*
 10 *project.”.*

11 **SEC. 802. COMPREHENSIVE REGIONAL ASSISTANCE CEN-**
 12 **TERS.**

13 (a) *IN GENERAL.*—*Part A of title XIII (20 U.S.C.*
 14 *8621 et seq.)—*

15 (1) *is transferred to the end of title VIII, as*
 16 *amended by section 801; and*

17 (2) *is redesignated as part H.*

18 (b) *REDESIGNATION OF SECTIONS.*—*Sections 13101*
 19 *through 13105 are redesignated as sections 8701 through*
 20 *8705, respectively.*

21 (c) *CONFORMING AMENDMENTS.*—

22 (1) *REQUIREMENTS.*—*Section 8702(a) (as redес-*
 23 *ignated by subsection (b)) is amended—*

24 (A) *by striking “section 13101(a)” and in-*
 25 *serting “section 8701(a)”;* and

1 (B) in paragraph (7), by striking “section
2 13201” and inserting “section 8751”.

3 (2) *MAINTENANCE OF SERVICE*.—Section 8703(b)
4 (as redesignated by subsection (b)) is amended—

5 (A) in paragraph (1), by striking “section
6 13102” and inserting “section 8702”; and

7 (B) in paragraph (2)—

8 (i) by striking “section 13201” and in-
9 serting “section 8751”; and

10 (ii) by striking “section 13401” and
11 inserting “section 8851”.

12 (3) *TRANSITION*.—Section 8704(b)(1) (as red-
13 esignated by subsection (b)) is amended by striking
14 “section 13105” and inserting “section 8705”.

15 **SEC. 803. NATIONAL DIFFUSION NETWORK.**

16 (a) *IN GENERAL*.—Part B of title XIII (20 U.S.C.
17 8651 et seq.)—

18 (1) is transferred to the end of title VIII, as
19 amended by section 802; and

20 (2) is redesignated as part I.

21 (b) *REDESIGNATION OF SECTIONS*.—Sections 13201
22 and 13202 are redesignated as sections 8751 and 8752, re-
23 spectively.

24 (c) *CONFORMING AMENDMENT*.—Section 8751 (as re-
25 designated by subsection (b)) is amended—

1 (1) *in subsection (e)(3), by striking “under part*
 2 *C” through the end thereof and inserting “under part*
 3 *F; and”;* and

4 (2) *in subsection (f)(4), by striking “section*
 5 *13401” and inserting “section 8851”.*

6 **SEC. 804. EISENHOWER REGIONAL MATHEMATICS AND**
 7 **SCIENCE EDUCATION CONSORTIA.**

8 (a) *IN GENERAL.—Part C of title XIII (20 U.S.C.*
 9 *8671 et seq.)—*

10 (1) *is transferred to the end of title VIII, as*
 11 *amended by section 803; and*

12 (2) *is redesignated as part J.*

13 (b) *REDESIGNATION OF SECTIONS.—Sections 13301*
 14 *through 13308 are redesignated as sections 8801 through*
 15 *8808, respectively.*

16 (c) *CONFORMING AMENDMENTS.—*

17 (1) *GRANT AUTHORIZATION.—Section 8801(a)(3)*
 18 *(as redesignated by subsection (b)) is amended by*
 19 *striking “section 13308” and inserting “section*
 20 *8808”.*

21 (2) *USE OF FUNDS.—Section 8802 (as redesign-*
 22 *ated by subsection (b)) is amended—*

23 (A) *by striking “section 13304” and insert-*
 24 *ing “section 8804”;*

1 (B) in paragraph (2), by striking
2 “13301(a)(1)” and inserting “8801(a)(1)”; and

3 (C) in paragraph (3), by striking
4 “13301(a)(1)” and inserting “8801(a)(1)”.

5 (3) *PAYMENTS*.—Section 8805 (as redesignated
6 by subsection (b)) is amended in each of subsections
7 (a) and (c) by striking “section 13303” and inserting
8 “section 8803”.

9 (4) *EVALUATION*.—Section 8806(a) (as redesign-
10 ated by subsection (b)) is amended by striking “sec-
11 tion 14701” and inserting “section 8651”.

12 (5) *DEFINITIONS*.—Section 8807(4) (as redesign-
13 ated by subsection (b)) is amended by striking “sec-
14 tion 13301” and inserting “section 8801”.

15 **SEC. 805. TECHNOLOGY-BASED TECHNICAL ASSISTANCE.**

16 (a) *IN GENERAL*.—Part D of title XIII (20 U.S.C.
17 8701)—

18 (1) is transferred to the end of title VIII, as
19 amended by section 804; and

20 (2) is redesignated as part K.

21 (b) *REDESIGNATION OF SECTION*.—Section 13401 is
22 redesignated as section 8851.

1 **SEC. 806. REGIONAL TECHNICAL SUPPORT AND PROFES-**
 2 **SIONAL DEVELOPMENT.**

3 (a) *IN GENERAL.*—Subpart 3 of part A of title III (20
 4 U.S.C. 6861 *et seq.*)—

5 (1) *is transferred to the end of title VIII, as*
 6 *amended by section 805; and*

7 (2) *is redesignated as part L.*

8 (b) *REDESIGNATION OF SECTION.*—Section 3141 *is re-*
 9 *designated as section 8901.*

10 (c) *CONFORMING AMENDMENT.*—Section 8901 (*as re-*
 11 *designated by subsection (b)*) *is amended by striking “part*
 12 *C of title XIII” and inserting “part J”.*

13 **TITLE IX—MISCELLANEOUS**
 14 **PROVISIONS**

15 **PART A—AMENDMENTS TO OTHER ACTS**

16 **Subpart 1—National Education Statistics Act**

17 **SEC. 901. AMENDMENT TO NESA.**

18 *Section 411 of the National Education Statistics Act*
 19 *of 1994 (20 U.S.C. 9010) is amended—*

20 (1) *by amending subsection (b)(2) to read as fol-*
 21 *lows:*

22 “(2) *STATE ASSESSMENTS.*—(A) *The Commis-*
 23 *sioner, in carrying out the National Assessment—*

24 “(i) *may conduct State assessments of stu-*
 25 *dent achievement in grades 4, 8, and 12; and*

1 “(i) shall conduct annual State assessments
2 of student achievement in reading and mathe-
3 matics in grades 4 and 8 in order for States to
4 carry out section 1111(c)(2) of the Elementary
5 and Secondary Education Act of 1965.

