H. R. 1

A bill 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. Arney, 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. Hillary, Mr. Ehlers, Mr. Fletcher, Mr. DeMint, Mrs. Biggert, Mr. Tiberi, Mr. Keller, Mr. Osborne, Mr. Culberson, Mr. Oxley, Ms. 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. Bachu, 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

A BILL

A bill to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

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1 SEC. 3. REFERENCES.

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

8 SEC. 4. TRANSITION.

Unless otherwise provided in this Act, any person or
agency that was awarded a grant under the Elementary
and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) prior to the date of the enactment of this Act shall continue to receive funds in accordance with the terms of such award, except that funds for such award may not continue more than one year after the date of the enactment of this Act.

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

**PART A—BASIC PROGRAM**

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

Section 1001 is amended to read as follows:

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

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

“(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.

“(2) States and local educational agencies need the maximum liberty to build upon existing innovative approaches for education reform and continue their proven record of increasing student success.
“(3) The best education decisions are made by those who know the students best and who are responsible for implementing the decisions, and therefore, educators and parents should retain the right and responsibility to educate their pupils and children free of excessive regulation by the Federal Government.

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

“(5) Schools that enroll high concentrations of children living in poverty face the greatest challenges, but effective educational strategies based on scientifically based research can succeed in educating children to high standards.

“(6) High-poverty schools are much more likely to be identified as failing to meet State standards for satisfactory progress. As a result, these schools are generally the most in need of additional resources and technical assistance to build the capac-
ity of these schools to address the many needs of their students.

“(7) The educational progress of children participating in programs under this title is closely associated with their being taught by a highly qualified staff, particularly in schools with the highest concentrations of poverty, where paraprofessionals, uncertified teachers, and teachers teaching out of field frequently provide instructional services.

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

“(9) States, local educational agencies, and schools should be given as much flexibility as possible in exchange for greater accountability for improving student achievement.

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

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

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

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

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

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

“(4) States, local educational agencies, and
schools need to be held accountable for improving
the academic achievement of all students, and for
identifying and turning around low-performing
schools.
“(5) Federal education assistance is intended not only to increase pupil achievement overall, but also more specifically and importantly, to help ensure that all students, especially the disadvantaged, meet challenging achievement standards. It can only be determined if schools, local educational agencies, and States are reaching this goal if student achievement results are reported specifically by disadvantaged and minority status.”.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 1002 is amended to read as follows:

“SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.

“(a) LOCAL EDUCATIONAL AGENCY GRANTS.—For the purpose of carrying out part A, other than section 1120(e), there are authorized to be appropriated $9,061,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

“(b) STUDENT READING SKILLS IMPROVEMENT GRANTS.—

“(1) READING FIRST.—For the purpose of carrying out subpart 1 of part B, there are authorized to be appropriated $900,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.
“(2) Early Reading First.—For the purpose of carrying out subpart 2 of part B, there are authorized to be appropriated $75,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

“(3) Even Start.—For the purpose of carrying out subpart 3 of part B, there are authorized to be appropriated $250,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

“(c) Education of Migratory Children.—For the purpose of carrying out part C, there are authorized to be appropriated $380,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

“(d) Prevention and Intervention Programs for Youth Who Are Neglected, Delinquent, or at Risk of Dropping Out.—For the purpose of carrying out part D, there are authorized to be appropriated $46,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

“(e) Comprehensive School Reform.—For the purpose of carrying out part F, there are authorized to be appropriated $260,000,000 for fiscal year 2002 and
such sums as may be necessary for each of the 4 succeeding fiscal years.

“(f) RURAL EDUCATION.—For the purpose of carrying out part G, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of 4 succeeding fiscal years to be distributed equally between subparts 1 and 2.

“(g) CAPITAL EXPENSES.—For the purpose of carrying out section 1120(e), there are authorized to be appropriated $5,000,000 for fiscal year 2002.

“(h) FEDERAL ACTIVITIES.—

“(1) SECTION 1501 AND 1502.—(A) For the purpose of carrying out section 1501, there are authorized to be appropriated $9,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

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

“(i) STATE ADMINISTRATION.—

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

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

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

SEC. 103. RESERVATION FOR SCHOOL IMPROVEMENT.

Section 1003 is amended to read as follows:

“RESERVATION FOR SCHOOL IMPROVEMENT

“(a) STATE RESERVATIONS.—Each State shall re-
serve 3.5 percent of the amount it receives under subpart
2 of part A for fiscal years 2002 and 2003, and 5 percent
of the amount received under such subpart for fiscal years
2004 through 2006, to carry out subsection (b) and to carry out the State’s responsibilities under sections 1116 and 1117, including carrying out the State educational agency’s statewide system of technical assistance and support for local educational agencies.

“(b) Uses.—Of the amount reserved under subsection (a) for any fiscal year, the State educational agency shall make available at least 95 percent of that amount directly to local educational agencies for schools identified for school improvement, corrective action, and restructuring under section 1116(c).”.

“(c) Unused Funds.—If, after consultation with local educational agencies in the State, the State educational agency determines that the amount of funds reserve to carry out subsection (b) is greater than the amount needed to provide the assistance described in that subsection, it may allocate the excess amount to local educational agencies in accordance with either or both—

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

“(2) section 1126(c).”.

SEC. 104. BASIC PROGRAMS.

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

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PART A—IMPROVING BASIC PROGRAMS
OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Subpart 1—Basic Program Requirements

SEC. 1111. STATE PLANS.

"(a) PLANS REQUIRED.—

"(1) IN GENERAL.—Any State desiring to receive a grant under this part shall submit to the Secretary, by March 1, 2002, a plan, developed in consultation with local educational agencies, teachers, principals, pupil services personnel, administrators (including administrators of programs described in other parts of this title), other staff, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, and the Head Start Act.

"(2) CONSOLIDATED PLAN.—A State plan submitted under paragraph (1) may be submitted as part of a consolidated plan under section 8302.

"(b) STANDARDS, ASSESSMENTS, AND ACCOUNTABILITY.—

"(1) CHALLENGING STANDARDS.—

"(A) Each State plan shall demonstrate that the State has adopted challenging content standards and challenging student achievement
standards that will be used by the State, its local educational agencies, and its schools to carry out this part, except that a State shall not be required to submit such standards to the Secretary.

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

“(C) The State shall have such standards for all public elementary and secondary school children served under this part in subjects determined by the State, but including at least mathematics, reading or language arts, and science (consistent with the special rule in section 1111(j), which shall include the same knowledge, skills, and levels of achievement expected of all children.

“(D) Standards under this paragraph shall include—

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

“(I) specify what children are expected to know and be able to do;
“(II) contain coherent and rigorous content; and

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

“(ii) challenging student achievement standards that—

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

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

“(III) describe a third level of performance, basic, to provide complete information about the progress of the lower performing children toward achieving to the proficient and advanced levels of performance.

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

“(2) ACCOUNTABILITY.—

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

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

“(ii) be the same as the accountability
system the State uses for all public schools
or all local educational agencies in the
State, except that public schools and local
educational agencies not participating
under this part are not subject to the re-
quirements of section 1116(c); and
“(iii) include rewards and sanctions the State will use to hold local educational agencies and public schools accountable for student achievement and for ensuring that they make adequate yearly progress in accordance with the State’s definition under subparagraph (B).

“(B) ADEQUATE YEARLY PROGRESS.—Each State plan shall demonstrate, based on assessments described under paragraph (4), what constitutes adequate yearly progress of the State, and of public schools and local educational agencies in the State, toward enabling all public school students to meet the State’s student achievement standards, while working toward the goal of narrowing the achievement gaps in the State.

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

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

“(ii) measures the progress of public schools and local educational agencies
based primarily on the assessments described in paragraph (4);

“(iii) includes annual measurable objectives for continuing and significant improvement in each of the following (except that disaggregation of data under subclauses (II) and (III) shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal individually identifiable information about an individual student):

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

“(II) The achievement of—

“(aa) economically disadvantaged students;

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

“(cc) students with disabilities; and

“(dd) students with limited English proficiency;

“(III) solely for the purpose of determining adequate yearly progress of the
State, the acquisition of English language proficiency by children with limited English proficiency;

“(iv) at the State’s discretion, may also include other academic measures such as promotion, completion of college preparatory courses, and high school completion (and for individual local educational agencies and schools, the acquisition of English language proficiency by children with limited English proficiency), except that inclusion of such other measures may not change which schools or local educational agencies would otherwise be subject to improvement or corrective action under section 1116 if the discretionary indicators were not included; and

“(v) includes a timeline for ensuring that each group of students described in subclauses (I) and (II) of clause (iii) meets or exceeds the State’s proficient level of performance on the State assessment used for the purposes of this section and section 1116 within 10 years from the date of the
enactment of the No Child Left Behind Act of 2001.

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

“(E) PUBLIC NOTICE AND COMMENT.— Each State shall ensure that in developing its plan, it diligently seeks public comment from a range of institutions and individuals in the State with an interest in improved student achievement and that the State makes and will continue to make a substantial effort to ensure that information under this part is widely known and understood by the public, parents, teachers, and school administrators throughout the State. Such efforts shall include, at a minimum, publication of such information and explanatory text, broadly to the public through
such means as the Internet, the media, and public agencies.

“(3) **State Authority.**—If a State educational agency provides evidence, which is satisfactory to the Secretary, that neither the State educational agency nor any other State government official, agency, or entity has sufficient authority, under State law, to adopt curriculum content and student achievement standards, and assessments aligned with such standards, which will be applicable to all students enrolled in the State’s public schools, then the State educational agency may meet the requirements of this subsection by—

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

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

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

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

“(B) be aligned with the State’s chal-
ling content and student achievement stand-
dards and provide coherent information about
student attainment of such standards;

“(C) be used for purposes for which such
assessments are valid and reliable, and be con-
sistent with relevant, recognized professional
and technical standards for such assessments;
“(D) measure the proficiency of students in the academic subjects in which a State has adopted challenging content and student achievement standards, and be administered not less than 1 or more times during—

“(i) grades 3 through 5;

“(ii) grades 6 through 9; and

“(iii) grades 10 through 12;

“(E) involve multiple up-to-date measures of student achievement, including measures that assess higher order thinking skills and understanding;

“(F) beginning not later than school year 2004-2005, measure the performance of students against the challenging State content and student achievement standards in grades 3 through 8 in at least mathematics, and reading or language arts, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of the assessments by that deadline
and that it will complete implementation within
the additional 1-year period;

“(G) provide for—

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

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

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

“(iv) notwithstanding clause (iii), the
assessment (using tests written in English)
of reading or language arts of any student
who has attended school in the United
States (not including Puerto Rico) for 3 or
more consecutive school years, except if the
local educational agency determines, on a
case-by-case individual basis, that assessments in another language and form would likely yield more accurate and reliable information on what such students know and can do, the local educational agency may assess such students in the appropriate language other than English for 1 additional year; and

“(H) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, except that the performance of students who have attended more than 1 school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;

“(I) produce individual student reports to be provided to parents, which include assessment scores, or other information on the attainment of student achievement standards; and

“(J) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by mi-
grant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged.

“(5) SPECIAL RULE.—Assessment measures that do not meet the requirements of paragraph (4)(C) may be included as 1 of the multiple measures, if a State includes in the State plan information regarding the State’s efforts to validate such measures.

“(6) LANGUAGE ASSESSMENTS.—Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate assessment measures in the needed languages, but shall not mandate a specific assessment or mode of instruction.
“(7) ASSESSMENTS OF ENGLISH LANGUAGE PROFICIENCY.—Each State plan shall demonstrate that local educational agencies in the State will, beginning no later than school year 2002–2003, annually assess the English proficiency of all students with limited English proficiency in their schools.”.

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

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

“(B) such other factors as the State considers appropriate to provide students an opportunity to achieve the knowledge and skills described in the challenging content standards adopted by the State.

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

“(1) the State shall produce, beginning with the 2003–2004 school year, the annual State report cards described in subsection (h)(1);
“(2) the State will participate, beginning in school year 2002–2003, participate in annual assessments of 4th and 8th grade reading and mathematics under—

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

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

“(3) the State educational agency shall work with other agencies, including educational service agencies or other local consortia, and institutions to provide technical assistance to local educational agencies and schools to carry out the State educational agency’s responsibilities under this part, including technical assistance in providing professional development under section 1119A and technical assistance under section 1117; and

“(4)(A) where educational service agencies exist, the State educational agency shall consider providing professional development and technical assistance through such agencies; and
“(B) where educational service agencies do not exist, the State educational agency shall consider providing professional development and technical assistance through other cooperative agreements such as through a consortium of local educational agencies;

“(5) the State educational agency shall notify local educational agencies and the public of the content and student achievement standards and assessments developed under this section, and of the authority to operate schoolwide programs, and will fulfill the State educational agency’s responsibilities regarding local educational agency improvement and school improvement under section 1116, including such corrective actions as are necessary;

“(6) the State educational agency shall provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this part;

“(7) the State educational agency shall inform the Secretary and the public of how Federal laws, if at all, hinder the ability of States to hold local educational agencies and schools accountable for student academic performance;
'(8) the State educational agency will encourage schools to consolidate funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 1114;

'(9) the State educational agency shall modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from other Federal, State, and local sources for schoolwide programs under section 1114;

'(10) the State educational agency has involved the committee of practitioners established under section 1603(b) in developing the plan and monitoring its implementation; and

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

'(d) PEER REVIEW AND SECRETARIAL APPROVAL.—

The Secretary shall—

'(1) establish a peer review process to assist in the review of State plans;
“(2) approve a State plan within 120 days of its submission unless the Secretary determines that the plan does not meet the requirements of this section;

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

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

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

“(B) providing technical assistance in order to assist the State to meet the requirements under subsections (a), (b), and (c); and

“(C) providing a hearing; and

“(5) have the authority to disapprove a State plan for not meeting the requirements of this part, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan 1 or more specific elements of the State’s content standards or to use specific assessment instruments or items.

“(e) DURATION OF THE PLAN.—
“(1) IN GENERAL.—Each State plan shall—

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

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

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

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

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

“(1) Failure to meet deadlines enacted in 1994.—

“(A) In general.—If a State fails to meet the deadlines established by the Improving America’s Schools Act of 1994 (or under any waiver granted by the Secretary or under any compliance agreement with the Secretary) for demonstrating that it has in place challenging content standards and student achievement standards, and a system for measuring and monitoring adequate yearly progress, the Secretary shall withhold 25 percent of the funds that would otherwise be available for State administration and activities in each year until the Secretary determines that the State meets those requirements;

“(B) No extension.—The Secretary shall not grant any additional waivers of, or enter into any additional compliance agreements to extend, the deadlines described in subparagraph (A) for any State.

“(2) Failure to meet requirements enacted in 2001.—If a State fails to meet any of the requirements of this section, other than the require-
ments described in paragraph (1), the Secretary may withhold funds for State administration and for activities until the Secretary determines that the State has fulfilled those requirements.

“(h) Reports.—

“(1) Annual State report card.—

“(A) In general.—Not later than the beginning of the 2003–2004 school year, a State that receives assistance under this Act shall prepare and disseminate an annual State “report card”.

“(B) Implementation.—The State report card shall be—

“(i) concise; and

“(ii) presented in a format and manner that parents can understand, and which, to the extent practicable, shall be in a language the parents can understand.

“(C) Public dissemination.—The State shall widely disseminate the information described in subparagraph (D) to all schools and local educational agencies in the State and make the information broadly available through public means, such as posting on the Internet,
distribution to the media, and distribution
through public agencies.

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

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

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

“(iii) the percentage of students who
graduate from high school within 4 years
of starting high school;
“(iv) the rate of completion of Advanced Placement courses and the rate of passing of Advanced Placement tests;

“(v) the professional qualifications of teachers in the aggregate, including the percentage of teachers teaching with emergency or provisional qualifications, and the percentage of class sections not taught by fully qualified teachers; and

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

“(2) Content of Local Educational Agency Report Cards.—

“(A) Minimum Requirements.—The State shall ensure that each local educational agency collects appropriate data and includes in its annual report for each of its schools, at a minimum—
“(i) the information described in paragraph (1)(D) for each local educational agency and school; and

“(ii)(I) in the case of a local educational agency—

“(aa) the number and percentage of schools identified for school improvement and how long they have been so identified, including schools identified under section 1116(c) of this Act; and

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

“(II) in the case of a school—

“(aa) whether it has been identified for school improvement; and

“(bb) information that shows how its students performed on the statewide assessment compared to students in the local educational agency and the State as a whole.

“(B) OTHER INFORMATION.—A local educational agency may include in its annual re-
ports any other appropriate information whether or not such information is included in the annual State report.

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

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

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

“(A) beginning with school year 2001–2002, information on the State’s progress in developing and implementing the assessment system described in subsection (b)(4);

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

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

“(D) in any year before the State begins to provide the information described in subparagraph (B), information on the results of student assessments (including disaggregated results) required under this section.

“(5) PARENTS RIGHT-TO-KNOW.—

“(A) QUALIFICATIONS.—At the beginning of each school year, a local educational agency that receives funds under this part shall notify
the parents of each student attending any school receiving funds under this part that they may request, and shall provide the parents upon request (and in a timely manner), informa-
tion regarding the professional qualifications of the student’s classroom teachers, including, at a minimum, the following:

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

“(ii) Whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived.

“(iii) The baccalaureate degree major of the teacher and any other graduate certi-
fication or degree held by the teacher, and the field of discipline of the certification or degree.

“(iv) Whether the child is provided services by paraprofessionals and the qual-
ifications of such paraprofessional.

“(B) ADDITIONAL INFORMATION.—In ad-
dition to the information which parents may re-
quest under subparagraph (A), and the information provided in subsection (c), a school which receives funds under this part shall provide to each individual parent—

“(i) information on the level of performance of the individual student for whom they are the parent in each of the State assessments as required under this part; and

“(ii) timely notice that the student for whom they are the parent has been assigned, or has been taught for 4 or more consecutive weeks by, a teacher who is not fully qualified.

“(C) FORMAT.—The notice and information provided to parents under this paragraph shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

“(6) PLAN CONTENT.—A State shall include in its plan under subsection (b) an assurance that it has in effect a policy that meets the requirements of this section.
“(i) PRIVACY.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

“(j) SPECIAL RULE ON SCIENCE STANDARDS AND ASSESSMENTS.—Notwithstanding subsections (b) and (h), no State shall be required to meet the requirements under this title relating to science standards until the beginning of the 2005–2006 school year and science assessments until the beginning of the 2007–2008 school year.

“SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

“(a) PLANS REQUIRED.—

“(1) SUBGRANTS.—A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, the Head Start Act, and other Acts, as appropriate.

“(2) CONSOLIDATED APPLICATION.—The plan may be submitted as part of a consolidated application under section 8305.
“(b) PLAN PROVISIONS.—In order to help low achieving children achieve high standards, each local educational agency plan shall include—

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

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

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

“(C) determine what revisions are needed to projects under this title so that such children meet the State’s student achievement standards; and
“(2) at the local educational agency’s discretion, a description of any other indicators that will be used in addition to the assessments described in paragraph (1) for the uses described in such paragraph;

“(3) a description of the strategy the local educational agency will use to provide professional development for teachers, and, if appropriate, pupil services personnel, administrators, parents and other staff, including local educational agency level staff in accordance with section 1119A;

“(4) a description of how the local educational agency will coordinate and integrate services provided under this part with other educational services at the local educational agency or individual school level, such as—

“(A) Even Start, Head Start, Reading First, Early Reading First, and other preschool programs, including plans for the transition of participants in such programs to local elementary school programs; and

“(B) services for children with limited English proficiency or with disabilities, migratory children served under part C, neglected or delinquent youth, Indian children served under
part B of title III, homeless children, and immigrant children in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

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

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

“(7) a description of how teachers, in consultation with parents, administrators, and pupil services personnel, in targeted assistance schools under section 1115, will identify the eligible children most in need of services under this part;

“(8) a general description of the nature of the programs to be conducted by such agency’s schools under sections 1114 and 1115 and, where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, for neglected and delinquent
children in community day school programs, and for
homeless children;

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

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

“(11) a description of the actions the local edu-
cational agency will take to assist its low-performing
schools, including schools identified under section
1116 as in need of improvement;
“(12) a description of the actions the local educational agency will take to implement school choice, consistent with the requirements of section 1116;

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

“(c) ASSURANCES.—

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

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

“(B) provide technical assistance and support to schoolwide programs;

“(C) work in consultation with schools as the schools develop the schools’ plans pursuant to section 1114 and assist schools as the schools implement such plans or undertake activities pursuant to section 1115 so that each school can make adequate yearly progress toward meeting the State student achievement standards;
“(D) fulfill such agency’s school improvement responsibilities under section 1116, including taking corrective actions under section 1116(b)(6);

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

“(F) take into account the experience of model programs for the educationally disadvantaged, and the findings of relevant scientifically based research indicating that services may be most effective if focused on students in the earliest grades at schools that receive funds under this part;

“(G) in the case of a local educational agency that chooses to use funds under this part to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 641A(a) of the Head Start Act;
“(H) comply with the requirements of section 1119 regarding the qualifications of teachers and paraprofessionals;

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

“(J) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with other agencies providing services to children, youth, and families.

“(2) SPECIAL RULE.—In carrying out subparagraph (G) of paragraph (1) the Secretary—

“(A) shall consult with the Secretary of Health and Human Services on the implementation of such subparagraph and shall establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local educational agencies to comply with such subparagraph; and

“(B) upon publication, shall disseminate to local educational agencies the Head Start per-
formance standards as in effect under section 641A(a) of the Head Start Act, and such agencies affected by such subparagraph shall plan for the implementation of such subparagraph (taking into consideration existing State and local laws, and local teacher contracts), including pursuing the availability of other Federal, State, and local funding sources to assist in compliance with such subparagraph.

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

“(d) PLAN DEVELOPMENT AND DURATION.—

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

“(2) DURATION.—Each such plan shall be submitted for the first year for which this part is in effect following the date of the enactment of the No Child Left Behind Act of 2001 and shall remain in
effect for the duration of the agency’s participation under this part.

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

“(e) STATE APPROVAL.—

“(1) IN GENERAL.—Each local educational agency plan shall be filed according to a schedule established by the State educational agency.

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

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

“(B) meets the requirements of this section.

“(f) PROGRAM RESPONSIBILITY.—The local educational agency plan shall reflect the shared responsibility of schools, teachers, and the local educational agency in making decisions regarding activities under sections 1114 and 1115.
“(g) Parental Notification and Consent for English Language Instruction.—

“(1) Notification.—If a local educational agency uses funds under this part to provide English language instruction to limited English proficient children, the agency shall inform a parent or the parents of a child participating in an English language instruction program for limited English proficient children assisted under this part of—

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

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

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

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

“(E) the expected rate of graduation from the program into mainstream classes; and
“(F) the expected rate of graduation from high school for the program if funds under this part are used for children in secondary schools.