6 “(B)(i) Except as provided in clause (ii), a par-
7 ticipating State shall review and give permission for
8 the release of results from any test of its students ad-
9 ministered as a part of a State assessment prior to
10 the release of the data. Refusal by a State to release
11 its data shall not restrict the release of data from
12 other States that have approved the release of that
13 data.

14 “(ii) A State participating in the annual State
15 assessments of its students in reading and mathe-
16 matics in grades 4 and 8 shall be deemed to have
17 given its permission to release its data if it has an
18 approved plan under section 1111 of the Elementary
19 and Secondary Education Act of 1965.”; and

20 (2) by amending subsection (d) to read as fol-
21 lows:

22 “(d) PARTICIPATION.—

23 “(1) NATIONAL AND REGIONAL PARTICIPATION.—
24 Participation in the national and regional assess-

1 *ments by State and local educational agencies shall be*
2 *voluntary.*

3 “(2) *STATE PARTICIPATION.—Participation in*
4 *assessments made on a State basis shall be vol-*
5 *untary.”.*

6 ***Subpart 2—Homeless Education***

7 ***SEC. 911. SHORT TITLE.***

8 *This subpart may be cited as the “McKinney-Vento*
9 *Homeless Education Assistance Improvements Act of 2001”.*

10 ***SEC. 912. FINDINGS.***

11 *Congress makes the following findings:*

12 (1) *An estimated 1,000,000 children in the*
13 *United States will experience homelessness in 2001.*

14 (2) *Homelessness has a devastating impact on*
15 *the educational opportunities of children and youth.*
16 *Homeless children go hungry at more than twice the*
17 *rate of other children, have four times the rate of de-*
18 *layed development, and are twice as likely to repeat*
19 *a grade.*

20 (3) *Despite steady progress in school enrollment*
21 *and attendance resulting from the passage in 1987 of*
22 *the Stewart B. McKinney Homeless Assistance Act*
23 *(42 U.S.C. 11301 et seq.), homeless students still face*
24 *numerous barriers to education, including residency,*
25 *guardianship and registration requirements, delays*

1 *in the transfer of school records, and inadequate*
2 *transportation service.*

3 (4) *School is one of the few secure factors in the*
4 *lives of homeless children and youth, providing sta-*
5 *bility, structure, and accomplishment during a time*
6 *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 and*
11 *lead productive, healthy lives as adults.*

12 (6) *In the 14 years since the passage of the Stew-*
13 *art B. McKinney Homeless Assistance Act (42 U.S.C.*
14 *11301 et seq.), educators and service providers have*
15 *learned much about policies and practices which help*
16 *remove the barriers described.*

17 **SEC. 913. PURPOSE.**

18 *The purpose of this subpart is to strengthen subtitle*
19 *B of title VII of Public Law 100–77 (42 U.S.C. 11431 et*
20 *seq.) by amending it—*

21 (1) *to include innovative practices, proven to be*
22 *effective in helping homeless children and youth en-*
23 *roll, attend, and succeed in school; and*

24 (2) *to help ensure that all children and youth*
25 *impacted by the loss of fixed, regular, and adequate*

1 “(3) homelessness alone is not sufficient reason to
2 separate students from the mainstream school envi-
3 ronment; and

4 “(4) homeless children and youth must have ac-
5 cess to the education and other services that such chil-
6 dren and youth need to ensure that such children and
7 youth have an opportunity to meet the same chal-
8 lenging State student academic achievement stand-
9 ards to which all students are held.

10 **“SEC. 722. GRANTS FOR STATE AND LOCAL ACTIVITIES FOR**
11 **THE EDUCATION OF HOMELESS CHILDREN**
12 **AND YOUTH.**

13 “(a) *GENERAL AUTHORITY.*—The Secretary is author-
14 ized to make grants to States in accordance with the provi-
15 sions of this section to enable such States to carry out the
16 activities described in subsections (d), (e), (f), and (g).

17 “(b) *APPLICATION.*—No State may receive a grant
18 under this section unless the State educational agency sub-
19 mits an application to the Secretary at such time, in such
20 manner, and containing or accompanied by such informa-
21 tion as the Secretary may reasonably require.

22 “(c) *ALLOCATION AND RESERVATIONS.*—

23 “(1) *IN GENERAL.*—Subject to paragraph (2)
24 and section 724(d), from the amounts appropriated
25 for each fiscal year under section 726, the Secretary

1 *is authorized to allot to each State an amount that*
2 *bears the same ratio to the amount appropriated for*
3 *such year under section 726 as the amount allocated*
4 *under section 1122 of the Elementary and Secondary*
5 *Education Act of 1965 to the State for that year bears*
6 *to the total amount allocated under section 1122 of*
7 *such Act to all States for that year, except that no*
8 *State shall receive less than \$125,000 or $\frac{1}{2}$ of 1 per-*
9 *cent of the amount appropriated under section 726,*
10 *whichever is greater.*

11 *“(2) RESERVATION.—(A) The Secretary is au-*
12 *thorized to reserve 0.1 percent of the amount appro-*
13 *priated for each fiscal year under section 726 to be*
14 *allocated by the Secretary among the United States*
15 *Virgin Islands, Guam, American Samoa, and the*
16 *Commonwealth of the Northern Mariana Islands, ac-*
17 *cording to their respective need for assistance under*
18 *this subtitle, as determined by the Secretary.*

19 *“(B)(i) The Secretary shall transfer one percent*
20 *of the amount appropriated for each fiscal year under*
21 *section 726 to the Department of the Interior for pro-*
22 *grams for Indian students served by schools funded by*
23 *the Secretary of the Interior, as determined under the*
24 *Indian Self-Determination and Education Assistance*

1 *Act (25 U.S.C. 450 et seq.), that are consistent with*
2 *the purposes of this Act.*

3 “(i) *The Secretary and the Secretary of the In-*
4 *terior shall enter into an agreement, consistent with*
5 *the requirements of this part, for the distribution and*
6 *use of the funds described in clause (i) under terms*
7 *that the Secretary determines best meet the purposes*
8 *of the programs described in such clause. Such agree-*
9 *ment shall set forth the plans of the Secretary of the*
10 *Interior for the use of the amounts transferred, in-*
11 *cluding appropriate goals, objectives, and milestones.*

12 “(3) *STATE DEFINED.—As used in this sub-*
13 *section, the term ‘State’ shall not include the United*
14 *States Virgin Islands, Guam, American Samoa, and*
15 *the Commonwealth of the Northern Mariana Islands.*

16 “(d) *ACTIVITIES.—Grants under this section shall be*
17 *used—*

18 “(1) *to carry out the policies set forth in section*
19 *721 in the State;*

20 “(2) *to provide activities for, and services to,*
21 *homeless children, including preschool-aged homeless*
22 *children, and youth that enable such children and*
23 *youth to enroll in, attend, and succeed in school, or,*
24 *if appropriate, in preschool programs;*

1 “(3) to establish or designate an Office of Coordi-
2 nator of Education of Homeless Children and Youth
3 in the State educational agency in accordance with
4 subsection (f);

5 “(4) to prepare and carry out the State plan de-
6 scribed in subsection (g); and

7 “(5) to develop and implement professional de-
8 velopment programs for school personnel to heighten
9 their awareness of, and capacity to respond to, spe-
10 cific problems in the education of homeless children
11 and youth.

12 “(e) STATE AND LOCAL GRANTS.—

13 “(1) MINIMUM DISBURSEMENTS BY STATES.—
14 From the sums made available each year to carry out
15 this subtitle, the State educational agency shall dis-
16 tribute not less than 75 percent in grants to local edu-
17 cational agencies for the purposes of carrying out sec-
18 tion 723, except that States funded at the minimum
19 level set forth in subsection (c)(1) shall distribute not
20 less than 50 percent in grants to local educational
21 agencies for the purposes of carrying out section 723.

22 “(2) USE BY STATE EDUCATIONAL AGENCY.—A
23 State educational agency may use funds made avail-
24 able for State use under this subtitle to conduct ac-

1 *tivities under subsection (f) directly or through*
2 *grants.*

3 “(3) *PROHIBITION ON SEGREGATING HOMELESS*
4 *STUDENTS.—*

5 “(A) *IN GENERAL.—Except as provided in*
6 *subparagraph (B) and section 723(a)(2)(B)(ii),*
7 *in providing a free public education to a home-*
8 *less child or youth, no State receiving funds*
9 *under this subtitle shall segregate such child or*
10 *youth, either in a separate school or in a sepa-*
11 *rate program within a school, based solely on*
12 *such child’s or youth’s status as homeless.*

13 “(B) *EXCEPTION.—A State that operates a*
14 *separate school for homeless children as of the*
15 *day preceding the date of enactment of the*
16 *McKinney-Vento Homeless Education Assistance*
17 *Improvements Act of 2001—*

18 “(i) *shall remain eligible to receive,*
19 *and to distribute to local educational agen-*
20 *cies, funds under this subtitle for such*
21 *school; and*

22 “(ii) *shall not distribute to local edu-*
23 *cational agencies in the State any funds re-*
24 *ceived under this subtitle for use by any*

1 *such schools not in operation as of such date*
2 *of enactment.*

3 “(f) *FUNCTIONS OF THE OFFICE OF COORDINATOR.—*
4 *The Coordinator of Education of Homeless Children and*
5 *Youth established in each State shall—*

6 “(1) *gather, to the extent possible, reliable, valid,*
7 *and comprehensive information on the nature and ex-*
8 *tent of the problems homeless children and youth have*
9 *in gaining access to public preschool programs and to*
10 *public elementary and secondary schools, the difficul-*
11 *ties in identifying the special needs of such children*
12 *and youth, any progress made by the State edu-*
13 *cational agency and local educational agencies in the*
14 *State in addressing such problems and difficulties,*
15 *and the success of the program under this subtitle in*
16 *assisting homeless children and youth to enroll in, at-*
17 *tend, and succeed in, school;*

18 “(2) *develop and carry out the State plan de-*
19 *scribed in subsection (g);*

20 “(3) *collect and transmit to the Secretary infor-*
21 *mation gathered pursuant to paragraphs (1) and (2)*
22 *at such time and in such manner as the Secretary*
23 *may require;*

24 “(4) *facilitate coordination between the State*
25 *educational agency, the State social services agency,*

1 *and other agencies providing services to homeless chil-*
2 *dren and youth, including homeless children, includ-*
3 *ing preschool-aged homeless children, and youth, and*
4 *families of such children and youth;*

5 *“(5) in order to improve the provision of com-*
6 *prehensive education and related services to homeless*
7 *children and youth and their families, coordinate and*
8 *collaborate with—*

9 *“(A) educators, including child development*
10 *and preschool program personnel;*

11 *“(B) State and local providers of services to*
12 *homeless and runaway children and youth and*
13 *homeless families (including domestic violence*
14 *agencies, shelter operators, transitional housing*
15 *facilities, runaway and homeless youth centers,*
16 *and transitional living programs for homeless*
17 *youth);*

18 *“(C) local educational agency liaisons for*
19 *homeless children and youth; and*

20 *“(D) State and local community organiza-*
21 *tions and groups representing homeless children*
22 *and youth and their families; and*

23 *“(6) provide technical assistance to local edu-*
24 *cational agencies, in coordination with local liaisons*
25 *designated under subsection (g)(1)(J)(ii), to ensure*

1 *that local educational agencies comply with the re-*
2 *quirements of paragraphs (3) through (7) of sub-*
3 *section (g).*

4 “(g) *STATE PLAN.*—

5 “(1) *IN GENERAL.*—*Each State shall submit to*
6 *the Secretary a plan to provide for the education of*
7 *homeless children and youth within the State, which*
8 *plan shall—*

9 “(A) *describe how such children and youth*
10 *are or will be given the opportunity to meet the*
11 *same challenging State student academic*
12 *achievement standards all students are expected*
13 *to meet;*

14 “(B) *describe the procedures the State edu-*
15 *cational agency will use to identify such children*
16 *and youth in the State and to assess their special*
17 *needs;*

18 “(C) *describe procedures for the prompt res-*
19 *olution of disputes regarding the educational*
20 *placement of homeless children and youth;*