“(2) CONSENT.—

“(A) IN GENERAL.—A parent or the parents of a limited English proficient child who is identified for participation in an English language instruction program for limited English proficient children assisted under this part shall—

“(i) sign a form consenting to the student’s placement in such a program prior to such time as the student is enrolled in the program; and

“(ii) select among methods of instruction, if more than 1 method is offered in the program.

“(B) REMOVAL FROM PROGRAM UPON PARENTAL REQUEST.—A parent or the parents of a limited English proficient child who is participating in an English language instruction program for limited English proficient children assisted under this part shall have the right to have their child immediately removed from the program upon their request.
“(3) Receipt of Information.—A parent or the parents of a limited English proficient child who is identified for participation in an English language instruction program for limited English proficient children assisted under this part shall receive, in a manner and form understandable to the parent or parents, the information required by this subsection. At a minimum, the parent or parents shall receive—

“(A) timely information about English language instruction programs for limited English proficient children assisted under this part;

“(B) if a parent of a participating child so desires, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parent or parents; and

“(C) procedural information for removing a child from a program for limited English proficient children.

“(4) Basis for Admission or Exclusion.—Students shall not be admitted to, or excluded from, any federally-assisted education program on the basis of a surname or language-minority status.

“Sec. 1113. Eligible School Attendance Areas.

“(a) Determination.—
“(1) IN GENERAL.—A local educational agency shall use funds received under this part only in eligible school attendance areas.

“(2) ELIGIBLE SCHOOL ATTENDANCE AREAS.—

For the purposes of this part—

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

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

“(3) LOCAL EDUCATIONAL AGENCY DISCRETION.—

“(A) IN GENERAL.—Notwithstanding paragraph (2), a local educational agency may—

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

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

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

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

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

“(II) the school is receiving sup-
plemental funds from other State or
local sources that are spent according
to the requirements of section 1114 or
1115; and
“(III) the funds expended from such other sources equal or exceed the amount that would be provided under this part.

“(B) SPECIAL RULE.—Notwithstanding subparagraph (A)(iv), the number of children attending private elementary and secondary schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under subparagraph (A).

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

“(1) shall annually rank from highest to lowest according to the percentage of children from low-income families in each agency’s eligible school attendance areas in the following order—

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

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

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

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

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

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

“(1) ALLOCATION TO PUBLIC SCHOOL ATTEND-
ANCE AREAS.—The local educational agency shall
use the same measure of poverty, which measure
shall be the number of children ages 5 through 17
in poverty counted in the most recent census data
approved by the Secretary, the number of children eligible for free and reduced priced lunches under the National School Lunch Act, the number of children in families receiving assistance under the State program funded under part A of title IV of the Social Security Act, or the number of children eligible to receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

“(A) to identify eligible school attendance areas;

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

“(C) to determine allocations under subsection (f).

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

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

“(i) using the same measure of low-income used to count public school children;
“(ii) using the results of a survey that, to the extent possible, protects the identity of families of private school students and allowing such survey results to be extrapolated if complete actual data are not available; or

“(iii) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that attendance area.

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

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

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

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

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

“(f) ALLOCATIONS.—

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

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

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

“(3) **Reservation.**—A local educational agency shall reserve such funds as are necessary under this part to provide services comparable to those provided to children in schools funded under this part to serve—

“(A) homeless children who do not attend participating schools, including providing educationally related support services to children in shelters;

“(B) children in local institutions for neglected or delinquent children; and

“(C) if appropriate, neglected and delinquent children in community day school programs.
“(4) School improvement reservation.—
In addition to the funding a local educational agency receives under section 1003(b), a local educational agency may reserve such funds as are necessary under this part to meet such agency’s school improvement responsibilities under section 1116, including taking corrective actions under section 1116(b)(6).

“(5) Financial incentives and rewards reservation.—A local educational agency may reserve such funds as are necessary under this part to provide financial incentives and rewards to teachers who serve in schools eligible under subsection (b)(1)(A) and identified for improvement under section 1116(b)(1) for the purpose of attracting and retaining qualified and effective teachers.

“SEC. 1114. SCHOOLWIDE PROGRAMS.
“(a) Purpose.—The purpose of a schoolwide program under this section is—

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

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

“(b) Use of Funds for Schoolwide Programs.—

“(1) In General.—A local educational agency may consolidate funds under this part, together with other Federal, State, and local funds, in order to upgrade the entire educational program of a school that serves an eligible school attendance area in which not less than 25 percent of the children are from low-income families, or not less than 25 percent of the children enrolled in the school are from such families.

“(2) Identification of Students Not Required.—

“(A) In General.—No school participating in a schoolwide program shall be required to identify particular children under this part as eligible to participate in a schoolwide program or to provide supplemental services to such children.

“(B) Supplement Funds.—A school participating in a schoolwide program shall use funds available to carry out this section only to supplement the amount of funds that would, in
the absence of funds under this part, be made
available from non-Federal sources for the
school, including funds needed to provide serv-
ices that are required by law for children with
disabilities and children with limited English
proficiency.

“(3) Exemption from statutory and regu-
latory requirements.—

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

“(B) Requirements.—A school that
chooses to use funds from such other programs
shall not be relieved of the requirements relat-
ing to health, safety, civil rights, student and
parental participation and involvement, services
to private school children, maintenance of ef-
fort, uses of Federal funds to supplement, not
supplant non-Federal funds, or the distribution
of funds to State or local educational agencies
that apply to the receipt of funds from such
programs.

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

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

“(c) COMPONENTS OF A SCHOOLWIDE PROGRAM.—

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

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

“(B) Schoolwide reform strategies that—

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

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

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

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

“(III) include strategies for meeting the educational needs of historically underserved populations;

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

“(II) address how the school will determine if such needs have been met; and

“(iv) are consistent with, and are designed to implement, the State and local improvement plans, if any.

“(C) Instruction by fully qualified (as defined in section 8101) teachers.

“(D) In accordance with section 1119A and subsection (b)(4), high quality and ongoing
professional development for teachers and para-
professionals, and, where appropriate, pupil
services personnel, parents, principals, and
other staff to enable all children in the school
to meet the State’s student achievement stand-
ards.

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

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

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

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

“(I) Activities to ensure that students who
experience difficulty mastering the proficient or
advanced levels of performance standards required by section 1111(b) shall be provided with
effective, timely additional assistance which shall include measures to ensure that students’
difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance.

“(2) PLAN.—Any eligible school that desires to operate a schoolwide program shall first develop (or amend a plan for such a program that was in existence on the day before the date of the enactment of the No Child Left Behind Act of 2001, a comprehensive plan for reforming the total instructional program in the school that—

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

“(B) describes how the school will use resources under this part and from other sources to implement those components; and

“(C) includes a list of State and local educational agency programs and other Federal programs under subsection (b)(4) that will be consolidated in the schoolwide program.

“(3) PLAN DEVELOPMENT.—The comprehensive plan shall be—
“(A) developed during a 1-year period, unless—

“(i) the local educational agency determines that less time is needed to develop and implement the schoolwide program; or

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

“(B) developed with the involvement of the community to be served and individuals who will carry out such plan, including teachers, principals, administrators (including administrators of programs described in other parts of this title), if appropriate pupil services personnel, school staff and parents, and, if the plan relates to a secondary school, students from such school;
“(C) in effect for the duration of the school’s participation under this part and reviewed and revised, as necessary, by the school;

“(D) available to the local educational agency, parents, and the public, and the information contained in such plan shall be provided in a format, and to the extent practicable, in a language that they can understand; and

“(E) if appropriate, developed in coordination with programs under Reading First, Early Reading First, Even Start, Carl D. Perkins Vocational and Technical Education Act of 1998, and the Head Start Act.

“(d) ACCOUNTABILITY.—A schoolwide program under this section shall be subject to the school improvement provisions of section 1116.

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

“SEC. 1115. TARGETED ASSISTANCE SCHOOLS.

“(a) IN GENERAL.—In all schools selected to receive funds under section 1113(f) that are ineligible for a
schoolwide program under section 1114, or that choose 
not to operate such a schoolwide program, a local edu-
cational agency may use funds received under this part 
only for programs that provide services to eligible children 
under subsection (b) identified as having the greatest need 
for special assistance.

“(b) Eligible Children.—

“(1) Eligible Population.—(A) The eligible 
population for services under this section is—

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

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

“(B) From the population described in subparagraph (A), eligible children are children identified by 
the school as failing, or most at risk of failing, to 
meet the State’s challenging student achievement 
standards on the basis of assessments under this 
part, and, as appropriate, on the basis of multiple, 
educationally related, objective criteria established 
by the local educational agency and supplemented by 
the school, except that children from preschool 
through grade 2 may be selected solely on the basis
of such criteria as teacher judgment, interviews with parents, and other appropriate measures.

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

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

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

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

“(ii) A child in a local institution for neglected or delinquent children or attending a community day program for such children is eligible for services under this part.
“(D) A child who is homeless and attending any school in the local educational agency is eligible for services under this part.

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

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

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

“(B) ensure that planning for students served under this part is incorporated into existing school planning;

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

“(i) give primary consideration to providing extended learning time such as an
extended school year, before- and after-
school, and summer programs and oppor-
tunities;

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

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

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

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

“(F) in accordance with subsection (e)(3)
and section 1119A, provide opportunities for
professional development with resources pro-
vided under this part, and, to the extent prac-
ticable, from other sources, for teachers, prin-
cipals, and administrators and other school
staff, including, if appropriate, pupil services
personnel, who work with participating children in programs under this section or in the regular education program; and

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

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

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

“(B) reviewing, on an ongoing basis, the progress of participating children and revising the targeted assistance program, if necessary, to provide additional assistance to enable such children to meet the State’s challenging student achievement standards, such as an extended school year, before- and after-school, and summer programs and opportunities, training for teachers regarding how to identify students that require additional assistance, and training for teachers regarding how to implement student achievement standards in the classroom.
“(d) Integration of Professional Development.—To promote the integration of staff supported with funds under this part, public school personnel who are paid with funds received under this part may participate in general professional development and school planning activities.

“(e) Special Rules.—

“(1) Simultaneous Service.—Nothing in this section shall be construed to prohibit a school from serving students served under this section simultaneously with students with similar educational needs, in the same educational settings where appropriate.

“(2) Comprehensive Services.—If health, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers, and if funds are not reasonably available from other public or private sources to provide such services, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—
“(A) the provision of basic medical equipment, such as eyeglasses and hearing aids; and

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

“(3) Professional development.—Each school receiving funds under this part for any fiscal year shall devote sufficient resources to carry out effectively the professional development activities described in subparagraph (F) of subsection (c)(1) in accordance with section 1119A for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

“SEC. 1115A. SCHOOL CHOICE.

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

“(b) Choice plan.—A local educational agency that chooses to implement a public school choice program shall first develop a plan that includes assurances that—
“(1) all eligible students across grade levels served under this part will have equal access to the program;

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

“(3) the plan will be developed with the involvement of parents and others in the community to be served and individuals who will carry out the plan, including administrators, teachers, principals, and other staff;

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

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

“(6) transportation services or the costs of transportation may be provided by the local educational agency with funds under this part; and
“(7) such local educational agency will comply with the other requirements of this part.

“SEC. 1116. ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

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

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

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

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

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

“(b) SCHOOL IMPROVEMENT.—
“(1) IN GENERAL.—

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

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

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

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

“(C) REVIEW.—To determine if an elementary school or a secondary school that is conducting a targeted assistance program under section 1115 should be identified for school improvement under this subsection, a local educational agency may choose to review the progress of only the students in the school who are served, or are eligible for services, under this part.
“(2) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE; TIME LIMIT.—

“(A) Before identifying an elementary school or a secondary school for school improvement under paragraph (1), for corrective action under section 1116(b)(6), or for restructuring under section 1116(b)(7), the local educational agency shall provide the school with an opportunity to review the school-level data, including assessment data, on which the proposed identification is based.

“(B) EVIDENCE.—If the principal of a school proposed for identification under paragraph (1), (6), or (7) believes that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the local educational agency, which shall consider that evidence before making a final determination.

“(C) FINAL DETERMINATION.—Not later than 30 days after a local educational agency makes an initial determination concerning identifying a school under paragraph (1), (6), or (7), the local educational agency shall make
public a final determination on the status of the
school.

“(3) SCHOOL PLAN.—

“(A) REVISED PLAN.—Each school identi-

fied under paragraph (1) for school improve-
ment shall, not later than 3 months after being
so identified, develop or revise a school plan, in
consultation with parents, school staff, the local
educational agency serving the school, the local
school board, and other outside experts, for ap-

proval by such local educational agency. The
school plan shall cover a 2-year period and—

“(i) incorporate scientifically based re-

search strategies that strengthen the core
academic subjects in the school and ad-
dress the specific academic issues that
caused the school to be identified for
school improvement;

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

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

“(I) directly addresses the academic performance problem that caused the school to be identified for school improvement; and

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

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

“(v) establish specific annual, measurable goals for continuous and significant progress by each group of students speci-
fied in section 1111(b)(2)(C)(iii)(I) and (II) and enrolled in the school that will ensure that all such groups of students shall meet the State’s proficient level of achievement on the State assessment described in section 1111(b)(4) not later than 10 years after the date of enactment of the No Child Left Behind Act of 2001;

“(vi) identify how the school will provide written notification about the identification to parents of each student enrolled in such school, in a format and, to the extent practicable, in a language the parents can understand; and

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

“(B) CONDITIONAL APPROVAL.—The local educational agency may condition approval of a school plan on inclusion of 1 or more of the corrective actions specified in paragraph (6)(D)(ii).
“(C) PLAN IMPLEMENTATION.—A school shall implement the school plan (including a revised plan) expeditiously, but not later than the beginning of the school year following the school year in which the school was identified for school improvement.

“(D) LOCAL EDUCATIONAL AGENCY APPROVAL.—The local educational agency shall—

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

“(ii) promptly review the school plan, work with the school as necessary, and approve the school plan if it meets the requirements of this paragraph.

“(4) TECHNICAL ASSISTANCE.—

“(A) IN GENERAL.—For each school identified for school improvement under paragraph (1), the local educational agency serving the school shall provide technical assistance with funds allocated under section 1003 as the school develops and implements the school plan.

“(B) SPECIFIC ASSISTANCE.—Such technical assistance—
“(i) shall include assistance in analyzing data from the assessments required under section 1111(b)(4), and other samples of student work, to identify and address instructional problems and solutions; 

“(ii) shall include assistance in identifying and implementing instructional strategies and methods that are tied to scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to be identified for school improvement; 

“(iii) shall include assistance in analyzing and revising the school’s budget so that the school resources are more effectively allocated for the activities most likely to increase student performance and to remove the school from school improvement status; and 

“(iv) may be provided—

“(I) by the local educational agency, through mechanisms authorized under section 1117; or 

“(II) by the State educational agency, an institution of higher edu-
cation (in full compliance with all the reporting provisions of title II of the Higher Education Act of 1965), a private not-for-profit organization or for-profit organization, an educational service agency, or another entity with experience in helping schools improve performance.

“(C) Scientifically based research.—Technical assistance provided under this section by a local educational agency or an entity approved by that agency shall be based on scientifically based research.

“(5) Notification to parents.—A local educational agency shall promptly provide parents (in a format and, to the extent practicable, in a language they can understand) of each student in an elementary school or a secondary school identified for school improvement—

“(A) an explanation of what the school improvement identification means, and how the school identified for school improvement compares in terms of academic achievement to other elementary schools or secondary schools
served by the local educational agency and the
State educational agency involved;

“(B) the reasons for the identification;

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

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

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

“(6) CORRECTIVE ACTION.—

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

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

“(I) the consistent academic fail-
ure of a school that caused the local
educational agency to take such ac-
tion; and
“(II) any underlying staffing, curriculum, or other problem in the school; and

“(ii) is designed to increase substantially the likelihood that students enrolled in the school identified for corrective action will perform at the State’s proficient and advanced levels of achievement on the State assessment described in section 1111(b)(4).

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

“(C) ROLE OF LOCAL EDUCATIONAL AGENCY.—The local educational agency—

“(i) may identify for corrective action and take corrective action with respect to any school identified as in need of improvement under paragraph (1);

“(ii) after providing technical assistance under paragraph (4), shall identify for corrective action and take corrective ac-
tion with respect to any school served by
the local educational agency under this
part that—

“(I) fails to make adequate yearly
progress, as defined by the State
under section 1111(b)(2), at the end
of the first school year after the
school year in which the school was
identified under paragraph (1); or

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

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

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

“(D) REQUIREMENTS.—In the case of a
school described in subparagraph (C)(ii), the
local educational agency shall both—
“(i) provide all students enrolled in the school with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under paragraph (1), unless such an option is prohibited by State law; and

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

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

“(II) Institute and fully implement a new curriculum, including providing appropriate professional development for all relevant staff, that is based on scientifically based research and offers substantial promise of improving educational performance for low-performing students.

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

“(F) PUBLICATION AND DISSEMINA-
TION.—The local educational agency shall pub-
lis...
school who are from economically dis-
advantaged families are not making meas-
urable progress in the subjects included in
the State’s definition of adequate yearly
progress; or

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

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

“(II) make funds available to the
economically disadvantaged child’s
parents to place the child in a private
school or to obtain supplementary
educational services, in accordance
with subsection (d); and
“(III) prepare a plan and make necessary arrangements to carry out subparagraph (B).

“(B) ALTERNATIVE GOVERNANCE.—Not later than the beginning of the school year following the year in which the local educational agency implements subparagraph (A), the local educational agency shall implement 1 of the following alternative governance arrangements for the school:

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

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

“(iii) With the approval of a majority of the teachers at the school and a majority of parents of children enrolled at the school, operation of the school by another entity, such as a private management company.

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

“(C) AVAILABLE RESULTS.—The State educational agency shall ensure that, for any
school year in which a school is subject to corrective action under paragraph (6)(C)(ii), and for any school and school year described in subparagraph (A) or (B) of this paragraph, the results of State assessments for that school are available to the local educational agency by the end of the school year in which the assessments are administered.

“(D) PROMPT NOTICE.—The local educational agency shall provide prompt notice to teachers and parents whenever subparagraph (A) or (B) applies, shall provide them adequate opportunity to comment before taking any action under those paragraphs and to participate in developing any plan under subparagraph (A)(iii), and shall provide parents an explanation of the options under subparagraph (A)(i) and (ii).

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

“(A) shall provide, or shall pay for the provision of, transportation for the student to the school the child attends; and
“(B) may use not more than 15 percent of its allocation under this part for that purpose.

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

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

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

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

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

“(B) if it determines that a local educational agency has failed to carry out its responsibilities under this subsection, take such
corrective actions as the State finds appropriate and in compliance with State law.

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

“(1) **IN GENERAL.**—A State shall—

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

“(B) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review consistent with section 1111, including statistically sound disaggregated results, as required by section 1111(b)(2).

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

“(A) for 2 consecutive years failed to make adequate yearly progress as defined in the State’s plan under section 1111(b)(2); or
“(B) was in improvement status under this section as this section was in effect on the day preceding the date of the enactment of the No Child Left Behind Act of 2001.

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

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

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

“(A) REVIEW.—Before identifying a local educational agency for improvement under paragraph (2), a State educational agency shall provide the local educational agency with an opportunity to review the local educational agency
data, including assessment data, on which that proposed identification is based.

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

“(6) NOTIFICATION TO PARENTS.—The State educational agency shall promptly notify parents in a format, and to the extent practicable in a language they can understand, of each student enrolled in a school in a local educational agency identified for improvement, of the reasons for such agency’s identification and how parents can participate in upgrading the quality of the local educational agency.

“(7) LOCAL EDUCATIONAL AGENCY REVISIONS.—

“(A) PLAN.—Each local educational agency identified under paragraph (2) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan, in consultation with parents, school staff, and others. Such plan shall—
“(i) incorporate scientifically based re-
search strategies that strengthen the core
academic program in the local educational
agency;

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

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

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

“(III) include specific measurable
achievement goals and targets for
each of the groups of students identi-
fied in the disaggregated data pursuant
to section 1111(b)(2)(C)(iii)(I)
and (II);

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

“(iv) specify the responsibilities of the State educational agency and the local educational agency under the plan.

“(B) IMPLEMENTATION.—The local educational agency shall implement its plan or revised plan expeditiously, but not later than the beginning of the school year after which the school has been identified for improvement.

“(8) STATE RESPONSIBILITY.—

“(A) IN GENERAL.—For each local educational agency identified under paragraph (2), the State shall provide technical or other assistance, if requested, as authorized under section 1117, to better enable the local educational agency—

“(i) to develop and implement its revised plan as approved by the State educational agency consistent with the requirements of this section; and

“(ii) to work with schools needing improvement.

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

“(9) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State standards, each State shall implement a system of corrective action in accordance with the following:

“(A) IN GENERAL.—After providing technical assistance under paragraph (8) and subject to subparagraph (D), the State—

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

“(ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, after the end of the second year following its identification under paragraph (2); and

“(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).
“(B) DEFINITION.—As used in this para-
graph, the term ‘corrective action’ means ac-
tion, consistent with State law, that—

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

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

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

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

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

“(iii) Remove particular schools from
the jurisdiction of the local educational
agency and establish alternative arrange-
ments for public governance and supervision of such schools.

“(iv) Appoint, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.

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

“(vi) Authorize students to transfer from a school operated by a local educational agency to a higher performing public school operated by another local educational agency, or to a public charter school and provide such students transportation (or the costs of transportation to such schools), in conjunction with not less than 1 additional action described under this paragraph.

“(D) HEARING.—Prior to implementing any corrective action, the State educational agency shall provide due process and a hearing to the affected local educational agency, if State law provides for such process and hearing.
“(E) Publication.—The State educational agency shall publish, and disseminate to parents and the public any corrective action it takes under this paragraph through such means as the Internet, the media, and public agencies.

“(F) Delay.—A local educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school.

“(10) Special rule.—A local educational agency, that, for at least 2 of the 3 years following identification under paragraph (2), makes adequate yearly progress shall no longer be identified for school improvement.

“(d) Parental Choice.—

“(1) In general.—In any case described in section 1116(b)(7)(A)(ii)(II) the local educational agency shall permit the parents of each eligible child defined in paragraph (7)(A) to—
“(A) receive, from the agency, the child’s share of funds allocated to the school under this part, calculated under paragraph (2); and

“(B) use those funds to pay the costs of either or both of the following:

“(i) Notwithstanding any other provision of this Act, attending a private school that agrees to—

“(I) assess the student in mathematics and reading and language arts each year during grades 3 through 8 and at least once during grades 10 through 12, using assessments that are comparable in what they measure to the assessments used by the State; and

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

“(ii) Obtaining supplemental educational services from a provider approved for that purpose by the State educational agency, in accordance with reasonable criteria it shall adopt, and paying for the costs of transportation to obtain those services.
“(2) PER-CHILD AMOUNT.—The amount of a school’s allocation under this part that it shall make available to the parents of an eligible child under paragraph (1)(B) is equal to—

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

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

“(ii) to provide professional development required by section 1119A; divided by—

“(B) the number of eligible children enrolled in the school.