21 “(D) *describe programs for school personnel*
22 *(including principals, attendance officers, teach-*
23 *ers, enrollment personnel, and pupil services per-*
24 *sonnel) to heighten the awareness of such per-*

1 *sonnel of the specific needs of runaway and*
2 *homeless youth;*

3 “(E) describe procedures that ensure that
4 homeless children and youth who meet the rel-
5 evant eligibility criteria are able to participate
6 in Federal, State, or local food programs;

7 “(F) describe procedures that ensure that—

8 “(i) homeless children have equal ac-
9 cess to the same public preschool programs,
10 administered by the State agency, as pro-
11 vided to other children;

12 “(ii) homeless youth and youth sepa-
13 rated from the public schools are identified
14 and accorded equal access to appropriate
15 secondary education and support services;
16 and

17 “(iii) homeless children and youth who
18 meet the relevant eligibility criteria are able
19 to participate in Federal, State, or local
20 before- and after-school care programs;

21 “(G) address problems set forth in the re-
22 port provided to the Secretary under subsection
23 (f)(3);

24 “(H) address other problems with respect to
25 the education of homeless children and youth, in-

1 *cluding problems caused by enrollment delays*
2 *that are caused by—*

3 “(i) *immunization and medical records*
4 *requirements;*

5 “(ii) *residency requirements;*

6 “(iii) *lack of birth certificates, school*
7 *records, or other documentation;*

8 “(iv) *guardianship issues; or*

9 “(v) *uniform or dress code require-*
10 *ments;*

11 “(I) *demonstrate that the State educational*
12 *agency and local educational agencies in the*
13 *State have developed, and shall review and re-*
14 *vis, policies to remove barriers to the enrollment*
15 *and retention of homeless children and youth in*
16 *schools in the State; and*

17 “(J) *contain assurances that—*

18 “(i) *except as provided in subsection*
19 *(e)(3)(B), State and local educational agen-*
20 *cies will adopt policies and practices to en-*
21 *sure that homeless children and youth are*
22 *not segregated solely on the basis of their*
23 *status as homeless;*

24 “(ii) *local educational agencies will*
25 *designate an appropriate staff person, who*

1 *may also be a coordinator for other Federal*
2 *programs, as a liaison for homeless children*
3 *and youth, to carry out the duties described*
4 *in paragraph (6)(A); and*

5 *“(iii) the State and its local edu-*
6 *cational agencies will adopt policies and*
7 *practices to ensure that transportation is*
8 *provided, at the request of the parent or*
9 *guardian (or in the case of an unaccom-*
10 *panied youth, the liaison) to and from the*
11 *school of origin, as determined in para-*
12 *graph (3)(A), in accordance with the fol-*
13 *lowing, as applicable:*

14 *“(I) If the homeless child or youth*
15 *continues to live in the area served by*
16 *the local educational agency in which*
17 *the school of origin is located, the*
18 *child’s or youth’s transportation to and*
19 *from the school of origin shall be pro-*
20 *vided or arranged by the local edu-*
21 *cational agency in which the school of*
22 *origin is located.*

23 *“(II) If the homeless child’s or*
24 *youth’s living arrangements in the*
25 *area served by the local educational*

1 *agency of origin terminate and the*
2 *child or youth, though continuing his*
3 *or her education in the school of origin,*
4 *begins living in the area served by an-*
5 *other local educational agency, the*
6 *local educational agency of origin and*
7 *the local educational agency in which*
8 *the homeless child or youth is living*
9 *shall agree upon a method to apportion*
10 *the responsibility and costs for pro-*
11 *viding the child with transportation to*
12 *and from the school or origin. If the*
13 *local educational agencies are unable*
14 *to agree upon such method, the respon-*
15 *sibility and costs for transportation*
16 *shall be shared equally.*

17 *“(2) COMPLIANCE.—*

18 *“(A) IN GENERAL.—Each plan adopted*
19 *under this subsection shall also describe how the*
20 *State will ensure that local educational agencies*
21 *in the State will comply with the requirements*
22 *of paragraphs (3) through (7).*

23 *“(B) COORDINATION.—Such plan shall in-*
24 *dicade what technical assistance the State will*
25 *furnish to local educational agencies and how*

1 *compliance efforts will be coordinated with the*
2 *local liaisons established under this subchapter.*

3 “(3) *LOCAL EDUCATIONAL AGENCY REQUIRE-*
4 *MENTS.—*

5 “(A) *IN GENERAL.—The local educational*
6 *agency serving each child or youth to be assisted*
7 *under this subtitle shall, according to the child’s*
8 *or youth’s best interest, either—*

9 “(i) *continue the child’s or youth’s edu-*
10 *cation in the school of origin for the dura-*
11 *tion of homelessness—*

12 “(I) *in any case in which a fam-*
13 *ily becomes homeless between academic*
14 *years or during the academic year; or*

15 “(II) *for the remainder of the aca-*
16 *ademic year, if the child becomes per-*
17 *manently housed during the academic*
18 *year; or*

19 “(ii) *enroll the child or youth in any*
20 *public school that nonhomeless students who*
21 *live in the attendance area in which the*
22 *child or youth is actually living are eligible*
23 *to attend.*

1 “(B) *BEST INTEREST.*—*In determining the*
2 *best interest of the child or youth under subpara-*
3 *graph (A), the local educational agency shall—*

4 “(i) *to the extent feasible, keep a home-*
5 *less child or youth in the school of origin,*
6 *except when doing so is contrary to the*
7 *wishes of the child’s or youth’s parent or*
8 *guardian;*

9 “(ii) *provide a written explanation,*
10 *including a statement regarding the right to*
11 *appeal under subparagraph (E), to the*
12 *homeless child’s or youth’s parent or guard-*
13 *ian if the local educational agency sends*
14 *such child or youth to a school other than*
15 *the school of origin or a school requested by*
16 *the parent or guardian; and*

17 “(iii) *in the case of an unaccompanied*
18 *youth, ensure that the homeless liaison des-*
19 *ignated under paragraph (1)(J)(2) assists*
20 *in placement or enrollment decisions under*
21 *this subparagraph and provides notice to*
22 *such youth of the right to appeal under sub-*
23 *paragraph (E).*

24 “(C) *ENROLLMENT.*—(i) *The school selected*
25 *in accordance with this paragraph shall imme-*

1 *diately enroll pursuant to section 725(3) the*
2 *homeless child or youth, even if the child or*
3 *youth is unable to produce records normally re-*
4 *quired for enrollment, such as previous academic*
5 *records, medical records, proof of residency, or*
6 *other documentation.*

7 “(i) *The enrolling school shall immediately*
8 *contact the school last attended by the child or*
9 *youth to obtain relevant academic and other*
10 *records.*

11 “(ii) *If the child or youth needs to obtain*
12 *immunizations or immunization or medical*
13 *records, the enrolling school shall immediately*
14 *refer the parent or guardian of the child or youth*
15 *to the liaison who shall assist in obtaining nec-*
16 *essary immunizations or immunization or med-*
17 *ical records in accordance with subparagraph*
18 *(E).*

19 “(D) *RECORDS.—Any record ordinarily*
20 *kept by the school, including immunization or*
21 *medical records, academic records, birth certifi-*
22 *cates, guardianship records, and evaluations for*
23 *special services or programs, of each homeless*
24 *child or youth shall be maintained—*

1 “(i) so that the records are available,
2 in a timely fashion, when a child or youth
3 enters a new school or school district; and

4 “(ii) in a manner consistent with sec-
5 tion 444 of the General Education Provi-
6 sions Act (20 U.S.C. 1232g).

7 “(E) *ENROLLMENT DISPUTES.*—If a dispute
8 arises over school selection or enrollment in a
9 school—

10 “(i) the child or youth shall be imme-
11 diately admitted to the school in which en-
12 rollment is sought, pending resolution of the
13 dispute;

14 “(ii) the parent or guardian of the
15 child or youth shall be provided with a
16 written explanation of the school’s decision
17 regarding school selection or enrollment, in-
18 cluding the rights of the parent, guardian,
19 or youth to appeal the decision;

20 “(iii) the child, youth, parent, or
21 guardian shall be referred to the local liai-
22 son designated under paragraph (1)(J)(ii),
23 who shall carry out the dispute resolution
24 process as described in paragraph (1)(A) as

1 *expeditiously as possible after receiving no-*
2 *tice of the dispute; and*

3 “(iv) *in the case of an unaccompanied*
4 *youth, the homeless liaison shall ensure that*
5 *the youth is immediately enrolled in school*
6 *pending resolution of the dispute.*

7 “(F) *PLACEMENT CHOICE.*—*The choice re-*
8 *garding placement shall be made regardless of*
9 *whether the child or youth lives with the home-*
10 *less parents or has been temporarily placed else-*
11 *where.*

12 “(G) *SCHOOL OF ORIGIN DEFINED.*—*In this*
13 *paragraph, the term ‘school of origin’ means the*
14 *school that the child or youth attended when per-*
15 *manently housed or the school in which the child*
16 *or youth was last enrolled.*

17 “(H) *CONTACT INFORMATION.*—*Nothing in*
18 *this subtitle shall prohibit a local educational*
19 *agency from requiring a parent or guardian of*
20 *a homeless child to submit contact information*
21 *required by the local educational agency of a*
22 *parent or guardian of a nonhomeless child.*

23 “(4) *COMPARABLE SERVICES.*—*Each homeless*
24 *child or youth to be assisted under this subtitle shall*
25 *be provided services comparable to services offered to*

1 *other students in the school selected under paragraph*
2 *(3), including—*

3 *“(A) transportation services;*

4 *“(B) educational services for which the child*
5 *or youth meets the eligibility criteria, such as*
6 *services provided under title I of the Elementary*
7 *and Secondary Education Act of 1965 or similar*
8 *State or local programs, educational programs*
9 *for children with disabilities, and educational*
10 *programs for students with limited-English pro-*
11 *ficiency;*

12 *“(C) programs in vocational and technical*
13 *education;*

14 *“(D) programs for gifted and talented stu-*
15 *dents; and*

16 *“(E) school nutrition programs.*

17 *“(5) COORDINATION.—*

18 *“(A) IN GENERAL.—Each local educational*
19 *agency serving homeless children and youth that*
20 *receives assistance under this subtitle shall co-*
21 *ordinate—*

22 *“(i) the provision of services under this*
23 *subtitle with local social services agencies*
24 *and other agencies or programs providing*
25 *services to homeless children and youth and*

1 *their families, including services and pro-*
2 *grams funded under the Runaway and*
3 *Homeless Youth Act (42 U.S.C. 5701 et*
4 *seq.); and*

5 *“(ii) with other local educational agen-*
6 *cies on interdistrict issues, such as trans-*
7 *portation or transfer of school records.*

8 *“(B) HOUSING ASSISTANCE.—If applicable,*
9 *each State and local educational agency that re-*
10 *ceives assistance under this subtitle shall coordi-*
11 *nate with State and local housing agencies re-*
12 *sponsible for developing the comprehensive hous-*
13 *ing affordability strategy described in section*
14 *105 of the Cranston-Gonzales National Afford-*
15 *able Housing Act (42 U.S.C. 12705) to minimize*
16 *educational disruption for children and youth*
17 *who become homeless.*

18 *“(C) COORDINATION PURPOSE.—The coordi-*
19 *nation required under subparagraphs (A) and*
20 *(B) shall be designed to—*

21 *“(i) ensure that homeless children and*
22 *youth have access and reasonable proximity*
23 *to available education and related support*
24 *services; and*

1 “(ii) raise the awareness of school per-
2 sonnel and service providers of the effects of
3 short-term stays in a shelter and other chal-
4 lenges associated with homelessness.