“(3) LIMITATION.—The amount of funds provided to the parents of a child under this subsection shall not exceed the actual costs of the parents for either or both of the following:

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

“(B) Obtaining supplemental educational services for the child and providing transportation to those services.

“(4) DURATION.—The local educational agency shall continue to provide funds to parents of a child attending a private school under this section until
the child completes the grade corresponding to the
highest grade offered at the public school the child
previously attended.

“(5) NONDISCRIMINATION.—

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

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

“(6) SCHOOL AID.—Funds used under this sub-
section for attendance at a private school shall be
considered assistance to the student and shall not be
considered as assistance to any school that chooses
to participate.
“(7) DEFINITIONS.—As used in this subsection, the term—

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

“(B) ‘supplementary educational services’ means tutoring and other supplemental academic enrichment services.

“SEC. 1117. STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.

“(a) SYSTEM FOR SUPPORT.—Each State shall establish a statewide system of intensive and sustained support and improvement for local educational agencies and schools receiving funds under this part, in order to increase the opportunity for all students in those agencies and schools to meet the State’s content standards and student achievement standards.

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

“(1) first, provide support and assistance to local educational agencies subject to corrective action under section 1116 and assist schools, in accordance with section 1116(b)(10), for which a local edu-
ational agency has failed to carry out its responsibilities under section 1116(b)(8) and (9);

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

“(3) third, provide support and assistance to other local educational agencies and schools participating under this part that need that support and assistance in order to achieve the purpose of this part.

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

“(1) school support teams, composed of individuals who are knowledgeable about scientifically based research and practice on teaching and learning, particularly about strategies for improving educational results for low-achieving children; and

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

“(d) FUNDS.—Each State—
“(1) shall use funds reserved under section 1003(a); and

“(2) may use State administrative funds authorized under section 1002(i) for such purpose to establish a Statewide system of support.

“(e) Alternatives.—The State may devise additional approaches to providing the assistance described in paragraphs (1) and (2) of subsection (c), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and private providers of scientifically based technical assistance and the State may seek approval from the Secretary to use funds made available under section 1002(g) for such approaches as part of the State plan.

“Sec. 1117A. Academic Achievement Awards Program.

“(a) Establishment of Academic Achievement Awards Program.—

“(1) In general.—Each State receiving a grant under this part may establish a program for making academic achievement awards to recognize and financially reward schools served under this part that have—

“(A) significantly closed the achievement gap between the groups of students defined in section 1111(b)(2); or
“(B) exceeded their adequate yearly progress goals, consistent with section 1111(b)(2), for 2 or more consecutive years.

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

“(b) FUNDING.—

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

“(2) USE WITHIN 3 YEARS.—Notwithstanding any other provision of law, the amount reserved under paragraph (1) by a State for each fiscal year shall remain available to the State until expended for a period not exceeding 3 years.
“(3) Special allocation rule for schools in high-poverty areas.—

“(A) In general.—Each State receiving a grant under this part shall distribute at least 50 percent of the amount reserved under paragraph (1) for each fiscal year to schools described in subparagraph (B), or to teachers teaching in such schools.

“(B) School described.—A school described in subparagraph (A) is a school whose student population is in the highest quartile of schools statewide in terms of the percentage of children eligible for free and reduced priced lunches under the National School Lunch Act.

“SEC. 1118. PARENTAL INVOLVEMENT.

“(a) Local Educational Agency Policy.—

“(1) In general.—A local educational agency may receive funds under this part only if such agency implements programs, activities, and procedures for the involvement of parents in programs assisted under this part consistent with the provisions of this section. Such activities shall be planned and implemented with meaningful consultation with parents of participating children.
“(2) Written policy.—Each local educational agency that receives funds under this part shall develop jointly with, agree upon with, and distribute to, parents of participating children a written parent involvement policy that is incorporated into the local educational agency’s plan developed under section 1112, establishes the expectations for parent involvement, and describes how the local educational agency will—

“(A) involve parents in the joint development of the plan under section 1112, and the process of school review and improvement under section 1116;

“(B) provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement;

“(C) build the schools’ and parents’ capacity for strong parent involvement as described in subsection (c);

“(D) coordinate and integrate parental involvement strategies under this part with parental involvement strategies under other programs, such as Head Start, Early Reading First, Reading First, Even Start, the Parents
as Teachers Program, the Home Instruction
Program for Preschool Youngsters, and State-
run preschool programs;

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

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

“(3) Reservation.—

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

“(B) Parental Input.—Parents of children
receiving services under this part shall be involved in
the decisions regarding how funds reserved under
subparagraph (A) are allotted for parental involve-
ment activities.

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

“(b) SCHOOL PARENTAL INVOLVEMENT POLICY.—

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

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

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

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

“(e) POLICY INVOLVEMENT.—Each school served under this part shall—

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

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

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

“(4) provide parents of participating children—

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

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

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

“(d) Shared Responsibilities for High Student Performance.—As a component of the school-level parental involvement policy developed under subsection (b), each school served under this part shall jointly develop with parents for all children served under this part
a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State’s high standards.

“(e) BUILDING CAPACITY FOR INVOLVEMENT.—To ensure effective involvement of parents and to support a partnership among the school, parents, and the community to improve student achievement, each school and local educational agency—

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

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

“(3) shall educate teachers, pupil services personnel, principals and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, commu-
nicate with, and work with parents as equal part-
ners, implement and coordinate parent programs,
and build ties between parents and the school;

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

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

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

“(7) may provide necessary literacy training
from funds received under this part if the local edu-
cational agency has exhausted all other reasonably
available sources of funding for such activities;
“(8) may pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;

“(9) may train parents to enhance the involvement of other parents;

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

“(11) may adopt and implement model approaches to improving parental involvement;

“(12) may establish a districtwide parent advisory council to provide advice on all matters related to parental involvement in programs supported under this part; and

“(13) may develop appropriate roles for community-based organizations and businesses in parent involvement activities.

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

“SEC. 1119. QUALIFICATIONS FOR TEACHERS AND PARA-
PROFESSIONALS.

“(a) TEACHERS.—

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

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

“(b) NEW PARAPROFESSIONALS.—
“(1) IN GENERAL.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired 1 year or more after the effective date of the No Child Left Behind Act of 2001 and working in a program supported with funds under this part shall—

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

“(B) have obtained an associate’s (or higher) degree; or

“(C) have met a rigorous standard of quality that demonstrates, through a formal assessment—

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

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

“(2) CLARIFICATION.—For purposes of paragraph (1)(C), the receipt of a high school diploma (or its recognized equivalent) shall be necessary but not by itself sufficient to satisfy the requirements of such paragraph.
“(c) Existing Paraprofessionals.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired before the date that is 1 year after the effective date of the No Child Left Behind Act of 2001 and working in a program supported with funds under this part shall, not later than 3 years after such effective date, satisfy the requirements of subsection (b).

“(d) Exceptions for Translation and Parental Involvement Activities.—Subsections (b) and (c) shall not apply to a paraprofessional—

“(1) who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under this part by acting as a translator; or

“(2) whose duties consist solely of conducting parental involvement activities consistent with section 1118.

“(e) General Requirement for All Paraprofessionals.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals working in a program supported with funds under this part, regardless of the paraprofessional’s hiring date, possess a high school diploma or its recognized equivalent.
“(f) **DUTIES OF PARAPROFESSIONALS.**—

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

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

“(A) to provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;

“(B) to assist with classroom management, such as organizing instructional and other materials;

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

“(D) to conduct parental involvement activities;

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

“(F) to act as a translator; or

“(G) to provide instructional services to students.
“(3) ADDITIONAL LIMITATIONS.—A paraprofessional described in paragraph (1)—

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

“(B) may not provide instructional services to students in the area of reading, writing, or math unless the paraprofessional has demonstrated, through a State or local assessment, the ability to effectively carry out reading, writing, or math instruction.

“(g) USE OF FUNDS.—

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

“(2) LIMITATION ON USE OF FUNDS FOR PARAPROFESSIONALS.—

“(A) IN GENERAL.—Beginning on and after the effective date of the No Child Left Behind Act of 2001, a local educational agency may not use funds received under this part to
fund any paraprofessional hired after such date
unless the hiring is to fill a vacancy created by
the departure of another paraprofessional fund-
ed under this part and such new paraprofes-
sional satisfies the requirements of subsection
(b) or (c).

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

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

“(2) AVAILABILITY OF INFORMATION.—Copies
of attestations under paragraph (1)—
“(A) shall be maintained at each school op-
erating a program under section 1114 or 1115
and at the main office of the local educational
agency; and
“(B) shall be available to any member of
the general public upon request.

“SEC. 1119A. PROFESSIONAL DEVELOPMENT.

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

“(b) Professional Development Activities.—
Professional development activities under this section
shall—

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

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

“(3) advance teacher understanding of effective
instructional strategies based on scientifically based
research for improving student achievement, at a
minimum, in reading or language arts and mathe-
matics;
“(4) be directly related to the curriculum and content areas in which the teacher provides instruction, except this requirement does not apply to activities that instruct in methods of disciplining children;

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

“(6) be tied to scientifically based research demonstrating the effectiveness of such professional development activities or programs in increasing student achievement or substantially increasing the knowledge and teaching skills of teachers;

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

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

“(9) to the extent appropriate, provide training for teachers in the use of technology so that technology and its applications are effectively used in the classroom to improve teaching and learning in the
curriculum and academic content areas in which the teachers provide instruction; and

“(10) as a whole, be regularly evaluated for their impact on increased teacher effectiveness and improved student achievement, with the findings of such evaluations used to improve the quality of professional development.

“(c) ADDITIONAL PROFESSIONAL DEVELOPMENT ACTIVITIES.—Such professional development activities may include—

“(1) instruction in the use of data and assessments to inform and instruct classroom practice;

“(2) instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents;

“(3) the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and novice teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

“(4) the creation of career ladder programs for paraprofessionals (assisting teachers under this part) to obtain the education necessary for such
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paraprofessionals to become licensed and certified
teachers; and

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

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

“(1) all school staff in schools participating in
a schoolwide program under section 1114 can par-
ticipate in professional development activities; and

“(2) all school staff in targeted assistance
schools may participate in professional development
activities if such participation will result in better
addressing the needs of students served under this
part.

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

“(e) CONSORTIA.—In carrying out such professional
development programs, local educational agencies may
provide services through consortia arrangements with
other local educational agencies, educational service agen-
cies or other local consortia, institutions of higher edu-
cation, or other public or private institutions or organizations.

“(f) CONSOLIDATION OF FUNDS.—Funds provided under this part that are used for professional development purposes may be consolidated with funds provided under title II of this Act and other sources.

“(g) DEFINITION.—The term ‘fully qualified’ has the same meaning given such term in section 8101.

“(h) SPECIAL RULE.—No State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with respect to requirements under section 1116(c)(9).

“SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

“(a) GENERAL REQUIREMENT.—

“(1) IN GENERAL.—To the extent consistent with the number of eligible children identified under section 1115(b) in a local educational agency who are enrolled in private elementary and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other
benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs, and shall ensure that teachers and families of these students participate, on an equitable basis, in services and activities developed pursuant to sections 1118 and 1119A.

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

“(3) EQUITY.—Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part, and shall be provided in a timely manner.

“(4) EXPENDITURES.—Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools, which the local educational agency may determine each year or every 2 years.
“(5) Provision of Services.—The local educational agency shall provide services under this section directly or through contracts with public and private agencies, organizations, and institutions.

“(b) Consultation.—

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

“(A) how the children’s needs will be identified;

“(B) what services will be offered;

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

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

“(E) the size and scope of the equitable services to be provided to the eligible private school children, and the amount of funds generated by low-income private school children in each participating attendance area;

“(F) the method or sources of data that are used under subsection (a)(4) and section
1113(c)(2) to determine the number of children from low-income families in participating school attendance areas who attend private schools; and

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

If the local educational agency disagrees with the views of the private school officials on the provision of services, through a contract, the local educational agency shall provide in writing to such private school officials, an analysis of the reasons why the local educational agency has chosen not to use a contractor.

“(2) TIMING.—Such consultation shall include meetings of agency and private school officials and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part. Such meetings shall continue throughout implementation and assessment of services provided under this section.
“(3) DISCUSSION.—Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

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

“(5) COMPLIANCE.—Private school officials shall have the right to appeal to the State as to whether the consultation provided for in this section was meaningful and timely, and that due consideration was given to the views of private school officials. If the private school wishes to appeal, the basis of the claim of noncompliance with this section by a local educational agency shall be provided to the State, and the local educational agency shall forward the documentation provided in subsection (b)(4) to the State.

“(c) PUBLIC CONTROL OF FUNDS.—

“(1) IN GENERAL.—The control of funds provided under this part, and title to materials, equipment, and property purchased with such funds, shall
be in a public agency, and a public agency shall ad-

minister such funds and property.

“(2) Provision of services.—(A) The provi-

sion of services under this section shall be

provided—

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

“(ii) through contract by such public agen-

cy with an individual, association, agency, or or-

ganization.

“(B) In the provision of such services, such em-

ployee, person, association, agency, or organization

shall be independent of such private school and of

any religious organization, and such employment or

contract shall be under the control and supervision

of such public agency.

“(d) Standards for a bypass.—If a local edu-
cational agency is prohibited by law from providing for
the participation on an equitable basis of eligible children
enrolled in private elementary and secondary schools or
if the Secretary determines that a local educational agency
has substantially failed or is unwilling to provide for such
participation, as required by this section, the Secretary
shall—

“(1) arrange for the provision of services to

such children through arrangements that shall be
subject to the requirements of this section and sections 8505 and 8506; and

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

“(3) in making the determination, consider 1 or more factors, including the quality, size, scope, and location of the program and the opportunity of eligible children to participate.

“(e) CAPITAL EXPENSES.—

“(1) IN GENERAL.—(A) From the amount appropriated for this subsection under section 1002(e) for any fiscal year, each State is eligible to receive an amount that bears the same ratio to the amount so appropriated as the number of private school children who received services under this part in the State in the most recent year for which data satisfactory to the Secretary are available bears to the number of such children in all States in that same year.

“(B) The Secretary shall reallocate any amounts allocated under subparagraph (A) that are not used by a State for the purpose of this subsection to other States on the basis of their respective needs, as determined by the Secretary.
“(2) CAPITAL EXPENSES.—(A) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with this subsection.

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

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

“SEC. 1120A. FISCAL REQUIREMENTS.

“(a) MAINTENANCE OF EFFORT.—A local educational agency may receive funds under this part for any fiscal year only if the State educational agency finds that the local educational agency has maintained its fiscal effort in accordance with section 8501 of this Act.

“(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLEMENT, NON-FEDERAL FUNDS.—

“(1) IN GENERAL.—A State or local educational agency shall use funds received under this part only to supplement the amount of funds that would, in the absence of such Federal funds, be
made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

“(2) SPECIAL RULE.—No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency’s compliance with paragraph (1).

“(c) COMPARABILITY OF SERVICES.—

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

“(B) If the local educational agency is serving all of such agency’s schools under this part, such agency may receive funds under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.
“(C) A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.

“(2) Written Assurance.—(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if such agency has filed with the State educational agency a written assurance that such agency has established and implemented—

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

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

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

“(B) For the purpose of subparagraph (A), in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salary differentials for years of employment shall not be included in such determinations.
“(C) A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

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

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

“(B) maintain records that are updated biennially documenting such agency’s compliance with this subsection.

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

“(5) COMPLIANCE.—For the purpose of determining compliance with paragraph (1), a local educational agency may exclude State and local funds expended for—

“(A) English language instruction for children of limited English proficiency; and

“(B) excess costs of providing services to children with disabilities as determined by the local educational agency.
“(d) EXCLUSION OF FUNDS.—For the purpose of complying with subsections (b) and (c), a State or local educational agency may exclude supplemental State or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this part.

“SEC. 1120B. COORDINATION REQUIREMENTS.

“(a) IN GENERAL.—Each local educational agency receiving assistance under this part shall carry out the activities described in subsection (b) with Head Start Agencies, and if feasible, other early childhood development programs such as Early Reading First.

“(b) ACTIVITIES.—The activities referred to in subsection (a) are activities that increase coordination between the local educational agency and a Head Start agency, and, if feasible, other early childhood development programs, such as Early Reading First serving children who will attend the schools of such agency, including—

“(1) developing and implementing a systematic procedure for receiving records regarding such children transferred with parental consent from a Head Start program or, where applicable, other early childhood development programs such as Early Reading First;
“(2) establishing channels of communication between school staff and their counterparts in such Head Start agencies (including teachers, social workers, and health staff) or other early childhood development programs such as Early Reading First, as appropriate, to facilitate coordination of programs;

“(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers or, if appropriate, teachers from other early childhood development programs such as Early Reading First, to discuss the developmental and other needs of individual children;

“(4) organizing and participating in joint transition related training of school staff, Head Start staff, Early Reading First staff and, where appropriate, other early childhood staff; and

“(5) linking the educational services provided in such local educational agency with the services provided in local Head Start agencies and Early Reading First programs.

“(c) COORDINATION OF REGULATIONS.—The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this
part with regulations promulgated under the Head Start Act Amendments of 1994.

“Subpart 2—Allocations

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

“(a) Reservation of Funds.—From the amount appropriated for payments to States for any fiscal year under section 1002(a), the Secretary shall reserve a total of 1 percent to provide assistance to—

“(1) the outlying areas in the amount determined in accordance with subsection (b); and

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

“(b) Assistance to Outlying Areas.—

“(1) Funds reserved.—From the amount made available for any fiscal year under subsection (a), the Secretary shall award grants to the outlying areas.

“(2) Competitive Grants.—For fiscal years 2000 and 2001, the Secretary shall carry out the competition described in paragraph (3), except that the amount reserved to carry out such competition shall not exceed the amount reserved under this sec-
tion for the freely associated states for fiscal year
1999.

“(3) Limitation for competitive grants.—

“(A) Competitive grants.—The Secretary shall use funds described in paragraph
(2) to award grants, on a competitive basis, to
the outlying areas and freely associated States
to carry out the purposes of this part.

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

“(C) Administrative costs.—The Secretary may provide not more than 5 percent of
the amount reserved for grants under this para-
graph to pay the administrative costs of the Pa-
cific Region Educational Laboratory under sub-
paragraph (B).

“(4) Special rule.—The provisions of Public
Law 95–134, permitting the consolidation of grants
by the outlying areas, shall not apply to funds pro-
vided to the freely associated States under this sec-

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

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

“(2) the term ‘outlying area’ means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“(d) ALLOTMENT TO THE SECRETARY OF THE INTERIOR.—

“(1) IN GENERAL.—The amount allotted for payments to the Secretary of the Interior under subsection (a)(2) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—

“(A) Indian children on reservations served by elementary and secondary schools for Indian children operated or supported by the Department of the Interior; and

“(B) out-of-State Indian children in elementary and secondary schools in local educational agencies under special contracts with the Department of the Interior.
“(2) PAYMENTS.—From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of—

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

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

“SEC. 1122. AMOUNTS FOR BASIC GRANTS, CONCENTRATION GRANTS, AND TARGETED GRANTS.

“(a) ALLOCATION FORMULA.—Of the amount authorized to be appropriated to carry out this part for each of fiscal years 2002 through 2006 (referred to in this subsection as the current fiscal year)—

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

“(3) an amount equal to 100 percent of the amount, if any, by which the amount appropriated under section 1002(a) for the current fiscal year exceeds the amount appropriated under such section for fiscal year 2001 shall be allocated in accordance with section 1125.

“(b) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

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

“(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under sections 1124, 1124A, and 1125 for such fiscal year, allocations that were reduced under paragraph (1)
shall be increased on the same basis as they were re-
duced.

“(c) HOLD-HARMLESS AMOUNTS.—

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

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

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

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

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

“(2) AMOUNT FOR SECTION 1124A.—The
amount made available to each local educational
agency under section 1124A shall be not less than
85 percent of the amount made available in the pre-
ceeding fiscal year.

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

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

“(d) **Ratable Reductions.**—

“(1) **In General.**—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under subsection (c) for such year, the Secretary shall ratably reduce such amounts for such year.

“(2) **Additional Funds.**—If additional funds become available for making payments under subsection (c) for such fiscal year, amounts that were reduced under paragraph (1) shall be increased on the same basis as such amounts were reduced.

“(e) **Definition.**—For the purpose of this section and sections 1124, 1124A, and 1125, the term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

**“SEC. 1124. Basic Grants to Local Educational Agencies.”**

“(a) **Amount of Grants.**—

“(1) **Grants for Local Educational Agencies and Puerto Rico.**—Except as provided in paragraph (4) and in section 1126, the grant that a local educational agency is eligible to receive under
this section for a fiscal year is the amount determined by multiplying—

“(A) the number of children counted under subsection (c); and

“(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent or more than 48 percent, of the average per-pupil expenditure in the United States.

“(2) CALCULATION OF GRANTS.—

“(A) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—The Secretary shall calculate grants under this section on the basis of the number of children counted under subsection (c) for local educational agencies, unless the Secretary and the Secretary of Commerce determine that some or all of those data are unreliable or that their use would be otherwise inappropriate, in which case—

“(i) the 2 Secretaries shall publicly disclose the reasons for their determination in detail; and

“(ii) paragraph (3) shall apply.
“(B) ALLOCATIONS TO LARGE AND SMALL
LOCAL EDUCATIONAL AGENCIES.—(i) For any
fiscal year in which this paragraph applies, the
Secretary shall calculate grants under this sec-
tion for each local educational agency.

“(ii) The amount of a grant under this
section for each large local educational agency
shall be the amount determined under clause
(i).

“(iii) For small local educational agencies,
the State educational agency may either—

“(I) distribute grants under this sec-
tion in amounts determined by the Sec-
retary under clause (i); or

“(II) use an alternative method ap-
proved by the Secretary to distribute the
portion of the State’s total grants under
this section that is based on those small
agencies.

“(iv) An alternative method under clause
(iii)(II) shall be based on population data that
the State educational agency determines best
reflect the current distribution of children in
poor families among the State’s small local edu-
cational agencies that meet the eligibility criteria of subsection (b).

“(v) If a small local educational agency is dissatisfied with the determination of its grant by the State educational agency under clause (iii)(II), it may appeal that determination to the Secretary, who shall respond not later than 45 days after receipt of such appeal.

“(vi) As used in this subparagraph—

“(I) the term ‘large local educational agency’ means a local educational agency serving an area with a total population of 20,000 or more; and

“(II) the term ‘small local educational agency’ means a local educational agency serving an area with a total population of less than 20,000.

“(3) ALLOCATIONS TO COUNTIES.—

“(A) CALCULATION.—For any fiscal year to which this paragraph applies, the Secretary shall calculate grants under this section on the basis of the number of children counted under section 1124(c) for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in ac-
cordance with regulations issued by the Secretary.