5 “(6) LIAISON.—

6 “(A) DUTIES.—Each local liaison for home-
7 less children and youth, designated under para-
8 graph (1)(J)(i), shall ensure that—

9 “(i) homeless children and youth are
10 identified by school personnel and through
11 coordination activities with other entities
12 and agencies;

13 “(ii) homeless children and youth en-
14 roll in, and have an equal opportunity to
15 succeed in, schools of that agency;

16 “(iii) homeless families, children, and
17 youth receive educational services for which
18 such families, children, and youth are eligi-
19 ble, including Head Start and Even Start
20 programs and preschool programs adminis-
21 tered by the local educational agency, and
22 referrals to health care services, dental serv-
23 ices, mental health services, and other ap-
24 propriate services;

1 “(iv) the parents or guardians of
2 homeless children and youth are informed of
3 the education and related opportunities
4 available to their children and are provided
5 with meaningful opportunities to partici-
6 pate in the education of their children;

7 “(v) public notice of the educational
8 rights of homeless children and youth is dis-
9 seminated where such children and youth
10 receive services under this Act, such as
11 schools, family shelters, and soup kitchens;

12 “(vi) enrollment disputes are mediated
13 in accordance with subsection (g)(3)(E);
14 and

15 “(vii) the parent or guardian of a
16 homeless child or youth, and any unaccom-
17 panied youth, is fully informed of all trans-
18 portation services, including transportation
19 to the school of origin, as described in para-
20 graph (1)(J)(ii), and is assisted in access-
21 ing transportation to the school selected in
22 accordance with paragraph (3)(A).

23 “(B) NOTICE.—State coordinators whose
24 duties are described under subsection (d) and
25 local educational agencies shall inform school

1 *personnel, service providers, and advocates work-*
2 *ing with homeless families of the duties of the li-*
3 *aisons.*

4 “(C) *LOCAL AND STATE COORDINATION.—*
5 *Local educational agency liaisons for homeless*
6 *children and youth shall, as a part of their du-*
7 *ties, coordinate and collaborate with State coor-*
8 *dinators and community and school personnel*
9 *responsible for the provision of education and re-*
10 *lated services to homeless children and youth.*

11 “(7) *REVIEW AND REVISIONS.—*

12 “(A) *IN GENERAL.—Each State educational*
13 *agency and local educational agency that re-*
14 *ceives assistance under this subtitle, shall review*
15 *and revise any policies that may act as barriers*
16 *to the enrollment of homeless children and youth*
17 *in schools selected in accordance with paragraph*
18 *(3).*

19 “(B) *CONSIDERATION.—In reviewing and*
20 *revising such policies, consideration shall be*
21 *given to issues concerning transportation, immu-*
22 *nization, residency, birth certificates, school*
23 *records and other documentation, and guardian-*
24 *ship.*

1 “(C) *SPECIAL ATTENTION.*—*Special atten-*
2 *tion shall be given to ensuring the enrollment*
3 *and attendance of homeless children and youth*
4 *who are not currently attending school.*

5 **“SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE**
6 ***EDUCATION OF HOMELESS CHILDREN AND***
7 ***YOUTH.***

8 “(a) *GENERAL AUTHORITY.*—

9 “(1) *IN GENERAL.*—*The State educational agen-*
10 *cy shall, in accordance with section 722(e) and from*
11 *amounts made available to such agency under section*
12 *726, make grants to local educational agencies for the*
13 *purpose of facilitating the enrollment, attendance,*
14 *and success in school of homeless children and youth.*

15 “(2) *SERVICES.*—

16 “(A) *IN GENERAL.*—*Services under para-*
17 *graph (1)—*

18 “(i) *may be provided through pro-*
19 *grams on school grounds or at other facili-*
20 *ties;*

21 “(ii) *shall, to the maximum extent*
22 *practicable, be provided through existing*
23 *programs and mechanisms that integrate*
24 *homeless children and youth with nonhome-*
25 *less children and youth; and*

1 “(iii) shall be designed to expand or
2 improve services provided as part of a
3 school’s regular academic program, but not
4 to replace such services provided under such
5 program.

6 “(B) SERVICES ON SCHOOL GROUNDS.—If
7 services under paragraph (1) are provided on
8 school grounds, schools—

9 “(i) may use funds under this subtitle
10 to provide the same services to other chil-
11 dren and youth who are determined by the
12 local educational agency to be at risk of
13 failing in, or dropping out of, schools, sub-
14 ject to the requirements of clause (ii); and

15 “(ii) except as otherwise provided in
16 section 722(e)(3)(B), shall not provide serv-
17 ices in settings within a school that seg-
18 regates homeless children and youth from
19 other children and youth, except as is nec-
20 essary for short periods of time—

21 “(I) for health and safety emer-
22 gencies; or

23 “(II) to provide temporary, spe-
24 cial, and supplementary services to

1 *meet the unique needs of homeless chil-*
2 *dren and youth.*

3 “(3) *REQUIREMENT.*—*Services provided under*
4 *this section shall not replace the regular academic*
5 *program and shall be designed to expand upon or im-*
6 *prove services provided as part of the school’s regular*
7 *academic program.*

8 “(b) *APPLICATION.*—*A local educational agency that*
9 *desires to receive a grant under this section shall submit*
10 *an application to the State educational agency at such*
11 *time, in such manner, and containing or accompanied by*
12 *such information as the State educational agency may rea-*
13 *sonably require. Each such application shall include—*

14 “(1) *an assessment of the educational and related*
15 *needs of homeless children and youth, as defined in*
16 *section 725(1) and (2), in the area served by such*
17 *agency (which may be undertaken as part of needs as-*
18 *sessments for other disadvantaged groups);*

19 “(2) *a description of the services and programs*
20 *for which assistance is sought to address the needs*
21 *identified in paragraph (1);*

22 “(3) *an assurance that the local educational*
23 *agency’s combined fiscal effort per student, or the ag-*
24 *gregate expenditures of that agency and the State*
25 *with respect to the provision of free public education*

1 *by such agency for the fiscal year preceding the fiscal*
2 *year for which the determination is made, was not*
3 *less than 90 percent of such combined fiscal effort or*
4 *aggregate expenditures for the second fiscal year pre-*
5 *ceding the fiscal year for which the determination is*
6 *made;*

7 “(4) *an assurance that the applicant complies*
8 *with, or will use requested funds to comply with,*
9 *paragraphs (3) through (7) of section 722(g); and*

10 “(5) *a description of policies and procedures,*
11 *consistent with section 722(e)(3)(B), that the agency*
12 *will implement to ensure that activities carried out*
13 *by the agency will not isolate or stigmatize homeless*
14 *children and youth.*

15 “(c) *AWARDS.—*

16 “(1) *IN GENERAL.—The State educational agen-*
17 *cy shall, in accordance with the requirements of this*
18 *subtitle and from amounts made available to it under*
19 *section 726, make competitive subgrants to local edu-*
20 *cational agencies that submit applications under sub-*
21 *section (b). Such subgrants shall be awarded on the*
22 *basis of the need of such agencies for assistance under*
23 *this subtitle and the quality of the applications sub-*
24 *mitted.*

1 “(2) *NEED.*—*In determining need under para-*
2 *graph (1), the State educational agency may consider*
3 *the number of homeless children and youth enrolled in*
4 *preschool, elementary, and secondary schools within*
5 *the area served by the agency, and shall consider the*
6 *needs of such children and youth and the ability of*
7 *the agency to meet such needs. Such agency may also*
8 *consider—*

9 “(A) *the extent to which the proposed use of*
10 *funds would facilitate the enrollment, retention,*
11 *and educational success of homeless children and*
12 *youth;*

13 “(B) *the extent to which the application—*

14 “(i) *reflects coordination with other*
15 *local and State agencies that serve homeless*
16 *children and youth; and*

17 “(ii) *meets the requirements of section*
18 *722(g)(3);*

19 “(C) *the extent to which the applicant ex-*
20 *hibits in the application and in current practice*
21 *a commitment to education for all homeless chil-*
22 *dren and youth; and*

23 “(D) *such other criteria as the State agency*
24 *determines appropriate.*

1 “(3) *QUALITY.*—*In determining the quality of*
2 *applications under paragraph (1), the State edu-*
3 *cational agency shall consider—*

4 “(A) *the applicant’s needs assessment under*
5 *subsection (b)(1) and the likelihood that the pro-*
6 *gram presented in the application will meet such*
7 *needs;*

8 “(B) *the types, intensity, and coordination*
9 *of the services to be provided under the program;*

10 “(C) *the involvement of parents or guard-*
11 *ians;*

12 “(D) *the extent to which homeless children*
13 *and youth will be integrated within the regular*
14 *education program;*

15 “(E) *the quality of the applicant’s evalua-*
16 *tion plan for the program;*

17 “(F) *the extent to which services provided*
18 *under this subtitle will be coordinated with other*
19 *available services; and*

20 “(G) *such other measures as the State edu-*
21 *cational agency considers indicative of a high-*
22 *quality program.*

23 “(4) *DURATION OF GRANTS.*—*Grants awarded*
24 *under this section shall be for terms not to exceed 3*
25 *years.*

1 “(d) *AUTHORIZED ACTIVITIES.*—A local educational
2 agency may use funds awarded under this section for activi-
3 ties to carry out the purpose of this subtitle, including—

4 “(1) the provision of tutoring, supplemental in-
5 struction, and enriched educational services that are
6 linked to the achievement of the same challenging
7 State academic content standards and challenging
8 State student academic achievement standards the
9 State establishes for other children and youth;

10 “(2) the provision of expedited evaluations of the
11 strengths and needs of homeless children and youth,
12 including needs and eligibility for programs and serv-
13 ices (such as educational programs for gifted and tal-
14 ented students, children with disabilities, and stu-
15 dents with limited-English proficiency, services pro-
16 vided under title I of the Elementary and Secondary
17 Education Act of 1965 or similar State or local pro-
18 grams, programs in vocational and technical edu-
19 cation, and school nutrition programs);

20 “(3) professional development and other activi-
21 ties for educators and pupil services personnel that
22 are designed to heighten the understanding and sensi-
23 tivity of such personnel to the needs of homeless chil-
24 dren and youth, the rights of such children and youth

1 *under this Act, and the specific educational needs of*
2 *runaway and homeless youth;*

3 *“(4) the provision of referral services to homeless*
4 *children and youth for medical, dental, mental, and*
5 *other health services;*

6 *“(5) the provision of assistance to defray the ex-*
7 *cess cost of transportation for students pursuant to*
8 *section 722(g)(4)(A), not otherwise provided through*
9 *Federal, State, or local funding, where necessary to*
10 *enable students to attend the school selected under sec-*
11 *tion 722(g)(3);*

12 *“(6) the provision of developmentally appro-*
13 *priate early childhood education programs, not other-*
14 *wise provided through Federal, State, or local fund-*
15 *ing, for preschool-aged children;*

16 *“(7) the provision of services and assistance to*
17 *attract, engage, and retain homeless youth (as de-*
18 *scribed in paragraphs (1) and (2) of section 725) in*
19 *public school programs and services provided to non-*
20 *homeless youth;*

21 *“(8) the provision for homeless children and*
22 *youth of before- and after-school, mentoring, and sum-*
23 *mer programs in which a teacher or other qualified*
24 *individual provides tutoring, homework assistance,*
25 *and supervision of educational activities;*

1 “(9) if necessary, the payment of fees and other
2 costs associated with tracking, obtaining, and trans-
3 ferring records necessary to enroll homeless children
4 and youth in school, including birth certificates, im-
5 munization or medical records, academic records,
6 guardianship records, and evaluations for special pro-
7 grams or services;

8 “(10) the provision of education and training to
9 the parents of homeless children and youth about the
10 rights of, and resources available to, such children
11 and youth;

12 “(11) the development of coordination between
13 schools and agencies providing services to homeless
14 children and youth, as described in section 722(g)(5);

15 “(12) the provision of pupil services (including
16 violence prevention counseling) and referrals for such
17 services;

18 “(13) activities to address the particular needs of
19 homeless children and youth that may arise from do-
20 mestic violence;

21 “(14) the adaptation of space and purchase of
22 supplies for nonschool facilities made available under
23 subsection (a)(2) to provide services under this sub-
24 section;

1 “(15) the provision of school supplies, including
2 those supplies to be distributed at shelters or tem-
3 porary housing facilities, or other appropriate loca-
4 tions; and

5 “(16) the provision of other extraordinary or
6 emergency assistance needed to enable homeless chil-
7 dren and youth to attend school.

8 **“SEC. 724. SECRETARIAL RESPONSIBILITIES.**

9 “(a) *REVIEW OF PLANS.*—In reviewing the State plan
10 submitted by a State educational agency under section
11 722(g), the Secretary shall use a peer review process and
12 shall evaluate whether State laws, policies, and practices
13 described in such plans adequately address the problems of
14 homeless children and youth relating to access to education
15 and placement as described in such plans.