“(B) DIRECT ALLOCATIONS.—In any State in which a large number of local educational agencies overlap county boundaries, or for which the State believes it has data that would better target funds than allocating them by county, the State educational agency may apply to the Secretary for authority to make the allocations under this part for a particular fiscal year directly to local educational agencies without regard to counties.

“(C) ASSURANCES.—If the Secretary approves the State educational agency’s application under subparagraph (B), the State educational agency shall provide the Secretary an assurance that such allocations shall be made—

“(i) using precisely the same factors for determining a grant as are used under this part; or

“(ii) using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.
“(D) APPEAL.—The State educational agency shall provide the Secretary an assurance that it shall establish a procedure through which a local educational agency that is dissatisfied with its determinations under subparagraph (B) may appeal directly to the Secretary for a final determination.

“(4) PUERTO RICO.—

“(A) IN GENERAL.—For each fiscal year, the grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section shall be the amount determined by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

“(i) the percentage which the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

“(ii) 32 percent of the average per-pupil expenditure in the United States.

“(B) MINIMUM PERCENTAGE.—The percentage in subparagraph (A)(i) shall not be less than—
“(i) for fiscal year 2002, 77.5 percent;
“(ii) for fiscal year 2003, 80.0 percent;
“(iii) for fiscal year 2004, 82.5 percent; and
“(iv) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.
“(C) LIMITATION.—If the application of subparagraph (B) would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, the percentage in subparagraph (A) shall be the greater of the percentage in subparagraph (A)(i) or the percentage used for the preceding fiscal year.
“(5) DEFINITION.—For purposes of this subsection, the term ‘State’ does not include Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands.
“(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency is eligible for a basic grant under this section for any fiscal year only if the number of children counted under subsection (c) for that agency is both—
“(1) 10 or more; and
“(2) more than 2 percent of the total school-age population in the agency’s jurisdiction.

“(c) CHILDREN TO BE COUNTED.—

“(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section is the aggregate of—

“(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2);

“(B) the number of children (determined under paragraph (4) for either the preceding year as described in that paragraph, or for the second preceding year, as the Secretary finds appropriate) aged 5 to 17, inclusive, in the school district of such agency in institutions for neglected and delinquent children (other than such institutions operated by the United States), but not counted pursuant to subpart 1 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds; and

“(C) the number of children aged 5 to 17, inclusive, in the school district of such agency
from families above the poverty level as determined under paragraph (4).

“(2) Determination of number of children.—For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data, described in paragraph (3), available from the Department of Commerce. The District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains 2 or more counties in their entirety, then each county will be treated as if such county were a separate local educational agency for purposes of calculating grants under this part. The total of grants for such counties shall be allocated to such a local educational agency, which local educational agency shall distribute to schools in each county within such agency a share of the local educational agency’s total grant that is no less than the county’s share of the population counts used to calculate the local educational agency’s grant.

“(3) Population updates.—In fiscal year 2001 and every 2 years thereafter, the Secretary shall use updated data on the number of children,
aged 5 to 17, inclusive, from families below the pov-
erty level for local educational agencies or counties,
published by the Department of Commerce, unless
the Secretary and the Secretary of Commerce deter-
mine that use of the updated population data would
be inappropriate or unreliable. If the Secretary and
the Secretary of Commerce determine that some or
all of the data referred to in this paragraph are in-
appropriate or unreliable, they shall publicly disclose
their reasons. In determining the families which are
below the poverty level, the Secretary shall utilize
the criteria of poverty used by the Bureau of the
Census in compiling the most recent decennial cen-
sus, in such form as those criteria have been up-
dated by increases in the Consumer Price Index for
all urban consumers, published by the Bureau of
Labor Statistics.

“(4) OTHER CHILDREN TO BE COUNTED.—For
the purposes of this section, the Secretary shall de-
terminate the number of children aged 5 to 17, inclu-
sive, from families above the poverty level on the
basis of the number of such children from families
receiving an annual income, in excess of the current
criteria of poverty, from payments under a State
program funded under part A of title IV of the So-
cial Security Act; and in making such determina-
tions the Secretary shall utilize the criteria of pov-
erty used by the Bureau of the Census in compiling
the most recent decennial census for a family of 4
in such form as those criteria have been updated by
increases in the Consumer Price Index for all urban
consumers, published by the Bureau of Labor Statis-
tics. The Secretary shall determine the number of
such children and the number of children aged 5
through 17 living in institutions for neglected or de-
linquent children, or being supported in foster homes
with public funds, on the basis of the caseload data
for the month of October of the preceding fiscal year
(using, in the case of children described in the pre-
ceding sentence, the criteria of poverty and the form
of such criteria required by such sentence which
were determined for the calendar year preceding
such month of October) or, to the extent that such
data are not available to the Secretary before Janu-
ary of the calendar year in which the Secretary’s de-
termination is made, then on the basis of the most
recent reliable data available to the Secretary at the
time of such determination. The Secretary of Health
and Human Services shall collect and transmit the
information required by this subparagraph to the
Secretary not later than January 1 of each year.

For the purpose of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

“(5) Estimate.—When requested by the Secretary, the Secretary of Commerce shall make a special updated estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information.

“(d) State Minimum.—Notwithstanding section 1122, the aggregate amount allotted for all local educational agencies within a State may not be less than the lesser of—

“(1) 0.25 percent of total grants under this section; or

“(2) the average of—
“(A) one-quarter of 1 percent of the total amount available for such fiscal year under this section; and

“(B) the number of children in such State counted under subsection (c) in the fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that year.

“SEC. 1124A. CONCENTRATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.

“(a) Eligibility for and Amount of Grants.—

“(1) IN GENERAL.—(A) Except as otherwise provided in this paragraph, each local educational agency, in a State other than Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, which is eligible for a grant under section 1124 for any fiscal year is eligible for an additional grant under this section for that fiscal year if the number of children counted under section 1124(c) in the agency exceeds either—

“(i) 6,500; or

“(ii) 15 percent of the total number of children aged 5 through 17 in the agency.
“(B) Notwithstanding section 1122, no State described in subparagraph (A) shall receive less than the lesser of—

“(i) 0.25 percent of total grants; or

“(ii) the average of—

“(I) one-quarter of 1 percent of the sums available to carry out this section for such fiscal year; and

“(II) the greater of—

“(aa) $340,000; or

“(bb) the number of children in such State counted for purposes of this section in that fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that year.

“(2) SPECIAL RULE.—For each county or local educational agency eligible to receive an additional grant under this section for any fiscal year the Secretary shall determine the product of—

“(A) the number of children counted under section 1124(c) for that fiscal year; and

“(B) the quotient resulting from the division of the amount determined for those agen-
cies under section 1124(a)(1) for the fiscal year
for which the determination is being made di-
vided by the total number of children counted
under section 1124(c) for that agency for that
fiscal year.

“(3) AMOUNT.—The amount of the additional
grant for which an eligible local educational agency
or county is eligible under this section for any fiscal
year shall be an amount which bears the same ratio
to the amount available to carry out this section for
that fiscal year as the product determined under
paragraph (2) for such local educational agency for
that fiscal year bears to the sum of such products
for all local educational agencies in the United
States for that fiscal year.

“(4) LOCAL ALLOCATIONS.—(A) Grant
amounts under this section shall be determined in
accordance with section 1124(a)(2) and (3).

“(B) For any fiscal year for which the Sec-
retary allocates funds under this section on the basis
of counties, a State may reserve not more than 2
percent of its allocation under this section to make
grants to local educational agencies that meet the
criteria of paragraph (1)(A)(i) or (ii) and are in in-
eligible counties that do not meet these criteria.
“(b) States Receiving Minimum Grants.—In States that receive the minimum grant under subsection (a)(1)(B), the State educational agency shall allocate such funds among the local educational agencies in each State either—

“(1) in accordance with paragraphs (2) and (4) of subsection (a); or

“(2) based on their respective concentrations and numbers of children counted under section 1124(c), except that only those local educational agencies with concentrations or numbers of children counted under section 1124(c) that exceed the statewide average percentage of such children or the statewide average number of such children shall receive any funds on the basis of this paragraph.

“SEC. 1125. TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES.

“(a) Eligibility of Local Educational Agencies.—A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if the number of children in the local educational agency counted under subsection 1124(c), before application of the weighting factor described in subsection (e), is at least 10, and if the number of children counted for grants under section 1124 is at least 5 percent of the total
population aged 5 to 17 years, inclusive, in the local educational agency. For each fiscal year for which the Secretary uses county population data to calculate grants, funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

“(b) Grants for Local Educational Agencies, the District of Columbia, and Puerto Rico.—

“(1) In general.—The amount of the grant that a local educational agency in a State or that the District of Columbia is eligible to receive under this section for any fiscal year shall be the product of—

“(A) the weighted child count determined under subsection (c); and

“(B) the amount in paragraph 1124(a)(1)(B).

“(2) Puerto Rico.—For each fiscal year, the amount of the grant for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to the number of children counted under subsection (c) for Puerto Rico, multiplied by the amount determined in subparagraph 1124(a)(4).

“(c) Weighted Child Count.—
“(1) **Weights for allocations to counties.**—

“(A) **In general.**—For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county’s allocation under this section is the larger of the 2 amounts determined under clause (i) or (ii), as follows:

“(i) **By percentage of children.**—This amount is determined by adding—

“(I) the number of children determined under section 1124(e) for that county constituting up to 15 percent, inclusive, of the county’s total population aged 5 to 17, inclusive, multiplied by 1.0;

“(II) the number of such children constituting more than 15 percent, but not more than 19 percent, of such population, multiplied by 1.75;

“(III) the number of such children constituting more than 19 percent, but not more than 24.20 per-
cent, of such population, multiplied by 2.5;

“(IV) the number of such children constituting more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25; and

“(V) the number of such children constituting more than 29.20 percent of such population, multiplied by 4.0.

“(ii) BY NUMBER OF CHILDREN.—

This amount is determined by adding—

“(I) the number of children determined under section 1124(c) constituting up to 2,311, inclusive, of the county’s total population aged 5 to 17, inclusive, multiplied by 1.0;

“(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

“(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;
“(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

“(V) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

“(B) PUERTO RICO.—Notwithstanding subparagraph (A), the weighted child count for Puerto Rico under this paragraph shall not be greater than the total number of children counted under subsection 1124(c) multiplied by 1.72.

“(2) WEIGHTS FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—

“(A) IN GENERAL.—For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency’s grant under this section is the larger of the 2 amounts determined under clauses (i) and (ii), as follows:

“(i) BY PERCENTAGE OF CHILDREN.—This amount is determined by adding—
“(I) the number of children determined under section 1124(e) for that local educational agency constituting up to 15.233 percent, inclusive, of the agency’s total population aged 5 to 17, inclusive, multiplied by 1.0;  
“(II) the number of such children constituting more than 15.233 percent, but not more than 22.706 percent, of such population, multiplied by 1.75;  
“(III) the number of such children constituting more than 22.706 percent, but not more than 32.213 percent, of such population, multiplied by 2.5;  
“(IV) the number of such children constituting more than 32.213 percent, but not more than 41.452 percent, of such population, multiplied by 3.25; and  
“(V) the number of such children constituting more than 41.452 percent of such population, multiplied by 4.0.
“(ii) By number of children.—

This amount is determined by adding—

“(I) the number of children determined under section 1124(c) constituting up to 710, inclusive, of the agency’s total population aged 5 to 17, inclusive, multiplied by 1.0;

“(II) the number of such children between 711 and 2,384, inclusive, in such population, multiplied by 1.5;

“(III) the number of such children between 2,385 and 9,645, inclusive, in such population, multiplied by 2.0;

“(IV) the number of such children between 9,646 and 54,600, inclusive, in such population, multiplied by 2.5; and

“(V) the number of such children in excess of 54,601 in such population, multiplied by 3.0.

“(B) Puerto Rico.—Notwithstanding subparagraph (A), the weighted child count for Puerto Rico under this paragraph shall not be greater than the total number of children
counted under section 1124(c) multiplied by 1.72.

“(d) Calculation of Grant Amounts.—Grants under this section shall be calculated in accordance with section 1124(a)(2) and (3).

“(e) State Minimum.—Notwithstanding any other provision of this section or section 1122, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

“(1) 0.25 percent of total appropriations; or

“(2) the average of—

“(A) one-quarter of 1 percent of the total amount available to carry out this section; and

“(B) 150 percent of the national average grant under this section per child described in section 1124(c), without application of a weighting factor, multiplied by the State’s total number of children described in section 1124(c), without application of a weighting factor.

“SEC. 1126. SPECIAL ALLOCATION PROCEDURES.

“(a) Allocations for Neglected Children.—

“(1) In general.—If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the
special educational needs of children who are living
in institutions for neglected children as described in
subparagraph (B) of section 1124(c)(1), the State
educational agency shall, if such agency assumes re-
ponsibility for the special educational needs of such
children, receive the portion of such local educational
agency’s allocation under sections 1124, 1124A, and
1125 that is attributable to such children.

“(2) SPECIAL RULE.—If the State educational
agency does not assume such responsibility, any
other State or local public agency that does assume
such responsibility shall receive that portion of the
local educational agency’s allocation.

“(b) ALLOCATIONS AMONG LOCAL EDUCATIONAL
AGENCIES.—The State educational agency may allocate
the amounts of grants under sections 1124, 1124A, and
1125 among the affected local educational agencies—

“(1) if 2 or more local educational agencies
serve, in whole or in part, the same geographical
area;

“(2) if a local educational agency provides free
public education for children who reside in the
school district of another local educational agency;
or
“(3) to reflect the merger, creation, or change of boundaries of 1 or more local educational agencies.

“(c) REALLOCATION.—If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 1124, 1124A, and 1125 is more than such local agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

“SEC. 1127. CARRYOVER AND WAIVER.

“(a) LIMITATION ON CARRYOVER.—Notwithstanding section 421 of the General Education Provisions Act or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for 1 additional fiscal year.

“(b) WAIVER.—A State educational agency may, once every 3 years, waive the percentage limitation in subsection (a) if—
“(1) the agency determines that the request of
a local educational agency is reasonable and nec-
essary; or
“(2) supplemental appropriations for this sub-
part become available.
“(c) EXCLUSION.—The percentage limitation under
subsection (a) shall not apply to any local educational
agency that receives less than $50,000 under this subpart
for any fiscal year.

“SEC. 1128. SECULAR, NEUTRAL, AND NONIDEOLOGICAL.

“Any school that receives funds under this part shall
ensure that educational services or other benefits provided
under this part, including materials and equipment, shall
be secular, neutral, and nonideological.”.

PART B—STUDENT READING SKILLS

IMPROVEMENT GRANTS

SEC. 111. READING FIRST; EARLY READING FIRST.

Part B of title I (20 U.S.C. 6361 et seq.) is
amended—

(1) by striking the part heading and inserting
the following:
“PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS”;

(2) by redesignating sections 1201 through 1212 as sections 1231 through 1242, respectively; and

(3) by inserting after the part heading the following:

“Subpart 1—Reading First

“SEC. 1201. FINDINGS.

“The Congress finds as follows:

“(1) The 1998 National Assessment of Educational Progress found that 68 percent of fourth grade students in the United States are reading below the proficient level.

“(2) That assessment also found that minority students, on average, continue to lag far behind their non-minority counterparts in reading proficiency.

“(3) More than ½ of the students placed in special education classes are identified as learning disabled and, for as many as 80 percent of the students so identified, reading is the primary difficulty.

“(4) It is estimated that, at a minimum, 10,000,000 children have difficulty learning to read.

10 to 15 percent of those children eventually drop
out of high school, and only 2 percent complete a 4-
year program at an institution of higher education.

“(5) It is estimated that the number of children
who are typically identified as poor readers can be
significantly reduced through the implementation of
early identification and prevention programs that
are based on scientifically based reading research.

“(6) The report issued by the National Reading
Panel in 2000 found that the course of reading in-
struction that obtains maximum benefits for stu-
dents includes explicit and systematic instruction in
phonemic awareness, phonics, vocabulary develop-
ment, reading fluency, and reading comprehension
strategies.

“SEC. 1202. PURPOSES.

“The purposes of this subpart are as follows:

“(1) To provide assistance to States and local
educational agencies in establishing reading pro-
grams for students in grades kindergarten through
3 that are based on scientifically based reading re-
search, in order to ensure that every student can
read at grade level or above by the end of the third
grade.

“(2) To provide assistance to States and local
educational agencies in preparing teachers, through
professional development and other support, so the teachers can identify specific reading barriers facing their students and so the teachers have the tools to effectively help their students learn to read.

“(3) To provide assistance to States and local educational agencies in selecting or developing rigorous diagnostic reading assessments that document the effectiveness of this subpart in improving students’ reading and in holding grant and subgrant recipients accountable for their results.

“(4) To provide assistance to States and local educational agencies in selecting or developing effective instructional materials, programs, and strategies to implement scientific research-based methods that have been proven to prevent or remediate reading failure within a State or States.

“(5) To strengthen coordination among schools and early literacy programs in order to improve reading achievement for all children.

“SEC. 1203. FORMULA GRANTS TO STATES; COMPETITIVE SUBGRANTS TO LOCAL AGENCIES.

“(a) IN GENERAL.—

“(1) AUTHORIZATION TO MAKE GRANTS.—In the case of each State that in accordance with section 1204 submits to the Secretary an application
for a 5-year period, the Secretary, subject to the application’s approval, shall make a grant to the State for the uses specified in subsections (c) and (d). The grant shall consist of the allotment determined for the State under subsection (b).

“(2) DURATION OF GRANTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), a grant under this section shall be awarded for a period of not more than 5 years.

“(B) INTERIM REVIEW.—Not later than 60 days after the termination of the third year of the grant period, each State receiving a grant under this section shall submit a progress report to the Secretary on the progress the State and local educational agencies within the State are making in reducing the number of students reading below grade level. The progress report shall be reviewed by the peer review panel convened under section 1204(c)(2). After the submission of this report, if the Secretary determines that the State is not making significant progress in meeting the purposes of this subpart, the Secretary may withhold from the State, in whole or in part, further payments under this section in accordance with section
455 of the General Education Provisions Act
(20 U.S.C. 1234d) or take such other action
authorized by law as the Secretary deems nec-
essary, including providing technical assistance
upon request of the State.

“(b) Determination of Amount of Allot-
ments.—

“(1) Reservations from appropriations.—
From the amounts appropriated under section
1002(b)(1) to carry out this subpart for a fiscal
year, the Secretary—

“(A) shall reserve \( \frac{1}{2} \) of 1 percent for allot-
ments for the Virgin Islands, Guam, American
Samoa, and the Commonwealth of the Northern
Mariana Islands, to be distributed among these
outlying areas on the basis of their relative
need, as determined by the Secretary in accord-
ance with the purposes of this subpart;

“(B) shall reserve \( \frac{1}{2} \) of 1 percent for the
Secretary of the Interior for programs under
this subpart in schools operated or funded by
the Bureau of Indian Affairs;

“(C) may reserve not more than 1 percent
to carry out section 1207; and
“(D) shall reserve $5,000,000 to carry sections 1208 and 1224.

“(2) State allotments.—From the total amount made available under section 1002(b)(1) to carry out this subpart for any fiscal year and not reserved under paragraph (1), the Secretary shall allot 75 percent under this section among each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

“(3) Determination of state allotment amounts.—

“(A) In general.—Subject to subparagraph (B), the Secretary shall allot the amount made available under paragraph (2) for a fiscal year among the States in proportion to the number of children, aged 5 to 17, who reside within the State from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which satisfactory data are available, compared
to the number of such individuals who reside in all such States for that fiscal year.

“(B) EXCEPTION.—No State receiving an allotment under subparagraph (A) may receive less than \( \frac{1}{4} \) of 1 percent of the total amount allotted under subparagraph (A).

“(4) REALLOTMENT.—If any State does not apply for an allotment under this section for any fiscal year, or if the State’s application is not approved, the Secretary shall reallocate such amount to the remaining States in accordance with paragraph (3).

“(d) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

“(1) DISTRIBUTION OF SUBGRANTS.—The Secretary may make a grant to a State under this section only if the State agrees to expend at least 80 percent of the amount of the funds provided under the grant for the purpose of making, in accordance with this subsection, competitive subgrants to local educational agencies.

“(2) NOTICE.—A State receiving a grant under this section shall provide notice to all local educational agencies in the State of the availability of...
competitive subgrants under this subsection and of the requirements for applying for the subgrants.

“(3) LOCAL APPLICATIONS.—To be eligible to receive a subgrant under this subsection, a local educational agency shall submit an application to the State at such time, in such manner, and containing such information as the State may reasonably require.

“(4) PRIORITY FOR CERTAIN LOCAL AGENCIES.—A State receiving a grant under this section shall, in distributing subgrants to local educational agencies, give priority to local educational agencies that—

“(A) have a high percentage of students in grades kindergarten through 3 reading below grade level;

“(B) have jurisdiction over—

“(i) a geographic area that includes an area designated as an empowerment zone, or an enterprise community, under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986; or

“(ii) a significant number of schools that are identified for school improvement under section 1116(b); and
“(C) are located in areas having the greatest numbers of children aged 5 through 17 living in families below the poverty line, as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

“(5) STATE REQUIREMENT.—In distributing subgrant funds to local educational agencies under this subsection, a State shall provide funds in sufficient concentrations to enable local educational agencies to improve reading, as measured by scores on rigorous diagnostic reading assessments.

“(6) PRIORITY FOR CERTAIN SCHOOLS.—In distributing subgrant funds under this subsection, a local educational agency shall give priority to providing the funds to schools that—

“(A) have a high percentage of students in grades kindergarten through 3 reading below grade level;

“(B) are identified for school improvement under section 1116(b); and

“(C) have the greatest numbers of children aged 5 through 17 living in families below the poverty line, as defined by the Office of Man-

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agement and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

“(7) LOCAL USES OF FUNDS.—Subject to paragraph (8), a local educational agency that receives a subgrant under this subsection shall use the funds provided under the subgrant to carry out the following activities:

“(A) Selecting or developing, and administering, rigorous diagnostic reading assessments.

“(B) Selecting and implementing a program or programs of reading instruction based on scientifically based reading research that—

“(i) includes the essential components of reading instruction; and

“(ii) provides such instruction to all children, including children who—

“(I) may have reading difficulties;

“(II) are at risk of being referred to special education based on these difficulties;
“(III) have been evaluated under section 614 of the Individuals with Disabilities Education Act but, in accordance with section 614(b)(5) of such Act, have not been identified as being a child with a disability (as defined in section 602 of such Act);

“(IV) are being served under such Act primarily due to being identified as being a child with a specific learning disability (as defined in section 602 of such Act) related to reading;

“(V) are deficient in their phonemic awareness and phonics skills; or

“(VI) are identified as having limited English proficiency.

“(C) Procuring instructional materials based on scientifically based reading research.

“(D) Providing professional development for teachers of grades kindergarten through 3 that—

“(i) will prepare these teachers in all of the essential components of reading instruction;
“(ii) shall include—

“(I) information, instructional materials, programs, strategies, and approaches based on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches; and

“(II) instruction in the use of rigorous diagnostic reading assessments and other procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading; and

“(iii) shall be provided by eligible professional development providers.

“(E) Providing training to individuals who volunteer to be reading tutors for a student on the essential components of reading instruction to enable such volunteers to support instructional practices of the student’s teacher.

“(F) Providing instruction for parents of children enrolled in a school selected to receive assistance under this section, and for others who volunteer to be reading tutors for such
children, in the instructional practices that are based on scientifically based reading research used by the applicant.

“(G) Assisting parents, through the use of materials, programs, strategies, and approaches that are based on scientifically based reading research, to help support their children’s reading development.

“(H) Collecting and summarizing data from rigorous diagnostic reading assessments—

“(i) to document the effectiveness of this subpart in individual schools and in the local educational agency as a whole; and

“(ii) to stimulate and accelerate improvement by identifying the schools that produce the largest gains in reading achievement.

“(I) Reporting aggregated data described in subparagraph (H) in a manner that protects the privacy of individuals—

“(i) to the State; and

“(ii) to the public, including parents and students, through such means as the Internet and major print and broadcast
media outlets or other journal of public
record.

“(8) LOCAL PLANNING AND ADMINISTRA-
TION.—A local educational agency that receives a
subgrant under this subsection may use not more
than 2 percent of the funds provided under the
subgrant for planning and administration.

“(e) OTHER STATE USES OF FUNDS.—

“(1) PROFESSIONAL DEVELOPMENT.—

“(A) IN GENERAL.—A State that receives
a grant under this section may expend not more
than 15 percent of the amount of the funds
provided under the grant to develop and imple-
ment a program of professional development for
teachers of kindergarten through third grades
that—

“(i) will prepare these teachers in all
of the essential components of reading in-
struction;

“(ii) shall include—

“(I) information on interventions,
instructional materials, programs, and
approaches based on scientifically
based reading research, including
early intervention and reading remedi-
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ation materials, programs, and ap-
proaches; and

“(II) instruction in the use of
rigorous diagnostic reading assess-
ments and other procedures that ef-
fectively identify students who may be
at risk for reading failure or who are
having difficulty reading; and

“(iii) shall be provided by eligible pro-
fessional development providers.

“(B) FUNDS NOT USED FOR PROFES-
sIONAL DEVELOPMENT.—Any portion of the
funds described in subparagraph (A) that a
State does not expend to develop and implement
a program described in such subparagraph shall
be expended for the purpose of making sub-
grants in accordance with subsection (c).

“(2) OTHER STATE-LEVEL ACTIVITIES.—A
State that receives a grant under this section may
expend not more than 3 percent of the amount of
the funds provided under the grant for one or more
of the following authorized State activities:

“(A) Assisting local educational agencies in
accompanying the tasks required to design and
implement a program under this subpart, including—

“(i) selecting and implementing a program or programs of reading instruction based on scientifically based reading research;

“(ii) selecting or developing rigorous diagnostic reading assessments; and

“(iii) identifying eligible professional development providers to help prepare reading teachers to teach students using the programs and assessments described in clauses (i) and (ii);

“(B) Providing to students in kindergarten through third grades through alternative providers reading instruction that includes—

“(i) rigorous diagnostic reading assessments; and

“(ii) as need is indicated by such assessments, instruction based on scientifically based reading research that includes the essential components of reading instruction.

“(3) PLANNING, ADMINISTRATION, AND REPORTING.—
“(A) IN GENERAL.—A State that receives a grant under this section shall expend not more than 2 percent of the amount of the funds provided under the grant for the activities described in this paragraph.

“(B) PLANNING AND ADMINISTRATION.—A State that receives a grant under this section may expend funds described in subparagraph (A) for planning and administration relating to the State uses of funds authorized under this subpart, including the following:

“(i) Administering the distribution of competitive subgrants to local educational agencies under this section and sections 1205 and 1206.

“(ii) Collecting and summarizing data from rigorous diagnostic reading assessments—

“(I) to document the effectiveness of this subpart in individual local educational agencies and in the State as a whole; and

“(II) to stimulate and accelerate improvement by identifying the local
educational agencies that produce the largest gains in reading achievement.

“(C) ANNUAL REPORTING.—

“(i) IN GENERAL.—A State that receives a grant under this section shall expend funds provided under the grant to provide the Secretary annually with a report on the implementation of this subpart. The report shall include evidence that the State is fulfilling its obligations under this subpart. The report shall also include the data required under subsection (c)(7)(I) to be reported to the State by local educational agencies. The report shall include a specific identification of those local educational agencies that report the largest gains in reading achievement.

“(ii) PRIVACY PROTECTION.—Data in the report shall be set forth in a manner that protects the privacy of individuals.

“(iii) CONTRACT.—To the extent practicable, a State shall enter into a contract with an entity that conducts scientifically based reading research, under which contract the entity will produce the reports
“SEC. 1204. STATE FORMULA GRANT APPLICATIONS.

“(a) IN GENERAL.—A State that desires to receive a grant under section 1203 shall submit an application to the Secretary at such time and in such form as the Secretary may require. The application shall contain the information described in subsection (b).

“(b) CONTENTS.—An application under this section shall contain the following:

“(1) An assurance that the Governor of the State, in consultation with the State educational agency, has established a reading partnership described in subsection (d), and a description of how such partnership—

“(A) coordinated the development of the application; and

“(B) will assist in the oversight and evaluation of the State’s activities under this subpart.

“(2) An assurance that the State will submit to the Secretary, at such time and in such manner as the Secretary may reasonably require, a State plan containing a description of a process—
“(A) to evaluate programs carried out by local educational agencies under this subpart;

“(B) to assist local educational agencies in identifying rigorous diagnostic reading assessments; and

“(C) to assist local educational agencies in identifying interventions, and instructional materials, programs and approaches, based on scientifically based reading research, including early intervention and reading remediation materials, programs and approaches.

“(c) APPROVAL OF APPLICATIONS.—

“(1) IN GENERAL.—The Secretary, in consultation with the peer review panel convened under paragraph (2), shall approve an application of a State under this section if such application meets the requirements of this section.

“(2) PEER REVIEW.—

“(A) IN GENERAL.—The Secretary, in consultation with the National Institute for Literacy, shall convene a panel to evaluate applications under this section. At a minimum, the panel shall include—

“(i) 3 individuals selected by the Secretary;
“(ii) 3 individuals selected by the National Institute for Literacy;

“(iii) 3 individuals selected by the National Research Council of the National Academy of Sciences; and

“(iv) 3 individuals selected by the National Institute of Child Health and Human Development.

“(B) EXPERTS.—The panel shall include experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this section, and experts who provide professional development to teachers of reading to children and adults, and experts who provide professional development to other instructional staff, based on scientifically based reading research.

“(C) RECOMMENDATIONS.—The panel shall recommend grant applications from States under this section to the Secretary for funding or for disapproval.

“(d) READING PARTNERSHIPS.—

“(1) IN GENERAL.—In order for a State to receive a grant under section 1203, the Governor of the State, in consultation with the State educational
agency, shall establish a reading partnership. The partnership shall consist of the participants described in paragraphs (2), (3), and (4).

“(2) AUTOMATIC PARTICIPANTS.—The reading partnership shall include the following participants:

“(A) The Governor of the State.

“(B) The chief State school officer.

“(C) The chairman and the ranking member of each committee of the State legislature that is responsible for elementary education.

“(3) APPOINTED BY GOVERNOR.—The following members of the reading partnership shall be appointed by the Governor:

“(A) Parents of public, private, or home schooled students who are knowledgeable about the essential components of reading instruction.

“(B) A representative of an institution of higher education operating a program of teacher preparation in which prospective reading teachers are being taught the essential components of reading instruction.

“(C) A representative of a literacy volunteer organization where the essential components of reading instruction are being taught to students or adults.
(D) A representative of a school.

(E) A representative of a public library.

(4) APPOINTED BY CHIEF SCHOOL OFFICER.—

The following members of the reading partnership shall be appointed by the chief State school officer:

(A) A teacher and reading specialist who successfully teaches students to read using the essential components of reading instruction.

(B) Representatives of at least 2 local educational agencies where the essential components of reading instruction are being taught.

(C) A representative of a community-based organization where the essential components of reading instruction are being taught.

(D) State directors of appropriate Federal or State programs where the essential components of reading instruction are being taught, especially in programs under part A and the Individuals with Disabilities Education Act.

SEC. 1205. SUPPLEMENTAL GRANTS TO STATES; COMPETITIVE SUBGRANTS TO LOCAL AGENCIES.

(a) IN GENERAL.—In the case of a State that in accordance with subsection (c) submits to the Secretary an application for fiscal year 2002 or 2003, the Secretary may make a grant for the year to the State for the use
specified in subsection (d). The grant shall consist of the
allotment determined for the State under subsection (b).

“(b) Determination of Amount of Allotment.—

“(1) In general.—From the total amount
made available under section 1002(b)(1) to carry out
this subpart for any fiscal year referred to in sub-
section (a) that is not reserved under section
1203(b)(1), the Secretary may allot 25 percent
under this section among each of the 50 States, the
District of Columbia, and the Commonwealth of
Puerto Rico.

“(2) State Allotments.—In carrying out
paragraph (1), the Secretary may allot such funds
according to such criteria as the Secretary considers
appropriate and consistent with the purposes of this
subpart and based on the recommendations of the
peer review panel convened under section
1204(c)(2).

“(c) State Applications.—

“(1) In general.—A State that desires to re-
ceive a grant under this section shall submit an ap-
pllication to the Secretary at such time, in such
form, and containing such information as the Sec-
retary may require.
“(2) Peer Review.—The peer review panel convened under section 1204(e)(2) shall evaluate grant applications from States under this section. The panel shall recommend such applications to the Secretary for funding or for disapproval.

“(d) Subgrants to Local Educational Agencies.—

“(1) In General.—The Secretary may make a grant to a State under this section only if the State agrees to expend 100 percent of the amount of the funds provided under the grant for the purpose of making competitive subgrants in accordance with this subsection to local educational agencies.

“(2) Notice.—A State receiving a grant under this section shall provide notice to all local educational agencies in the State of the availability of competitive subgrants under this subsection and of the requirements for applying for the subgrants.

“(3) Local Applications.—To be eligible to receive a subgrant under this subsection, a local educational agency shall submit an application to the State at such time, in such manner, and containing such information as the State may reasonably require.
“(4) DISTRIBUTION.—A State shall distribute funds under this section according to such criteria as the State considers appropriate and consistent with the purposes of this subpart giving special attention to those local educational agencies that are making a good faith effort to improve reading skills consistent with this subpart.

“(5) LOCAL USES OF FUNDS.—A local educational agency that receives a subgrant under this subsection—

“(A) shall use the funds provided under the subgrant to carry out the activities described in subparagraphs (A) through (D) of section 1203(c)(7); and

“(B) may use such funds to carry out the activities described in subparagraphs (E) through (H) of such section.

“(e) SUNSET.—This section is repealed on September 30, 2003.

“SEC. 1206. PERFORMANCE GRANTS TO STATES; COMPETITIVE SUBGRANTS TO LOCAL AGENCIES.

“(a) IN GENERAL.—In the case of a State that in accordance with subsection (c) submits to the Secretary an application for any fiscal year after fiscal year 2003, the Secretary may make a grant for the year to the State
for the use specified in subsection (d). The grant shall con-
sist of the allotment determined for the State under sub-
section (b).

“(b) **Determination of Amount of Allot-
ment.**—

“(1) **In general.**—From the total amount
made available under section 1002(b)(1) to carry out
this subpart for any fiscal year referred to in sub-
section (a) that is not reserved under section
1203(b)(1), the Secretary may allot 25 percent
under this section among each of the 50 States, the
District of Columbia, and the Commonwealth of
Puerto Rico.

“(2) **State Allotments.**—

“(A) **In general.**—In carrying out para-
graph (1), the Secretary shall allot such funds
to those States that demonstrate the most ef-
fective implementation of this subpart, as deter-
mined by the peer review panel convened under
section 1204(c)(2) based upon the application
contents described in subsection (e)(3).

“(c) **State Applications.**—

“(1) **In general.**—A State that desires to re-
ceive a grant under this section shall submit an ap-
application to the Secretary at such time and in such form as the Secretary may require.

“(2) Peer review.—The peer review panel convened under section 1204(c)(2) shall evaluate grant applications from States under this section. The panel shall recommend such applications to the Secretary for funding or for disapproval.

“(3) Application contents.—A State that desires to receive a grant under this section shall include in its application the following:

“(A) Evidence that the State has carried out its obligations under this subpart.

“(B) Evidence that the State has increased significantly the percentage of students reading at grade level or above by the end of the third grade.

“(C) Evidence that the State has been successful in reducing the reading deficit in terms of the percentage of students in ethnic, racial, and low-income populations who are reading at grade level or above by the end of the third grade.

“(D) A description of the criteria the State intends to use in distributing subgrants to local
educational agencies under this section to con-
tinue or expand activities under this subpart.

“(E) Any additional evidence that dem-
onstrates success in the implementation of this
subpart.

“(d) Subgrants to Local Educational Agen-
cies.—

“(1) In general.—The Secretary may make a
grant to a State under this section only if the State
agrees to expend 100 percent of the amount of the
funds provided under the grant for the purpose of
making competitive subgrants in accordance with
this subsection to local educational agencies.

“(2) Notice.—A State receiving a grant under
this section shall provide notice to all local edu-
cational agencies in the State of the availability of
competitive subgrants under this subsection and of
the requirements for applying for the subgrants.

“(3) Application.—To be eligible to receive a
subgrant under this subsection, a local educational
agency shall submit an application to the State at
such time, in such manner, and containing such in-
formation as the State may reasonably require.
“(4) DISTRIBUTION.—A State shall distribute funds under this section through a competitive process based on the following criteria:

“(A) Evidence that a local educational agency has carried out its obligations under this subpart.

“(B) Evidence that a local educational agency has increased significantly the percentage of students reading at grade level or above by the end of the third grade.

“(C) Evidence that a local educational agency has been successful in reducing the reading deficit in terms of the percentage of students in ethnic, racial, and low-income populations who are reading at grade level or above by the end of the third grade.

“(D) The description in such application of how such funds will be used to support the continuation or expansion of the agency’s programs under this subpart.

“(E) Evidence that the local educational agency will work with other eligible local educational agencies in the State that have not received a subgrant under this subsection to as-
assist such nonreceiving agencies in increasing the reading achievement of students.

“(F) Any additional evidence in a local educational agency’s application under paragraph (3) that demonstrates success in the implementation of this subpart.

“(5) LOCAL USES OF FUNDS.—A local educational agency that receives a subgrant under this subsection—

“(A) shall use the funds provided under the subgrant to carry out the activities described in subparagraphs (A) through (D) of section 1203(c)(7); and

“(B) may use such funds to carry out the activities described in subparagraphs (E) through (H) of such section.

“SEC. 1207. NATIONAL ACTIVITIES.

“From funds reserved under section 1203(b)(1)(C), the Secretary—

“(1) through grants or contracts, shall conduct an evaluation of the program under this subpart using criteria recommended by the peer review panel convened under section 1204(e)(2); and

“(2) may provide technical assistance in achieving the purposes of this subpart to States, local edu-
cational agencies, and schools requesting such assist-
ance.

“SEC. 1208. INFORMATION DISSEMINATION.

“(a) In General.—From funds reserved under sec-
tion 1203(b)(1)(D), the National Institute for Literacy, in collaboration with the Secretary of Education, the Sec-
etary of Health and Human Services, and the Director of the National Institute for Child Health and Human
Development—

“(1) shall disseminate information on scientif-
ically based reading research pertaining to children, youth, and adults;

“(2) shall identify and disseminate information about schools, local educational agencies, and States that effectively developed and implemented reading programs that meet the requirements of this sub-
part, including those effective States, local edu-
cational agencies, and schools identified through the evaluation and peer review provisions of this sub-
part; and

“(3) shall support the continued identification and dissemination of information on programs that contain the essential components of reading instruc-
tion as supported by scientifically based reading re-
search, that can lead to improved reading outcomes
for children, youth, and adults through evidence-based assessments of the scientific research literature.

“(b) DISSEMINATION.—At a minimum, the National Institute for Literacy shall disseminate such information to recipients of Federal financial assistance under part A of this title, part A of title III, the Head Start Act, the Individuals with Disabilities Education Act, and the Adult Education and Family Literacy Act. In carrying out this section, the National Institute for Literacy shall, to the extent practicable, utilize existing information and dissemination networks developed and maintained through other public and private entities.

“(c) USE OF FUNDS.—The National Institute for Literacy may use not more than 5 percent of the funds reserved under section 1203(b)(1)(D) for administrative purposes directly related to carrying out the activities authorized by this section.

“SEC. 1209. DEFINITIONS.

“For purposes of this subpart:

“(1) ELIGIBLE PROFESSIONAL DEVELOPMENT PROVIDER.—The term ‘eligible professional development provider’ means a provider of professional development in reading instruction to teachers that is based on scientifically based reading research.
“(2) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—The term ‘essential components of reading instruction’ means explicit and systematic instruction in—

“(A) phonemic awareness;
“(B) phonics;
“(C) vocabulary development;
“(D) oral reading fluency; and
“(E) reading comprehension strategies.

“(3) INSTRUCTIONAL STAFF.—The term ‘instructional staff’—

“(A) means individuals who have responsibility for teaching children to read; and
“(B) includes principals, teachers, supervisors of instruction, librarians, library school media specialists, teachers of academic subjects other than reading, and other individuals who have responsibility for assisting children to learn to read.

“(4) READING.—The term ‘reading’ means a complex system of deriving meaning from print that requires all of the following:

“(A) The skills and knowledge to understand how phonemes, or speech sounds, are connected to print.
“(B) The ability to decode unfamiliar words.

“(C) The ability to read fluently.

“(D) Sufficient background information and vocabulary to foster reading comprehension.

“(E) The development of appropriate active strategies to construct meaning from print.

“(F) The development and maintenance of a motivation to read.

“(5) Rigorous diagnostic reading assessments.—The term ‘rigorous diagnostic reading assessments’ means diagnostic reading assessments that—

“(A) are valid, reliable, and based on scientifically based reading research;

“(B) measure progress in developing phonemic awareness and phonics skills, vocabulary, reading fluency, and reading comprehension; and

“(C) identify students who may be at risk for reading failure or who are having difficulty reading.
“(6) **Scientifically based reading research.**—The term ‘scientifically based reading research’—

“(A) means the application of rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

“(B) shall include research that—

“(i) employs systematic, empirical methods that draw on observation or experiment;

“(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

“(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

“(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.
“Subpart 2—Early Reading First

“SEC. 1221. PURPOSES.

“The purposes of this subpart are—

“(1) to improve prereading skills in children aged 3 through 5, particularly those children from low-income families, in high-quality oral language and literature-rich environments;

“(2) to provide professional development for early childhood teachers that prepares them with scientific research-based knowledge of early reading development to assist in developing the children’s—

“(A) automatic recognition of the letters of the alphabet;

“(B) understanding that spoken words are made up of small segments of speech sounds and that certain letters regularly represent such speech sounds; and

“(C) spoken vocabulary and oral comprehension abilities;

“(3) to identify and provide scientific research-based prereading language and literacy activities and instructional materials that can be used to assist in the development of prereading skills in children; and

“(4) to integrate such scientific research-based instructional materials and literacy activities with
existing preschool programs, Head Start centers, and family literacy services.

“SEC. 1222. LOCAL EARLY READING FIRST GRANTS.

“(a) Program Authorized.—From amounts appropriated under section 1002(b)(2), the Secretary shall make awards, on a competitive basis, for periods of not more than 4 years, to eligible applicants to enable such applicants to carry out activities that are consistent with the purposes of this subpart.

“(b) Definition of Eligible Applicant.—In this subpart, the term ‘eligible applicant’ means—

“(1) a local educational agency;

“(2) one or more public or private organizations, acting on behalf of one or more programs that serve preschool age children (such as a program at a Head Start center or a family literacy program), which organizations shall be located in a community served by a local educational agency; or

“(3) one or more local educational agencies in collaboration with one or more organizations described in paragraph (2).

“(c) Applications.—An eligible applicant that desires to receive a grant under this section shall submit an application to the Secretary which shall include a description of—
“(1) the programs to be served by the proposed project, including general demographic and socio-economic information on the communities in which the proposed project will be administered;

“(2) how the proposed project will enhance the school readiness of young children aged 3 through 5 in high-quality oral language and literature-rich environments;

“(3) how the proposed project will provide early childhood teachers with scientific research-based knowledge of early reading development and assist such teachers in developing the children’s prereading skills;

“(4) how the proposed project will provide services and utilize instructional materials that are based on scientifically based reading research on early language acquisition, prereading activities, and the development of spoken vocabulary skills;

“(5) how the proposed project will integrate such instructional materials and literacy activities with existing preschool programs and family literacy services;

“(6) how the proposed project will help staff in the programs to meet the diverse needs of children in the community, including children with limited
English proficiency and children with learning dis-
abilities;

“(7) how the proposed project will help chil-
dren, particularly children experiencing difficulty
with spoken language, prereading, and early reading
skills, to make the transition from preschool to for-
mal classroom instruction in school;

“(8) how the activities conducted under this
subpart will be coordinated with the eligible appli-
cant’s activities under subpart 1, if the applicant has
received a subgrant under such subpart, at the kin-
dergarten through third grade levels;

“(9) how the proposed project will evaluate the
success of the activities supported under this sub-
part in enhancing the early language and reading
development of children served by the project; and

“(10) such other information as the Secretary
may require.

“(d) APPROVAL OF LOCAL APPLICATIONS.—The Sec-
retary shall select applicants for funding under this sub-
part on the basis of the quality of the applications and
based on the recommendations of the peer review panel
convened under section 1204(e)(2).

“(e) LOCAL USES OF FUNDS.—A local educational
agency that receives a grant under this subpart shall use
the funds provided under the grant to carry out the following activities:

“(1) To provide children aged 3 through 5 with high-quality oral language and literature-rich environments in which to acquire prereading skills.

“(2) To provide professional development for early childhood teachers that prepares them with scientific research-based knowledge of early reading development to assist in developing the children’s—

“(A) automatic recognition of the letters of the alphabet;

“(B) understanding that spoken words are made up of small segments of speech sounds and that certain letters regularly represent such speech sounds; and

“(C) spoken vocabulary and oral comprehension abilities.

“(3) To identify and provide scientific research-based prereading language and literacy activities and instructional materials for use in developing the children’s—

“(A) automatic recognition of the letters of the alphabet;

“(B) understanding that spoken words are made up of small segments of speech sounds
and that certain letters regularly represent such speech sounds; and

“(C) spoken vocabulary and oral comprehension abilities.

“(4) To integrate such instructional materials and literacy activities with existing Head Start centers, preschool programs, and family literacy services.

“(f) AWARD AMOUNTS.—The Secretary may establish a maximum award amount, or ranges of award amounts, for grants under this subpart.

“SEC. 1223. FEDERAL ADMINISTRATION.

“The Secretary shall consult with the Secretary of Health and Human Services in order to coordinate the activities undertaken under this subpart with early childhood programs administered by the Department of Health and Human Services.

“SEC. 1224. INFORMATION DISSEMINATION.

“From funds reserved under section 1203(b)(1)(D), the National Institute for Literacy, in consultation with the Secretary, shall disseminate information regarding projects assisted under this subpart that have proven effective.

“SEC. 1225. REPORTING REQUIREMENTS.

“Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding
the eligible applicant’s progress in addressing the purposes of this subpart.

“SEC. 1226. EVALUATIONS.

“From the total amount appropriated under section 1002(b)(2) for the period beginning October 1, 2002, and ending September 30, 2006, the Secretary shall reserve not more than $1,000,000 to conduct an independent evaluation of the effectiveness of this subpart.

“SEC. 1227. ADDITIONAL RESEARCH.

“From the amount appropriated under section 1002(b)(2) for each of the fiscal years 2002 through 2006, the Secretary shall reserve not more than $3,000,000 to conduct, in consultation with the National Institute for Child Health and Human Development, the National Institute for Literacy, and the Department of Health and Human Services, additional research on language and literacy development for children aged 3 through 5.”

SEC. 112. AMENDMENTS TO EVEN START.

Part B of title I (20 U.S.C. 6361 et seq.), as amended by section 111, is further amended—

(1) by inserting before section 1231 (as so redesignated by section 111) the following:
“Subpart 3—William F. Goodling Even Start Family Literacy Programs”;

(2) in each of sections 1231 through 1242 (as so redesignated by section 111)—

(A) by striking “this part” each place such term appears and inserting “this subpart”; and

(B) by striking “1002(b)” each place such term appears and inserting “1002(b)(3)”;

(3) in section 1231(4), by striking “2252)” and inserting “1209)”;

(4) in section 1232—

(A) in subsection (b)—

(i) in paragraph (1)(A), by striking “1209;” and inserting “1239;”; and

(ii) in paragraph (2), by striking “1211(b)” each place such term appears and inserting “1241(b)”;

(B) in subsection (c)—

(i) by amending paragraph (2)(C) to read as follows:

“(C) COORDINATION WITH SUBPART 1.—

The consortium shall coordinate its activities with the activities of the reading partnership for the State established under section 1204(d), if the State receives a grant under section 1203.”; and
(ii) in paragraph (3), by striking “2252).” and inserting “1209).”;

(5) in section 1233—

(A) by striking “1202(d)(1)” each place such term appears and inserting “1232(d)(1)”;
and

(B) by striking “1210.” and inserting “1240.”;

(6) in section 1234—

(A) in subsection (b)—

(i) in paragraph (1)(A), by moving the margins of clauses (v) and (vi) 2 ems to the right; and

(ii) in paragraph (3), by striking “1202(a)(1)(C)” and inserting “1232(a)(1)(C)”; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking “1203(a),” and inserting “1233(a),”; and

(II) by striking “1203(b)” and inserting “1233(b)”; and

(ii) in paragraph (2), by striking “1210.” and inserting “1240.”;

(7) in section 1235—
(A) in paragraph (10), by striking “2252)” and inserting “1209”;

(B) in paragraph (12), by striking “2252),” and inserting “1209),”;

(C) in paragraph (15), by striking “program.” and inserting “program to be used for program improvement.”;

(8) in section 1237—

(A) in subsection (e)(1)—

(i) in subparagraph (B), by striking “1205;” and inserting “1235;”; and

(ii) in subparagraph (F), by striking “14306;” and inserting “8306;”; and

(B) in subsection (d), by striking “14302.” and inserting “8302.”;

(9) in section 1238—

(A) in subsection (a)(1)—

(i) in subparagraph (A)(ii), by striking “1205;” and inserting “1235;”; and

(ii) in subparagraph (F), by striking “1204(b);” and inserting “1234(b);”; and

(B) in subsection (b)—

(i) in paragraph (3)—

(I) by striking “1207(c)(1)(A)” and inserting “1237(c)(1)(A)”;

25
(II) by striking “1210.” and inserting “1240.”;

(ii) in paragraph (4), by striking “1210,” and inserting “1240,”; and

(iii) in paragraph (5)(B), by striking “1204(b).” and inserting “1234(b).”;

(10) in section 1239—

(A) by striking “1202(b)(1),” and inserting “1232(b)(1),”; and

(B) by striking “1205(10)” and inserting “1235(10)”;

(11) in section 1241—

(A) in subsection (b)(1)—

(i) by striking “1202(b)(2),” and inserting “1232(b)(2),”; and

(ii) by striking “2252);” and inserting “1209);”;

(B) in subsection (c), by striking “2258,”

and inserting “1208,”.

PART C—EDUCATION OF MIGRATORY CHILDREN

SEC. 121. STATE ALLOCATIONS.

Section 1303 (20 U.S.C. 6393) is amended—

(1) by amending subsection (a) to read as follows:

“(a) State Allocations.—
“(1) Fiscal Year 2002.—For fiscal year 2002, each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part an amount equal to—

“(A) the sum of the estimated number of migratory children aged three through 21 who reside in the State full time and the full-time equivalent of the estimated number of migratory children aged three through 21 who reside in the State part time, as determined in accordance with subsection (e); multiplied by

“(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average expenditure per pupil in the United States.

“(2) Subsequent Years.—

“(A) Base Amount.—

“(i) In general.—Except as provided in subsection (b) and clause (ii), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for fiscal year 2003 and succeeding fiscal years, an amount equal to—
“(I) the amount that such State received under this part for fiscal year 2002; plus

“(II) the amount allocated to the State under subparagraph (B).

“(ii) NONPARTICIPATING STATES.—In the case of a State (other than the Commonwealth of Puerto Rico) that did not receive any funds for fiscal year 2002 under this part, the State shall receive, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

“(I) the amount that such State would have received under this part for fiscal year 2002 if its application under section 1304 for the year had been approved; plus

“(II) the amount allocated to the State under subparagraph (B).

“(B) ALLOCATION OF ADDITIONAL AMOUNT.—For fiscal year 2003 and succeeding fiscal years, the amount (if any) by which the funds appropriated to carry out this part for the year exceed such funds for fiscal year 2002 shall be allocated to a State (other than the
Commonwealth of Puerto Rico) so that the State receives an amount equal to—

“(i) the sum of—

“(I) the number of identified eligible migratory children, aged 3 through 21, residing in the State during the previous year; and

“(II) the number of identified eligible migratory children, aged 3 through 21, who received services under this part in summer or intersession programs provided by the State during such year; multiplied by

“(ii) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this clause may not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.”;

(2) by amending subsection (b) to read as follows:

“(b) ALLOCATION TO PUERTO RICO.—

“(1) IN GENERAL.—For each fiscal year, the grant which the Commonwealth of Puerto Rico shall be eligible to receive under this part shall be the
amount determined by multiplying the number of children counted under subsection (a)(1)(A) for the Commonwealth of Puerto Rico by the product of—

“(A) the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States; and

“(B) 32 percent of the average per pupil expenditure in the United States.

“(2) MINIMUM PERCENTAGE.—The percentage in paragraph (1)(A) shall not be less than—

“(A) for fiscal year 2002, 77.5 percent;

“(B) for fiscal year 2003, 80.0 percent;

“(C) for fiscal year 2004, 82.5 percent;

and

“(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

“(3) LIMITATION.—If the application of paragraph (2) would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, the percentage in paragraph (1) shall be the greater of the percentage in paragraph (1)(A) or the percentage used for the preceding fiscal year.”; and
(3) by striking subsections (d) and (e).

SEC. 122. STATE APPLICATIONS; SERVICES.

(a) Program Information.—Section 1304(b) (20 U.S.C. 6394(b)) is amended—

(1) in paragraph (1), by striking “addressed through” and all that follows through the semicolon at the end and inserting the following:

“addressed through—

“(A) the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

“(B) joint planning among local, State, and Federal educational programs serving migratory children, including programs under part A of title III;

“(C) the integration of services available under this part with services provided by those other programs; and

“(D) measurable program goals and outcomes;”;

(2) in paragraph (5), by striking “the requirements of paragraph (1); and” and inserting “the numbers and needs of migratory children, the requirements of subsection (d), and the availability of
funds from other Federal, State, and local programs;”; and

(3) in paragraph (6), by striking the period at the end and inserting “; and”.

(b) ASSURANCES.—Section 1304(c) (20 U.S.C. 6394(c)) is amended—

(1) in paragraph (1), by striking “1306(b)(1);” and inserting “1306(a);”;

(2) in paragraph (2), by striking “part F;” and inserting “part H;”

(3) in paragraph (3)—

(A) by striking “appropriate”; 

(B) by striking “out, to the extent feasible,” and inserting “out”; and

(C) by striking “1118;” and inserting “1118, unless extraordinary circumstances make implementation consistent with such section impractical;”; and

(4) in paragraph (7), by striking “section 1303(e)” and inserting “paragraphs (1)(A) and (2)(B)(i) of section 1303(a)”.

SEC. 123. AUTHORIZED ACTIVITIES.

Section 1306 (20 U.S.C. 6396) is amended to read as follows:
SEC. 1306. AUTHORIZED ACTIVITIES.

“(a) IN GENERAL.—

“(1) FLEXIBILITY.—Each State educational agency, through its local educational agencies, shall have the flexibility to determine the activities to be provided with funds made available under this part, except that such funds shall first be used to meet the identified needs of migratory children that result from their migratory lifestyle, and to permit these children to participate effectively in school.

“(2) UNADDRESSED NEEDS.—Funds provided under this part shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs, except that migratory children who are eligible to receive services under part A of this title may receive those services through funds provided under that part, or through funds under this part that remain after the agency addresses the needs described in paragraph (1).

“(b) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local educational agency from serving migratory children simultaneously with students with similar educational needs in the same educational settings, where appropriate.
“(c) SPECIAL RULE.—Notwithstanding section 1114, a school that receives funds under this part shall continue to address the identified needs described in subsection (a)(1).”.

SEC. 124. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

(a) DURATION.—Section 1308(a)(2) (20 U.S.C. 6398(a)(2)) is amended by striking “subpart” and inserting “subsection”.

(b) STUDENT RECORDS.—Section 1308(b) (20 U.S.C. 6398(b)) is amended to read as follows:

“(b) STUDENT RECORDS.—

“(1) ASSISTANCE.—The Secretary shall assist States in developing effective methods for the transfer of student records and in determining the number of migratory children in each State. The Secretary, in consultation with the States, shall determine the minimum data elements that each State receiving funds under this part shall collect and maintain. The Secretary shall assist States to implement a system of linking their student record transfer systems for the purpose of electronic records maintenance and transfer for migrant students.

“(2) NO COST FOR CERTAIN TRANSFERS.—A State educational agency or local educational agency
receiving assistance under this part shall make stu-
dent records available to another State or local edu-
cational agency that requests the records at no cost
to the requesting agency, if the request is made in
order to meet the needs of a migratory child.”.

(c) AVAILABILITY OF FUNDS.—Section 1308(c) (20
U.S.C. 6398(c)) is amended by striking “$6,000,000” and
inserting “$10,000,000”.

(d) INCENTIVE GRANTS.—Section 1308(d) (20
U.S.C. 6398(d)) is amended to read as follows:

“(d) INCENTIVE GRANTS.—From the amounts made
available to carry out this section for any fiscal year, the
Secretary may reserve not more than $3,000,000 to award
grants of not more than $250,000 on a competitive basis
to State educational agencies that propose a consortium
arrangement with another State or other appropriate enti-
ty that the Secretary determines, pursuant to criteria that
the Secretary shall establish, will improve the delivery of
services to migratory children whose education is inter-
rupted.”.

PART D—NEGLIGENCE OR DELINQUENT YOUTH

SEC. 131. NEGLECED OR DELINQUENT YOUTH.

The heading for part D of title I is amended to read
as follows:
“PART D—PREVENTION AND INTERVENTION
PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN AND YOUTH”.

SEC. 132. FINDINGS.
Section 1401(a) (20 U.S.C. 6421(a)) is amended by striking paragraphs (6) through (9) and inserting the following:

“(6) Youth returning from correctional facilities need to be involved in programs that provide them with high-level skills and other support to help them stay in school and complete their education.

“(7) Pregnant and parenting teenagers are a high-at-risk group for dropping out of school and should be targeted by dropout prevention programs.”.

SEC. 133. ALLOCATION OF FUNDS.
Section 1412(b) (20 U.S.C. 6432(b)) is amended to read as follows:

“(b) SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—

“(1) IN GENERAL.—For each fiscal year, the amount of the subgrant which a State agency in the Commonwealth of Puerto Rico shall be eligible to receive under this part shall be the amount determined by multiplying the number of children counted under
subparagraph (a)(1)(A) for the Commonwealth of Puerto Rico by the product of—

“(A) the percentage which the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

“(B) 32 percent of the average per-pupil expenditure in the United States.

“(2) Minimum percentage.—The percentage in paragraph (1)(A) shall not be less than—

“(A) for fiscal year 2002, 77.5 percent;
“(B) for fiscal year 2003, 80.0 percent;
“(C) for fiscal year 2004, 82.5 percent; and

“(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

“(3) Limitation.—If the application of paragraph (2) would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, the percentage in paragraph (1) shall be the greater of the percentage in paragraph (1)(A) or the percentage used for the preceding fiscal year.”.
SEC. 134. STATE PLAN AND STATE AGENCY APPLICATIONS.

Section 1414 (20 U.S.C. 6434) is amended to read as follows:

“SEC. 1414. STATE PLAN AND STATE AGENCY APPLICATIONS.

“(a) State Plan.—

“(1) In General.—Each State educational agency that desires to receive a grant under this part shall submit, for approval by the Secretary, a plan for meeting the educational needs of neglected and delinquent youth, for assisting in their transition from institutions to locally operated programs, and which is integrated with other programs under this Act or other Acts, as appropriate, consistent with section 8306.

“(2) Contents.—Each such State plan shall—

“(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving academic and vocational and technical skills of children in the program;

“(B) provide that, to the extent feasible, such children will have the same opportunities to learn as such children would have if such
children were in the schools of local educational agencies in the State; and

“(C) contain assurances that the State educational agency will—

“(i) ensure that programs assisted under this part will be carried out in accordance with the State plan described in this subsection;

“(ii) carry out the evaluation requirements of section 1416;

“(iii) ensure that the State agencies receiving subgrants under this subpart comply with all applicable statutory and regulatory requirements; and

“(iv) provide such other information as the Secretary may reasonably require.

“(3) DURATION OF THE PLAN.—Each such State plan shall—

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

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

“(b) SECRETARIAL APPROVAL AND PEER REVIEW.—
“(1) Secretarial Approval.—The Secretary shall approve each State plan that meets the requirements of this part.

“(2) Peer Review.—The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

“(c) State Agency Applications.—Any State agency that desires to receive funds to carry out a program under this part shall submit an application to the State educational agency that—

“(1) describes the procedures to be used, consistent with the State plan under section 1111, to assess the educational needs of the children to be served;

“(2) provides assurances that in making services available to youth in adult correctional facilities, priority will be given to such youth who are likely to complete incarceration within a 2-year period;

“(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

“(4) describes how the program will meet the goals and objectives of the State plan under this subpart;
“(5) describes how the State agency will consult
with experts and provide the necessary training for
appropriate staff, to ensure that the planning and
operation of institution-wide projects under section
1416 are of high quality;

“(6) describes how the agency will carry out the
evaluation requirements of section 8651 and how the
results of the most recent evaluation are used to
plan and improve the program;

“(7) includes data showing that the agency has
maintained fiscal effort required of a local edu-
cational agency, in accordance with section 8501;

“(8) describes how the programs will be coordi-
nated with other appropriate State and Federal pro-
grams, such as programs under title I of the Work-
seq.), vocational and technical education programs,
State and local dropout prevention programs, and
special education programs;

“(9) describes how States will encourage correc-
tional facilities receiving funds under this subpart to
coordinate with local educational agencies or alter-
native education programs attended by incarcerated
youth prior to their incarceration to ensure that stu-
dent assessments and appropriate academic records
are shared jointly between the correctional facility and the local educational agency or alternative education program;

“(10) describes how appropriate professional development will be provided to teachers and other staff;

“(11) designates an individual in each affected institution to be responsible for issues relating to the transition of children and youth from the institution to locally operated programs;

“(12) describes how the agency will endeavor to coordinate with businesses for training and mentoring for participating youth;

“(13) provides assurances that the agency will assist in locating alternative programs through which students can continue their education if students are not returning to school after leaving the correctional facility;

“(14) provides assurances that the agency will work with parents to secure parents’ assistance in improving the educational achievement of their children and preventing their children’s further involvement in delinquent activities;

“(15) provides assurances that the agency works with special education youth in order to meet
an existing individualized education program and an assurance that the agency will notify the youth’s local school if such youth—

“(A) is identified as in need of special education services while the youth is in the facility; and

“(B) intends to return to the local school;

“(16) provides assurances that the agency will work with youth who dropped out of school before entering the facility to encourage the youth to reenter school once the term of incarceration has been completed or provide the youth with the skills necessary to gain employment, continue the education of the youth, or achieve a secondary school diploma or the recognized equivalent if the youth does not intend to return to school;

“(17) provides assurances that teachers and other qualified staff are also trained to work with children with disabilities and other students with special needs, taking into consideration the unique needs of such students;

“(18) describes any additional services to be provided to youth, such as career counseling, distance learning, and assistance in securing student loans and grants; and
“(19) provides assurances that the program under this subpart will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) or other comparable programs, if applicable.”.

SEC. 135. USE OF FUNDS.

Section 1415(a) (20 U.S.C. 6435(a)) is amended—

(1) in paragraph (1)(B), by inserting “, vocational and technical training,” after “secondary school completion”;

(2) in paragraph (2)(B)—

(A) in clause (i), by inserting “and” after the semicolon;

(B) in clause (ii), by striking “; and” and inserting a period; and

(C) by striking clause (iii);

(3) in paragraph (2)(C), by striking “part F of this title” and inserting “part H”; and

(4) in paragraph (2)(D), by striking “section 14701” and inserting “section 8651”.

SEC. 136. TRANSITION SERVICES.

Section 1418(a) (20 U.S.C. 6438(a)) is amended by striking “10 percent” and inserting “15 percent”.

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SEC. 137. PURPOSE.

Section 1421(3) (20 U.S.C. 6451(3)) is amended to read as follows:

“(3) operate programs in local schools for youth returning from correctional facilities and programs which may also serve youth at risk of dropping out of school.”.

SEC. 138. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

Section 1422 (20 U.S.C. 6452) is amended—

(1) in subsection (a), by striking “retained”;

(2) by amending subsection (b) to read as follows:

“(b) SPECIAL RULE.—A local educational agency which includes a correctional facility that operates a school is not required to operate a program of support for children returning from such school to a school not operated by a correctional agency but served by such local educational agency if more than 30 percent of the youth attending the school operated by the correctional facility will reside outside the boundaries of the local educational agency after leaving such facility.”; and

(3) by adding at the end the following:

“(d) TRANSITIONAL AND ACADEMIC SERVICES.—Transitional and supportive programs operated in local educational agencies under this subpart shall be designed
primarily to meet the transitional and academic needs of students returning to local educational agencies or alternative education programs from correctional facilities. Services to students at risk of dropping out of school shall not have a negative impact on meeting the transitional and academic needs of the students returning from correctional facilities.”.

SEC. 139. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

Section 1423 (20 U.S.C. 6453) is amended by striking paragraphs (4) through (9) and inserting the following:

“(4) a description of the program operated by participating schools for children returning from correctional facilities and the types of services that such schools will provide such youth and other at-risk youth;

“(5) a description of the characteristics (including learning difficulties, substance abuse problems, and other special needs) of the youth who will be returning from correctional facilities and, as appropriate, other at-risk youth expected to be served by the program and how the school will coordinate existing educational programs to meet the unique educational needs of such youth;
“(6) as appropriate, a description of how schools will coordinate with existing social, health, and other services to meet the needs of students returning from correctional facilities, students at risk of dropping out of school, and other participating students, including prenatal health care and nutrition services related to the health of the parent and child, parenting and child development classes, child care, targeted reentry and outreach programs, referrals to community resources, and scheduling flexibility;

“(7) as appropriate, a description of any partnerships with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring services for participating students;

“(8) as appropriate, a description of how programs will involve parents in efforts to improve the educational achievement of their children, prevent the involvement of their children in delinquent activities, and encourage their children to remain in school and complete their education;

“(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under title I of the Workforce Investment Act of 1998 (29
U.S.C. 2801 et seq.) and vocational and technical education programs serving this at-risk population of youth.”.

SEC. 140. USES OF FUNDS.

Section 1424 (20 U.S.C. 6454) is amended by striking paragraphs (1) through (3) and inserting the following:

“(1) programs that serve youth returning from correctional facilities to local schools, to assist in the transition of such youth to the school environment and help them remain in school in order to complete their education;

“(2) providing assistance to other youth at risk of dropping out of school, including pregnant and parenting teenagers;

“(3) the coordination of social, health, and other services, including day care, for participating youth, if the provision of such services will improve the likelihood that such youth will complete their education;

“(4) special programs to meet the unique academic needs of participating youth, including vocational and technical education, special education, career counseling, curriculum-based youth entrepreneurship education, and assistance in securing stu-
dent loans or grants for postsecondary education;
and

“(5) programs providing mentoring and peer mediation.”.

SEC. 141. PROGRAM REQUIREMENTS.

Section 1425 (20 U.S.C. 6455) is amended—

(1) in the section heading, by striking “THIS SECTION” and inserting “THIS SUBPART”;

(2) in the matter preceding paragraph (1), by striking “this section” and inserting “this subpart”;

(3) in paragraph (1), by striking “where feasible, ensure educational programs” and inserting “to the extent practicable, ensure that educational programs”;

(4) in paragraphs (3) and (8), by striking “where feasible,” and inserting “to the extent practicable,”;

(5) in paragraph (9)—

(A) by striking “this program” and inserting “this subpart”;  

(B) by inserting “and technical” after “vocational”; and  

(C) by inserting “(20 U.S.C. 2801 et seq.)” after “Workforce Investment Act of 1998”;

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(6) in paragraph (10), by inserting “(42 U.S.C. 5601 et seq.)” after “Juvenile Justice and Delinquency Prevention Act of 1974”; and

(7) by amending paragraph (11) to read as follows:

“(11) if appropriate, work with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring programs for youth.”.

SEC. 142. PROGRAM EVALUATIONS.

Section 1431(a) (20 U.S.C. 6471(a)) is amended by striking “sex, and if feasible,” and inserting “gender,”.

PART E—FEDERAL EVALUATIONS AND DEMONSTRATIONS

SEC. 151. EVALUATIONS.

Section 1501 (20 U.S.C. 6491) is amended to read as follows:

“SEC. 1501. EVALUATIONS.

“(a) NATIONAL ASSESSMENT.—

“(1) IN GENERAL.—In accordance with this section, the Secretary shall conduct a national assessment of programs assisted under this title.

“(2) ISSUES TO BE EXAMINED.—In conducting the assessment under this subsection, the Secretary shall examine—
“(A) the implementation of programs assisted under this title and the impact of such implementation on increasing student academic achievement, particularly schools with high concentrations of children living in poverty;

“(B) the implementation of State standards, assessments, and accountability systems developed under this title and the impact of such implementation on educational programs and instruction at the local level;

“(C) the impact of schoolwide programs and targeted assistance programs under this title on improving student academic achievement;

“(D) the extent to which varying models of comprehensive school reform are funded under this title, and the effect of the implementation of such models on improving achievement of disadvantaged students;

“(E) the cost-effectiveness of programs assisted under this title;

“(F) the impact of school choice options under section 1116 on the academic achievement of disadvantaged students and schools in school improvement;
“(G) the extent to which corrective actions authorized under section 1116 of this title are employed by State and local educational agencies to improve the academic achievement of students in low-performing schools, and the effectiveness of the implementation of such corrective actions;

“(H) the extent to which technical assistance made available under this title is used to improve the achievement of students in low-performing schools, and the impact of such assistance on such achievement;

“(I) the extent to which State and local fiscal accounting requirements under this title limit the flexibility of schoolwide programs;

“(J) the impact of the professional development activities assisted under this title on instruction and student performance;

“(K) the extent to which the assistance made available under this title is targeted to disadvantaged students and schools that need them the most;

“(L) the effectiveness of Federal administration assistance made available under this
title, including monitoring and technical assistance; and

“(M) such other issues as the Secretary considers appropriate.

“(3) SOURCES OF INFORMATION.—In conducting the assessment under this subsection, the Secretary shall use information from a variety of sources, including the National Assessment of Educational Progress (carried out under section 411 of the National Education Statistics Act of 1994 (20 U.S.C. 9010)), state evaluations, and other research studies.

“(4) COORDINATION.—In carrying out this subsection, the Secretary shall—

“(A) coordinate conducting the national assessment with conducting the longitudinal study described in subsection (c); and

“(B) ensure that the independent review panel described in subsection (d) participates in conducting the national assessment, including planning for and reviewing the assessment.

“(5) REPORTS.—

“(A) INTERIM REPORT.—Not later than 3 years after the date of enactment of the Leave No Child Behind Act of 2001, the Secretary
shall transmit to the President and the Congress an interim report on the national assessment conducted under this subsection.

“(B) Final report.—Not later than 4 years after the date of enactment of the Leave No Child Behind Act of 2001, the Secretary shall transmit to the President and the Congress a final report on the national assessment conducted under this subsection.

“(b) Studies and Data Collection.—

“(1) In general.—In addition to other activities described in this section, the Secretary may, directly or through the making of grants to or contracts with appropriate entities—

“(A) conduct studies and evaluations of the need for, and effectiveness of, each program authorized under this title;

“(B) collect the data necessary to comply with the Government Performance and Results Act of 1993; and

“(C) provide guidance and technical assistance to State education agencies and local educational agencies in developing and maintaining management information systems through which such agencies can develop program per-
formance indicators in order to improve services
and performance.

“(2) Minimum Information.—Under this sub-
section, the Secretary shall collect, at a minimum,
trend information on the effect of each program au-
thorized under this title, which shall complement the
data collected and reported under subsections (a)
and (c).

“(e) National Longitudinal Study.—

“(1) In General.—The Secretary shall con-
duct a longitudinal study of schools receiving assist-
ance under this title.

“(2) Issues To Be Examined.—In carrying
out this subsection, the Secretary shall ensure that
the study referred to in paragraph (1) provides the
Congress and educators with each of the following:

“(A) An accurate description and analysis
of short-term and long-term effectiveness of the
assistance made available under this title upon
academic performance.

“(B) Information that can be used to im-
prove the effectiveness of the assistance made
available under this title in enabling students to
meet challenging achievement standards.
“(C) An analysis of educational practices or model programs that are effective in improving the achievement of disadvantaged children.

“(D) An analysis of the cost-effectiveness of the assistance made available under this title in improving the achievement of disadvantaged children.

“(E) An analysis of the effects of the availability of school choice options under section 1116 on the academic achievement of disadvantaged students and schools in school improvement.

“(F) Such other information as the Secretary considers appropriate.

“(3) SCOPE.—In conducting the study referred to in paragraph (1), the Secretary shall ensure that the study—

“(A) bases its analysis on a nationally representative sample of schools participating in programs under this part;

“(B) to the extent practicable, includes in its analysis students who transfer to different schools during the course of the study; and

“(C) analyzes varying models or strategies for delivering school services, including—
“(i) schoolwide and targeted services;
and
“(ii) comprehensive school reform models.
“(d) INDEPENDENT REVIEW PANEL.—
“(1) IN GENERAL.—The Secretary shall establish an independent review panel (in this subsection referred to as the ‘Review Panel’) to advise the Secretary on methodological and other issues that arise in carrying out subsections (a) and (c).
“(2) APPOINTMENT OF MEMBERS.—
“(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall appoint members of the Review Panel from among qualified individuals who are—
“(i) specialists in statistics, evaluation, research, and assessment;
“(ii) education practitioners, including teachers, principals, and local and State superintendents; and
“(iii) other individuals with technical expertise who would contribute to the overall rigor and quality of the program evaluation.
“(B) LIMITATIONS.—In appointing members of the Review Panel under this subparagraph (A), the Secretary shall ensure that—

“(i) in order to ensure diversity, a majority of the number of individuals appointed under subparagraph (A)(i) represent disciplines or programs outside the field of education; and

“(ii) the total number of the individuals appointed under subparagraph (A)(ii) or (A)(iii) does not exceed 1/3 of the total number of the individuals appointed under this paragraph.

“(3) FUNCTIONS.—The Review Panel shall consult with and advise the Secretary—

“(A) to ensure that the assessment conducted under subsection (a) and the study conducted under subsection (c)—

“(i) adhere to the highest possible standards of quality with respect to research design, statistical analysis, and the dissemination of findings; and

“(ii) use valid and reliable measures to document program implementation and impacts; and
“(B) to ensure—

“(i) that the final report described in subsection (a)(5)(B) is reviewed not later than 120 days after its completion by not less than 2 independent experts in program evaluation;

“(ii) that such experts evaluate and comment on the degree to which the report complies with subsection (a); and

“(iii) that the comments of such experts are transmitted with the report under subsection (a)(5)(B).”.

SEC. 152. DEMONSTRATIONS OF INNOVATIVE PRACTICES.

(a) In General.—Section 1502 (20 U.S.C. 6492) is amended—

(1) by striking subsection (b);

(2) by striking “(a) DEMONSTRATION PROGRAMS” and all that follows through “IN GENERAL.—From the funds” and inserting “(a) In General.—From the funds”;

(3) by moving paragraph (2) 2 ems to the left;

(4) by redesignating paragraph (2) as subsection (b); and

(5) in subsection (a) (as redesignated by paragraph (2) of this section)—
(A) by moving each of subparagraphs (A) through (F) 2 ems to the left; and

(B) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.

(b) PROMISING STRATEGIES.—Section 1502(a) (as amended by subsection (a) of this section) is further is amended—

(1) by inserting “charter schools,” after “other public agencies,”;

(2) in paragraph (1), by striking “accelerated curricula” and all that follows through “to reach such standards” and inserting “innovative instructional programs and practices based on reliable, replicable research”;

(3) in paragraph (2), by striking “integration of education services” and all that follows through “enterprise communities” and inserting “public and private school choice, charter schools, and other such programs to promote school improvement”;

(4) in paragraph (3), by striking “whole school reform” and inserting “comprehensive school reform”;

(5) by adding “and” at the end of paragraph (4);
(6) by striking “; and” at the end of paragraph (5) and inserting “, including the use of incentives such as differential or performance based pay to serve areas of high need.”; and

(7) by striking paragraph (6).

PART F—COMPREHENSIVE SCHOOL REFORM

SEC. 161. SCHOOL REFORM.

Part F of title I is amended to read as follows:

“PART F—COMPREHENSIVE SCHOOL REFORM

“SEC. 1601. COMPREHENSIVE SCHOOL REFORM.

“(a) FINDINGS AND PURPOSE.—

“(1) FINDINGS.—Congress finds the following:

“(A) A number of schools across the country have shown impressive gains in student performance through the use of comprehensive models for schoolwide change that incorporate virtually all aspects of school operations.

“(B) No single comprehensive school reform model may be suitable for every school, however, schools should be encouraged to examine successful, externally developed comprehensive school reform approaches as they undertake comprehensive school reform.

“(C) Comprehensive school reform is an important means by which children are assisted
in meeting challenging State student performance standards.

“(2) PURPOSE.—The purpose of this section is to provide financial incentives for schools to develop comprehensive school reforms, based upon scientifically-based research and effective practices that include an emphasis on basic academics and parental involvement so that all children can meet challenging State content and performance standards.

“(b) PROGRAM AUTHORIZED.—

“(1) IN GENERAL.—The Secretary is authorized to provide grants to State educational agencies to provide subgrants to local educational agencies to carry out the purpose described in subsection (a)(2).

“(2) ALLOCATION.—

“(A) RESERVATION.—Of the amount appropriated under this section, the Secretary may reserve—

“(i) not more than 1 percent for schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and
“(ii) not more than 1 percent to con-  
duct national evaluation activities de-  
scribed under subsection (e).

“(B) IN GENERAL.—Of the amount of  
funds remaining after the reservation under  
subparagraph (A), the Secretary shall allocate  
to each State for a fiscal year, an amount that  
bears the same ratio to the amount appro-  
priated for that fiscal year as the amount made  
available under section 1124 to the State for  
the preceding fiscal year bears to the total  
amount allocated under section 1124 to all  
States for that year.

“(C) REALLOCATION.—If a State does not  
apply for funds under this section, the Sec-  
retary shall reallocate such funds to other  
States that do apply in proportion to the  
amount allocated to such States under subpara-  
graph (B).

“(e) STATE AWARDS.—  

“(1) STATE APPLICATION.—  

“(A) IN GENERAL.—Each State edu-  
cational agency that desires to receive a grant  
under this section shall submit an application to  
the Secretary at such time, in such manner and
containing such other information as the Secretary may reasonably require.

“(B) CONTENTS.—Each State application shall also describe—

“(i) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this section;

“(ii) how the agency will ensure that only comprehensive school reforms that are based on scientifically-based research receive funds under this section;

“(iii) how the agency will disseminate materials regarding information on comprehensive school reforms that are based on scientifically-based research;

“(iv) how the agency will evaluate the implementation of such reforms and measure the extent to which the reforms resulted in increased student academic performance; and

“(v) how the agency will provide, upon request, technical assistance to the local educational agency in evaluating, devel-
oping, and implementing comprehensive school reform.

“(2) USES OF FUNDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (E), a State educational agency that receives an award under this section shall use such funds to provide competitive grants to local educational agencies receiving funds under part A.

“(B) GRANT REQUIREMENTS.—A grant to a local educational agency shall be—

“(i) of sufficient size and scope to support the initial costs for the particular comprehensive school reform plan selected or designed by each school identified in the application of the local educational agency;

“(ii) in an amount not less than $50,000 to each participating school; and

“(iii) renewable for two additional 1-year periods after the initial 1-year grant is made if schools are making substantial progress in the implementation of their reforms.
“(C) PRIORITY.—The State, in awarding grants under this paragraph, shall give priority to local educational agencies that—

“(i) plan to use the funds in schools identified as being in need of improvement or corrective action under section 1116(c); and

“(ii) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure the comprehensive school reforms are properly implemented and are sustained in the future.

“(D) GRANT CONSIDERATION.—In making subgrant awards under this part, the State educational agency shall take into account the equitable distribution of awards to different geographic regions within the State, including urban and rural areas, and to schools serving elementary and secondary students.

“(E) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant award under this section may reserve not more than 5 percent of such award for administrative, evaluation, and technical assistance expenses.
“(F) Supplement.—Funds made available under this section shall be used to supplement, not supplant, any other Federal, State, or local funds that would otherwise be available to carry out this section.

“(3) Reporting.—Each State educational agency that receives an award under this section shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools selected to receive subgrant awards under this section, the amount of such award, and a description of the comprehensive school reform model selected and in use.

“(d) Local Awards.—

“(1) In general.—Each local educational agency that applies for a subgrant under this section shall—

“(A) identify which schools eligible for funds under part A plan to implement a comprehensive school reform program, including the projected costs of such a program;

“(B) describe the scientifically-based comprehensive school reforms that such schools will implement;
“(C) describe how the agency will provide technical assistance and support for the effective implementation of the scientifically-based school reforms selected by such schools; and

“(D) describe how the agency will evaluate the implementation of such reforms and measure the results achieved in improving student academic performance.

“(2) COMPONENTS OF THE PROGRAM.—A local educational agency that receives a subgrant award under this section shall provide such funds to schools that implement a comprehensive school reform program that—

“(A) employs innovative strategies and proven methods for student learning, teaching, and school management that are based on scientifically-based research and effective practices and have been replicated successfully in schools with diverse characteristics;

“(B) integrates a comprehensive design for effective school functioning, including instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school’s curriculum, technology, professional develop-
ment into a comprehensive reform plan for schoolwide change designed to enable all students to meet challenging State content and challenging student performance standards and addresses needs identified through a school needs assessment;

“(C) provides high-quality and continuous teacher and staff professional development;

“(D) includes measurable goals for student performance and benchmarks for meeting such goals;

“(E) is supported by teachers, principals, administrators, and other professional staff;

“(F) provides for the meaningful involvement of parents and the local community in planning and implementing school improvement activities;

“(G) uses high quality external technical support and assistance from an entity, which may be an institution of higher education, with experience and expertise in schoolwide reform and improvement;

“(H) includes a plan for the evaluation of the implementation of school reforms and the student results achieved; and
“(I) identifies how other resources, including Federal, State, local, and private resources, available to the school will be used to coordinate services to support and sustain the school reform effort.

“(3) SPECIAL RULE.—A school that receives funds to develop a comprehensive school reform program shall not be limited to using the approaches identified or developed by the Department of Education, but may develop its own comprehensive school reform programs for schoolwide change that comply with paragraph (2).

“(e) EVALUATION AND REPORT.—

“(1) IN GENERAL.—The Secretary shall develop a plan for a national evaluation of the programs developed pursuant to this section.

“(2) EVALUATION.—This national evaluation shall evaluate the implementation and results achieved by schools after 3 years of implementing comprehensive school reforms, and assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

“(3) REPORTS.—Prior to the completion of a national evaluation, the Secretary shall submit an interim report outlining first year implementation
activities to the Committees on Education and the Workforce and Appropriations of the House of Representatives and the Committees on Health, Education, Labor, and Pensions and Appropriations of the Senate.

PART G—RURAL EDUCATION

SEC. 171. RURAL EDUCATION.

Title I is amended by adding at the end the following new part:

“PART G—RURAL EDUCATION FLEXIBILITY AND ASSISTANCE

SEC. 1701. SHORT TITLE.

“This part may be cited as the ‘Rural Education Initiative Act’.

SEC. 1702. FINDINGS.

“Congress finds the following:

“(1) While there are rural education initiatives identified at the State and local level, no Federal education policy focuses on the specific and unique needs of rural school districts and schools.

“(2) Small school districts often cannot use Federal grant funds distributed by formula because the formula allocation does not provide enough revenue to carry out the program the grant is intended to fund.
“(3) Rural schools often cannot compete for Federal funding distributed by competitive grants because the schools lack the personnel needed to prepare grant applications and the resources to hire specialists in the writing of Federal grant proposals.

“(4) A critical problem for rural school districts involves the hiring and retention of qualified administrators and certified teachers (especially in reading, science, and mathematics). As a result, teachers in rural schools are almost twice as likely to provide instruction in three or more subject areas than teachers in urban schools. Rural schools also face other tough challenges, such as shrinking local tax bases, high transportation costs, aging buildings, limited course offerings, and limited resources.

“**Subpart 1—Rural Education Flexibility**

**SEC. 1711. FORMULA GRANT PROGRAM AUTHORIZED.**

“(a) **Alternative Uses.**—

“(1) **In General.**—Notwithstanding any other provision of law, an eligible local educational agency may use the applicable funding, that the agency is eligible to receive from the State educational agency for a fiscal year, to support local or statewide education reform efforts intended to improve the academic achievement of elementary school and sec-

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ondary school students and the quality of instruction
provided for the students.

“(2) Notification.—An eligible local edu-
cational agency shall notify the State educational
agency of the local educational agency’s intention to
use the applicable funding in accordance with para-
graph (1) not later than a date that is established
by the State educational agency for the notification.

“(b) Eligibility.—

“(1) In general.—A local educational agency
shall be eligible to use the applicable funding in ac-
cordance with subsection (a) if—

“(A)(i) the total number of students in av-
erage daily attendance at all of the schools
served by the local educational agency is less
than 600; and

“(ii) all of the schools served by the local
educational agency are designated with a school
locale code of 6, 7, or 8 as determined by the
Secretary of Education; or

“(B) the agency meets the criteria established
in subparagraph (A)(i) and the Secretary, in accord-
ance with paragraph (2), grants the local edu-
cational agency’s request to waive the criteria de-
scribed in subparagraph (A)(ii).
“(2) Certification.—The Secretary shall determine whether or not to waive the criteria described in paragraph (1)(A)(ii) based on certification provided by the local educational agency, or the State educational agency on behalf of the local educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

“(c) Applicable Funding.—In this section, the term ‘applicable funding’ means funds provided under each of part A of title II, title III, title IV, and parts A and B of title V.

“(d) Disbursement.—Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under this section for the fiscal year at the same time that the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

“(e) Supplement Not Supplant.—Funds used under this section shall be used to supplement and not supplant any other Federal, State, or local education funds that would otherwise be available for the purpose of this subpart.
“(f) **SPECIAL RULE.**—References in Federal law to funds for the provisions of law set forth in subsection (e) may be considered to be references to funds for this section.

**SEC. 1712. PROGRAM AUTHORIZED.**

“(a) **IN GENERAL.**—The Secretary is authorized to award grants to eligible local educational agencies to enable the local educational agencies to support local or statewide education reform efforts intended to improve the academic achievement of elementary school and secondary school students and the quality of instruction provided for the students.

“(b) **ELIGIBILITY.**—

“(1) **IN GENERAL.**—A local educational agency shall be eligible to receive a grant under this section if—

“(A)(i) the total number of students in average daily attendance at all of the schools served by the local educational agency is less than 600; and

“(ii) all of the schools served by the local educational agency are designated with a school locale code of 6, 7, or 8 as determined by the Secretary of Education; or
“(B) the agency meets the criteria established in subparagraph (A)(i) and the Secretary, in accordance with paragraph (2), grants the local educational agency’s request to waive the criteria described in subparagraph (A)(ii).

“(2) CERTIFICATION.—The Secretary shall determine whether or not to waive the criteria described in paragraph (1)(A)(ii) based on certification provided by the local educational agency, or the State educational agency on behalf of the local educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

“(c) ALLOCATION.—

“(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall award a grant to an eligible local educational agency for a fiscal year in an amount equal to the initial amount determined under paragraph (2) for the fiscal year minus the total amount received under the provisions of law described under section 1711(c) for the preceding fiscal year.

“(2) DETERMINATION OF THE INITIAL AMOUNT.—The initial amount referred to in para-
graph (1) is equal to $100 multiplied by the total number of students, over 50 students, in average daily attendance in such eligible agency plus $20,000, except that the initial amount may not exceed $60,000.

“(3) Ratable adjustment.—

“(A) In general.—If the amount made available for this subpart for any fiscal year is not sufficient to pay in full the amounts that local educational agencies are eligible to receive under paragraph (1) for such year, the Secretary shall ratably reduce such amounts for such year.

“(B) Additional amounts.—If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

“(5) Census determination.—

“(A) In general.—Each local educational agency desiring a grant under this section shall conduct a census not later than December 1 of each year to determine the number of kindergarten through grade 12 students in average
daily attendance at the schools served by the local educational agency.

“(B) SUBMISSION.—Each local educational agency shall submit the number described in subparagraph (A) to the Secretary not later than March 1 of each year.

“(d) DISBURSAL.—The Secretary shall disburse the funds awarded to a local educational agency under this section for a fiscal year not later than July 1 of that year.

“(e) SPECIAL RULE.—A local educational agency that is eligible to receive a grant under this subpart for a fiscal year shall be ineligible to receive funds for such fiscal year under subpart 2.

“(f) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant any other Federal, State or local education funds.

“SEC. 1713. ACCOUNTABILITY.

“(a) ACADEMIC ACHIEVEMENT.—

“(1) IN GENERAL.—Each local educational agency that uses or receives funds under section 1711 or 1712 for a fiscal year shall administer an assessment consistent with section 1111.

“(2) SPECIAL RULE.—Each local educational agency that uses or receives funds under section
1711 or 1712 shall use the same assessment described in paragraph (1) for each year of participation in the program under such section.

“(b) State Educational Agency Determination Regarding Continuing Participation.—Each State educational agency that receives funding under the provisions of law described in section 1711(c) shall—

“(1) after the second year that a local educational agency participates in a program under section 1711 or 1712 and on the basis of the results of the assessments described in subsection (a), determine whether the students served by the local educational agency participating in the program performed in accordance with section 1111; and

“(2) only permit those local educational agencies that so participated and met the requirements of section 1111(b)(2) to continue to so participate.

“Subpart 2—Rural Education Assistance

“SEC. 1721. PROGRAM AUTHORIZED.

“(a) Reservations.—From amounts appropriated under section 1732 for this subpart for a fiscal year, the Secretary shall reserve 1⁄2 of 1 percent to make awards to elementary or secondary schools operated or supported by the Bureau of Indian Affairs to carry out the purpose of this subpart.
“(b) GRANTS TO STATES.—

“(1) IN GENERAL.—From amounts appropriated under section 1732 for this subpart that are not reserved under subsection (a), the Secretary shall award grants for a fiscal year to State educational agencies that have applications approved under section 1723 to enable the State educational agencies to award subgrants to eligible local educational agencies for local authorized activities described in subsection (c)(2).

“(2) ALLOCATION.—From amounts appropriated for this subpart, the Secretary shall allocate to each State educational agency for a fiscal year an amount that bears the same ratio to the amount of funds appropriated under section 1732 for this subpart that are not reserved under subsection (a) as the number of students in average daily attendance served by eligible local educational agencies in the State bears to the number of all such students served by eligible local educational agencies in all States for that fiscal year.

“(3) DIRECT AWARDS TO SPECIALLY QUALIFIED AGENCIES.—

“(A) NONPARTICIPATING STATE.—If a State educational agency elects not to partici-
pate in the program under this subpart or does not have an application approved under section 1723 a specially qualified agency in such State desiring a grant under this subpart shall apply directly to the Secretary to receive an award under this subpart.

“(B) DIRECT AWARDS TO SPECIALLY QUALIFIED AGENCIES.—The Secretary may award, on a competitive basis, the amount the State educational agency is eligible to receive under paragraph (2) directly to specially qualified agencies in the State.

“(c) LOCAL AWARDS.—

“(1) ELIGIBILITY.—A local educational agency shall be eligible to receive funds under this subpart if—

“(A) 20 percent or more of the children aged 5 to 17, inclusive, served by the local educational agency are from families with incomes below the poverty line; and

“(B) all of the schools served by the agency are designated with a school code of 6, 7, or 8 as determined by the Secretary of Education.
“(2) Uses of Funds.—Grant funds awarded to local educational agencies or made available to schools under this subpart shall be used for—

“(A) teacher recruitment and retention, including the use of signing bonuses and other financial incentives;

“(B) teacher professional development, including programs that train teachers to utilize technology to improve teaching and to train special needs teachers;

“(C) educational technology, including software and hardware as described in part B of title V;

“(D) parental involvement activities; or

“(E) programs to improve student academic achievement.

“SEC. 1722. STATE DISTRIBUTION OF FUNDS.

“(a) Award Basis.—A State educational agency shall award grants to eligible local educational agencies—

“(1) on a competitive basis; or

“(2) according to a formula based on the number of students in average daily attendance served by the eligible local educational agencies or schools (as appropriate) in the State, as determined by the State.
“(b) Administrative Costs.—A State educational agency receiving a grant under this subpart may not use more than 5 percent of the amount of the grant for State administrative costs.

“SEC. 1723. APPLICATIONS.

“Each State educational agency and specially qualified agency desiring to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Such application shall include specific measurable goals and objectives relating to increased student academic achievement, decreased student drop-out rates, or such other factors that the State educational agency or specially qualified agency may choose to measure.

“SEC. 1724. REPORTS.

“(a) State Reports.—Each State educational agency that receives a grant under this subpart shall provide an annual report to the Secretary. The report shall describe—

“(1) the method the State educational agency used to award grants to eligible local educational agencies and to provide assistance to schools under this subpart;
“(2) how local educational agencies and schools used funds provided under this subpart; and

“(3) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 1723.

“(b) SPECIALLY QUALIFIED AGENCY REPORT.—Each specially qualified agency that receives a grant under this subpart shall provide an annual report to the Secretary. Such report shall describe—

“(1) how such agency uses funds provided under this subpart; and

“(2) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 1721(b)(4)(A).

“(c) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the Committee on Education and the Workforce for the House of Representatives and the Committee on Health, Education, Labor, and Pensions for the Senate an annual report. The report shall describe—

“(1) the methods the State educational agency used to award grants to eligible local educational agencies and to provide assistance to schools under this subpart;
“(2) how eligible local educational agencies and
schools used funds provided under this subpart; and
“(3) progress made in meeting specific measurable educational goals and objectives.

“SEC. 1725. PERFORMANCE REVIEW.

“Three years after a State educational agency or specially qualified agency receives funds under this part, the Secretary shall review the progress of such agency toward achieving the goals and objectives included in its application, to determine whether the agency has made progress toward meeting such goals and objectives. To review the performance of each agency, the Secretary shall—

“(1) Review the use of funds of such agency under section 1721(c)(2); and

“(2) deny the provision of additional funds in subsequent fiscal years to an agency only if the Secretary determines, after notice and an opportunity for a hearing, that the agency’s use of funds has been inadequate to justify continuation of such funding.

“SEC. 1726. DEFINITIONS.

“In this subpart—

“(1) The term ‘poverty line’ means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with sec-
tion 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

“(2) The term ‘specially qualified agency’ means an eligible local educational agency, located in a State that does not participate in a program under this subpart in a fiscal year, that may apply directly to the Secretary for a grant in such year in accordance with section 1721(b)(4).

“Subpart 3—General Provisions

“SEC. 1731. DEFINITION.

“In this part, the term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.”.

PART H—GENERAL PROVISIONS OF TITLE I

SEC. 181. GENERAL PROVISIONS.

Title I is amended further by adding at the end the following:

“PART H—GENERAL PROVISIONS

SEC. 1801. FEDERAL REGULATIONS.

“(a) IN GENERAL.—The Secretary is authorized to issue such regulations as are necessary to ensure reasonable compliance with this title.

“(b) NEGOTIATED RULEMAKING PROCESS.—
“(1) IN GENERAL.—Prior to publishing in the Federal Register proposed regulations to carry out this title, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, paraprofessionals, and members of local boards of education involved with the implementation and operation of programs under this title.

“(2) MEETINGS AND ELECTRONIC EXCHANGE.—Such advice and recommendation may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

“(3) PROPOSED REGULATIONS.—After obtaining such advice and recommendations, and prior to publishing proposed regulations, the Secretary shall—

“(A) establish a negotiated rulemaking process on a minimum of three key issues, including—

“(i) accountability;

“(ii) implementation of assessments; and

“(iii) use of paraprofessionals;

“(B) select individuals to participate in such process from among individuals or groups
which provided advice and recommendations, including representation from all geographic regions of the United States; and

“(C) prepare a draft of proposed regulations that shall be provided to the individuals selected by the Secretary under subparagraph (B) not less than 15 days prior to the first meeting under such process.

“(4) Process.—Such process—

“(A) shall be conducted in a timely manner to ensure that final regulations are issued by the Secretary not later than 1 year after the date of the enactment of the No Child Left Behind Act of 2001; and

“(B) shall not be subject to the Federal Advisory Committee Act but shall otherwise follow the provisions of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 et seq.).

“(5) Emergency situation.—In an emergency situation in which regulations to carry out this title must be issued within a very limited time to assist State and local educational agencies with the operation of a program under this title, the Secretary may issue proposed regulations without following such process but shall, immediately thereafter and
prior to issuing final regulations, conduct regional meetings to review such proposed regulations.

“(c) LIMITATION.—Regulations to carry out this part may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

“SEC. 1802. AGREEMENTS AND RECORDS.

“(a) AGREEMENTS.—All published proposed regulations shall conform to agreements that result from negotiated rulemaking described in section 1601 unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants involved in the process explaining why the Secretary decided to depart from and not adhere to such agreements.

“(b) RECORDS.—The Secretary shall ensure that an accurate and reliable record of agreements reached during the negotiations process is maintained.

“SEC. 1803. STATE ADMINISTRATION.

“(a) RULEMAKING.—

“(1) IN GENERAL.—Each State that receives funds under this title shall—

“(A) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title and provide any such proposed rules, regulations, and policies to
the committee of practitioners under subsection (b) for their review and comment;

“(B) minimize such rules, regulations, and policies to which their local educational agencies and schools are subject;

“(C) eliminate or modify State and local fiscal accounting requirements in order to facilitate the ability of schools to consolidate funds under schoolwide programs; and

“(D) identify any such rule, regulation, or policy as a State-imposed requirement.

“(2) SUPPORT AND FACILITATION.—State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the challenging State student performance standards.

“(b) COMMITTEE OF PRACTITIONERS.—

“(1) IN GENERAL.—Each State educational agency shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this title.
“(2) Membership.—Each such committee shall include—

“(A) as a majority of its members, representatives from local educational agencies;

“(B) administrators, including the administrators of programs described in other parts of this title;

“(C) teachers, including vocational educators;

“(D) parents;

“(E) members of local boards of education;

“(F) representatives of private school children; and

“(G) pupil services personnel.

“(3) Duties.—The duties of such committee shall include a review, prior to publication, of any proposed or final State rule or regulation pursuant to this title. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this title, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practi-
tioners to review the emergency regulation prior to issuance in final form.

“SEC. 1804. LOCAL ADMINISTRATIVE COST LIMITATION.

“(a) LOCAL ADMINISTRATIVE COST LIMITATION.—
Each local educational agency may use not more than 4 percent of funds received under part A for administrative expenses.

“(b) REGULATIONS.—The Secretary, after consulting with State and local officials and other experts in school finance, shall develop and issue regulations that define the term administrative cost for purposes of this title. Such definition shall be consistent with generally accepted accounting principles. The Secretary shall publish final regulations on this section not later than 1 year after the date of the enactment of the No Child Left Behind Act of 2001.

“SEC. 1805. APPLICABILITY.

“Nothing in this title shall be construed to affect home schools nor shall any home schooled student be required to participate in any assessment referenced in this title.

“SEC. 1806. PRIVATE SCHOOLS.

“Nothing in this title shall be construed to affect any private school that does not receive funds or services under this title.
“SEC. 1807. PRIVACY OF ASSESSMENT RESULTS.

“Any results from individual assessments referenced in this title which become part of the education records of the student shall have the protections as provided in section 444 of the General Education Provisions Act.”.

TITLE II—PREPARING, TRAINING, AND RECRUITING QUALITY TEACHERS

SEC. 201. TEACHER QUALITY TRAINING AND RECRUITING FUND; TEACHER LIABILITY.

Title II (20 U.S.C. 6601 et seq.) is amended to read as follows:

“TITLE II—PREPARING, TRAINING, AND RECRUITING QUALITY TEACHERS

PART A—TEACHER QUALITY TRAINING AND RECRUITING FUND

“SEC. 2001. PURPOSE.

“The purpose of this part is to provide grants to States and local educational agencies in order to assist their efforts to increase student academic achievement through such strategies as improving teacher quality and increasing the number of highly qualified teachers in the classroom.
“Subpart 1—Grants to States to Prepare, Train, and Recruit Qualified Teachers

“SEC. 2011. FORMULA GRANTS TO STATES.

“(a) IN GENERAL.—In the case of each State that in accordance with section 2013 submits to the Secretary an application for a fiscal year, the Secretary shall make a grant for the year to the State for the uses specified in section 2012. The grant shall consist of the allotment determined for the State under subsection (b).

“(b) DETERMINATION OF AMOUNT OF ALLOTMENT.—

“(1) RESERVATION OF FUNDS.—From the amount made available to carry out this subpart for any fiscal year, the Secretary shall reserve—

“(A) 1⁄2 of 1 percent for allotments for the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among these outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purpose of this part; and

“(B) 1⁄2 of 1 percent for the Secretary of the Interior for programs under this part for professional development activities for teachers, other staff, and administrators in schools operated or funded by the Bureau of Indian Affairs.
“(2) STATE ALLOTMENTS.—

“(A) HOLD HARMLESS.—

“(i) IN GENERAL.—Subject to subparagraph (B), from the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount equal to the total amount that such State received for fiscal year 2001 under—

“(I) section 2202(b) of this Act (as in effect on the day before the date of the enactment of the No Child Left Behind Act of 2001); and

“(II) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

“(ii) NONPARTICIPATING STATES.—In the case of a State that did not receive any funds for fiscal year 2001 under one or both of the provisions referred to in subclauses (I) and (II) of clause (i), the
amount allotted to the State under such clause shall be the total amount that the State would have received for fiscal year 2001 if it had elected to participate in all of the programs for which it was eligible under each of the provisions referred to in such subclauses.

“(iii) Ratable Reduction.—If the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1) is insufficient to pay the full amounts that all States are eligible to receive under clause (i) for any fiscal year, the Secretary shall ratably reduce such amounts for such fiscal year.

“(B) Allotment of Additional Funds.—

“(i) In general.—Subject to clause (ii), for any fiscal year for which the total amount made available to carry out this subpart and not reserved under paragraph (1) exceeds the total amount made available to the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico for fiscal year 2001 under the au-
authorities described in subparagraph (A)(i),
the Secretary shall allot such excess amount as follows:

“(I) 50 percent of such excess amount shall be allotted among such States on the basis of their relative populations of individuals aged 5 through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

“(II) 50 percent of such excess amount shall be allotted among such States in proportion to the number of children, aged 5 to 17, who reside within the State from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which satisfactory data are available, compared to the number of such individuals who
reside in all such States for that fiscal year.

“(ii) Exception.—No State receiving an allotment under clause (i) may receive less than \( \frac{1}{2} \) of 1 percent of the total excess amount allotted under clause (i).

“(3) Reallocation.—If any State does not apply for an allotment under this subsection for any fiscal year, the Secretary shall reallocate such amount to the remaining States in accordance with this subsection.

“SEC. 2012. WITHIN-STATE ALLOCATIONS.

“(a) Use of Funds.—Each State receiving a grant under this subpart shall use the funds provided under the grant in accordance with this section to carry out activities for the improvement of teaching and learning.

“(b) Reservation of Funds.—

“(1) In General.—A State that receives a grant under this subpart may reserve not more than 5 percent of the amount of the funds provided under the grant for—

“(A) one or more of the authorized State activities described in subsection (e); and

“(B) planning and administration related to carrying out such activities and making sub-
grants to local educational agencies under sub-
parts 2 and 3.

“(2) LIMITATION ON ADMINISTRATIVE COSTS.—
The amount reserved by a State under paragraph
(1)(B) may not exceed 2 percent of the total amount
authorized to be reserved under paragraph (1).

“(c) MATH AND SCIENCE PARTNERSHIPS.—The Sec-
retary may make a grant to a State under this subpart
only if the State agrees to distribute at least 15 percent
of the amount of the funds provided under the grant and
not reserved under subsection (b) through a competitive
subgrant process in accordance with subpart 2.

“(d) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
cies.—

“(1) IN GENERAL.—The Secretary may make a
grant to a State under this subpart only if the State
agrees to expend at least 85 percent of the amount
of the funds provided under the grant and not re-
served under subsection (b) for the purpose of mak-
ing subgrants to local educational agencies under
subpart 3.

“(2) FORMULA FOR DISTRIBUTION OF SUB-
grants under subpart 3.—A State receiving a
grant under this subpart shall distribute the amount
described in paragraph (1) through a formula under which—

“(A) 50 percent is allocated to local educational agencies in accordance with the relative enrollment in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

“(B) 50 percent is allocated to local educational agencies in proportion to the number of children, aged 5 to 17, who reside within the geographic area served by such agency from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved for the most recent fiscal year for which satisfactory data are available, compared to the number of such individuals who reside in the geographic areas served by all the local educational agencies in the State for that fiscal year.

“(e) AUTHORIZED STATE ACTIVITIES.—The authorized State activities referred to in subsection (b)(1)(A) are the following:
“(1) Reforming teacher certification, recertification, or licensure requirements to ensure that—

“(A) teachers have the necessary teaching skills and academic content knowledge in the subject areas in which they are assigned to teach;

“(B) teacher certification, recertification, or licensure requirements are aligned with the State’s challenging State content standards; and

“(C) teachers have the knowledge and skills necessary to help students meet challenging State student achievement standards.

“(2) Carrying out programs that—

“(A) include support during the initial teaching experience, such as mentoring programs that—

“(i) provide mentoring to beginning teachers from veteran teachers with expertise in the same subject matter that the beginning teachers will be teaching;

“(ii) provide mentors time for activities such as coaching, observing, and assisting the teachers who are mentored; and
“(iii) use standards or assessments for guiding beginning teachers that are consistent with the State’s student achievement standards and with the requirements for professional development activities under section 2033; and

“(B) establish, expand, or improve alternative routes to State certification of teachers, especially in the areas of mathematics and science, for highly qualified individuals with a baccalaureate degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective teachers.

“(3) Developing and implementing effective mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified and effective teachers and principals.

“(4) Reforming tenure systems and implementing teacher testing and other procedures to expeditiously remove incompetent and ineffective teachers from the classroom.
“(5) Developing enhanced performance systems to measure the effectiveness of specific professional development programs and strategies.

“(6) Providing technical assistance to local educational agencies consistent with this part.

“(7) Funding projects to promote reciprocity of teacher certification or licensure between or among States, except that no reciprocity agreement developed under this paragraph or developed using funds provided under this part may lead to the weakening of any State teaching certification or licensing requirement.

“(8) Developing or assisting local educational agencies or eligible partnerships (as defined in section 2026) in the development and utilization of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as through the use of technology and distance learning.

“(9) Providing assistance to local educational agencies and eligible partnerships (as defined in section 2026) for the development and implementation of innovative professional development programs that train teachers to use technology to improve
teaching and learning and are consistent with the requirements of section 2033.

“(10) Developing or assisting local educational agencies in developing merit-based performance systems, rigorous assessments for teachers, and strategies which provide differential and bonus pay for teachers in high-need subject areas such as reading, math, and science and in high-poverty schools and districts.

“(f) COORDINATION.—States receiving grants under section 202 of the Higher Education Act of 1965 shall coordinate the use of such funds with activities carried out under this section.

“SEC. 2013. APPLICATIONS BY STATES.

“(a) IN GENERAL.—To be eligible to receive a grant under this subpart, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(b) CONTENTS.—Each application under this section shall include the following:

“(1) A description of how the State will ensure that a local educational agency receiving a subgrant under subpart 3 will comply with the requirements of such subpart.
“(2) A plan to ensure all teachers within the
State are fully qualified not later than December 31, 2005.

“(3) A description of how the State will coordi-
nate professional development activities authorized
under this part with professional development activi-
ties provided under other Federal, State, and local
programs, including those authorized under title I,
part A of title V, part B of title V, part A of title
III, and (where applicable) the Individuals with Dis-
abilities Education Act and the Carl D. Perkins Vo-
cational and Technical Education Act. The applica-
tion shall also describe the comprehensive strategy
that the State will take as part of such coordination
effort, to ensure that teachers are trained in the uti-
лизation of technology so that technology and its ap-
plications are effectively used in the classroom to im-
prove teaching and learning in all curriculum and
content areas, as appropriate.

“(4) A description of how the State will encour-
age the development of proven, innovative strategies
to deliver intensive professional development pro-
gress that are both cost-effective and easily acces-
sible, such as through the use of technology and dis-
“(5) A description of how the State will ensure that local educational agencies will comply with the requirements under section 2033, especially with respect to ensuring the participation of teachers and parents.

“(c) APPLICATION APPROVAL.—A State application submitted to the Secretary under this section shall be deemed approved by the Secretary unless the Secretary makes a written determination, within 90 days after receiving the application, that the application is in violation of the provisions of this subpart. The Secretary shall not finally disapprove a State application except after giving the State notice and opportunity for a hearing.

“Subpart 2—Math and Science Partnerships

“SEC. 2021. PURPOSE.

“The purpose of this subpart is to improve the achievement of students in the areas of mathematics and science by encouraging States, institutions of higher education, and local educational agencies to participate in programs that—

“(1) focus on education and training of mathematics and science teachers that improves teachers’ knowledge and skills and encourages intellectual growth;
“(2) improve mathematics and science teaching by encouraging institutions of higher education to assume greater responsibility for improving mathematics and science teacher education through the establishment of a comprehensive, integrated system of recruiting, training, and advising such teachers; and

“(3) bring mathematics and science teachers in elementary and secondary schools together with scientists, mathematicians, and engineers to increase the subject matter knowledge of teachers and improve their teaching skills through the use of sophisticated laboratory equipment and work space, computing facilities, libraries, and other resources that institutions of higher education are better able to provide than the schools.

“SEC. 2022. APPLICATION REQUIREMENTS.

“(a) IN GENERAL.—An eligible partnership seeking to receive a subgrant from a State under this subpart shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may require.

“(b) PARTNERSHIP APPLICATION CONTENTS.—Each such application shall include—

“(1) an assessment of the teacher quality and professional development of all the schools and agen-
cies participating in the eligible partnership with re-

spect to the teaching and learning of mathematics
and science;

“(2) a description of how the activities to be
carried out by the eligible partnership will be aligned
with State content standards in mathematics and
science and with other educational reform activities
that promote student achievement in mathematics
and science;

“(3) a description of how the activities to be
carried out by the eligible partnership will be based
on a review of relevant research, and an explanation
of why the activities are expected to improve student
achievement and to strengthen the quality of mathe-
matics and science instructions; and

“(4) a description of—

“(A) how the eligible partnership will carry
out the activities described in section 2023(c); and

“(B) the eligible partnership’s evaluation
and accountability plan described in section
2024.
“SEC. 2023. MATH AND SCIENCE PARTNERSHIP SUBGRANTS.

“(a) IN GENERAL.—From the amount described in section 2012(c), the State educational agency, working in conjunction with the State agency for higher education (if such agencies are separate), shall award subgrants on a competitive basis to eligible partnerships to enable such partnerships to carry out activities described in subsection (c).

“(b) DURATION.—The State shall award subgrants under this subpart for a period of not less than 2 and not more than 5 years.

“(c) AUTHORIZED ACTIVITIES.—A recipient of funds provided under this subpart may use the funds for the following activities related to elementary or secondary schools:

“(1) Establishing and operating mathematics and science summer professional development workshops or institutes for elementary and secondary teachers that—

“(A) shall—

“(i) directly relate to the curriculum and content areas in which the teacher provides instruction, and focus only secondarily on pedagogy;
“(ii) enhance the ability of a teacher to understand and use the State’s content standards for mathematics and science and to select appropriate curricula;

“(iii) train teachers to use curricula that are—

“(I) based on scientific research;

“(II) aligned with State content standards; and

“(III) object-centered, experiment-oriented, and concept- and content-based; and

“(iv) provide supplemental assistance and follow-up training during the school year for summer institute graduates; and

“(B) may include—

“(i) programs that provide prospective teachers and novice teachers opportunities to work under the guidance of experienced teachers and college faculty;

“(ii) instruction in the use of data and assessments to inform and instruct classroom practice;

“(iii) professional development activities, including supplemental and follow-up
activities, such as distance learning and activities that train teachers to utilize technology in the classroom.

“(2) Recruiting to the teaching profession—

“(A) students studying mathematics, engineering, and science; or

“(B) mathematicians, engineers, and scientists currently working in the field.

(3) Designing programs to bring teachers into contact with working scientists to expand teacher content knowledge of and research in science and mathematics.

“(d) PRIORITY.—In awarding subgrants under this subpart, States shall give priority to applications seeking funding for the activity described in subsection (e)(1).

“(e) COORDINATION.—Partnerships receiving grants under section 203 of the Higher Education Act of 1965 (20 U.S.C. 1023) shall coordinate the use of such funds with any related activities carried out by such partnership with funds made available under this subpart.

“SEC. 2024. EVALUATION AND ACCOUNTABILITY PLAN.

“(a) AL.—Each eligible partnership receiving a subgrant under this subpart shall develop an evaluation and accountability plan for activities assisted under this subpart that includes rigorous performance objectives that
measure the impact of activities funded under this subpart.