16 “(b) *TECHNICAL ASSISTANCE.*—The Secretary shall
17 provide support and technical assistance to the State edu-
18 cational agencies to assist such agencies to carry out their
19 responsibilities under this subtitle, if requested by the State
20 educational agency.

21 “(c) *NOTICE.*—The Secretary shall, before the next
22 school year that begins after the date of the enactment of
23 the McKinney-Vento Homeless Education Assistance Im-
24 provements Act of 2001, create and disseminate nationwide
25 a public notice of the educational rights of homeless children

1 *and youth and disseminate such notice to other Federal*
2 *agencies, programs, and grantees, including Head Start*
3 *grantees, Health Care for the Homeless grantees, Emergency*
4 *Food and Shelter grantees, and homeless assistance pro-*
5 *grams administered by the Department of Housing and*
6 *Urban Development.*

7 “(d) *EVALUATION AND DISSEMINATION.*—*The Sec-*
8 *retary shall conduct evaluation and dissemination activi-*
9 *ties of programs designed to meet the educational needs of*
10 *homeless elementary and secondary school students, and*
11 *may use funds appropriated under section 726 to conduct*
12 *such activities.*

13 “(e) *SUBMISSION AND DISTRIBUTION.*—*The Secretary*
14 *shall require applications for grants under this subtitle to*
15 *be submitted to the Secretary not later than the expiration*
16 *of the 60-day period beginning on the date that funds are*
17 *available for purposes of making such grants and shall*
18 *make such grants not later than the expiration of the 120-*
19 *day period beginning on such date.*

20 “(f) *DETERMINATION BY SECRETARY.*—*The Secretary,*
21 *based on the information received from the States and infor-*
22 *mation gathered by the Secretary under subsection (e), shall*
23 *determine the extent to which State educational agencies are*
24 *ensuring that each homeless child and homeless youth has*

1 *access to a free appropriate public education as described*
2 *in section 721(1).*

3 “(g) *INFORMATION.*—

4 “(1) *IN GENERAL.*—*From funds appropriated*
5 *under section 726, the Secretary shall, either directly*
6 *or through grants, contracts, or cooperative agree-*
7 *ments, periodically collect and disseminate data and*
8 *information regarding—*

9 “(A) *the number and location of homeless*
10 *children and youth;*

11 “(B) *the education and related services such*
12 *children and youth receive;*

13 “(C) *the extent to which such needs are*
14 *being met; and*

15 “(D) *such other data and information as*
16 *the Secretary deems necessary and relevant to*
17 *carry out this subtitle.*

18 “(2) *COORDINATION.*—*The Secretary shall co-*
19 *ordinate such collection and dissemination with other*
20 *agencies and entities that receive assistance and ad-*
21 *minister programs under this subtitle.*

22 “(h) *REPORT.*—*Not later than 4 years after the date*
23 *of the enactment of the McKinney-Vento Homeless Edu-*
24 *cation Assistance Improvements Act of 2001, the Secretary*
25 *shall prepare and submit to the President and the Com-*

1 *mittee on Education and the Workforce of the House of Rep-*
2 *resentatives and the Committee on Health, Education,*
3 *Labor, and Pensions of the Senate a report on the status*
4 *of education of homeless children and youth, which shall*
5 *include information on—*

6 “(1) *the education of homeless children and*
7 *youth; and*

8 “(2) *the actions of the Department and the effec-*
9 *tiveness of the programs supported under this subtitle.*

10 **“SEC. 725. DEFINITIONS.**

11 *“In this subtitle:*

12 “(1) *The term ‘homeless children and youth’—*

13 “(A) *means individuals who lack a fixed,*
14 *regular, and adequate nighttime residence (with-*
15 *in the meaning of section 103(a)(1));*

16 “(B) *includes—*

17 “(i) *children and youth who are living*
18 *in doubled-up accommodations sharing the*
19 *housing of another due to loss of housing,*
20 *economic hardship or a similar reason, are*
21 *living in motels, hotels, trailer parks, or*
22 *camping grounds due to the lack of alter-*
23 *native adequate accommodations, are living*
24 *in emergency or transitional shelters, are*

1 *abandoned in hospitals, or are awaiting fos-*
2 *ter care placement;*

3 *“(ii) individuals who have a primary*
4 *nighttime residence that is a public or pri-*
5 *vate place not designed for or ordinarily*
6 *used as a regular sleeping accommodation*
7 *for human beings (within the meaning of*
8 *section 103(a)(2)(C)); and*

9 *“(iii) children and youth who are liv-*
10 *ing in cars, parks, public spaces, abandoned*
11 *buildings or substandard housing, bus or*
12 *train stations, or similar settings; and*

13 *“(C) does not include migratory children*
14 *(as such term is defined in section 1309(2) of the*
15 *Elementary and Secondary Education Act of*
16 *1965), unless such children are staying in ac-*
17 *commodations not fit for habitation.*

18 *“(2) The term ‘unaccompanied youth’ includes*
19 *youth not in the physical custody of a parent or*
20 *guardian.*

21 *“(3) The terms ‘enroll’ and ‘enrollment’ include*
22 *within their meaning the right to attend classes and*
23 *to participate fully in school activities.*

24 *“(4) The terms ‘local educational agency’ and*
25 *‘State educational agency’ have the meanings given*

1 (2) *TROOPS-TO-TEACHERS PROGRAM ACT OF*
2 *1999.—The Troops-to-Teachers Program Act of 1999*
3 *(title XVII of Public Law 106–65; 20 U.S.C. 9301 et*
4 *seq.).*

5 (3) *ESEA.—*

6 (A) *Title IX, relating to Indian, Native Ha-*
7 *waiian, and Alaska Native education.*

8 (B) *Parts A, B, C, D, F, G, I, J, L, of title*
9 *X, relating to programs of national significance.*

10 (C) *Title XI, relating to coordinated serv-*
11 *ices.*

12 (D) *Title XII, relating to education infra-*
13 *structure.*

14 (E) *The title heading of title XIII and sec-*
15 *tions 13001 and 13002.*

16 (F) *Title XIV, relating to general provi-*
17 *sions.*

Union Calendar No. 38

107TH CONGRESS
1ST Session

H. R. 1

[Report No. 107-63, Part I]

A BILL

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

MAY 15, 2001

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed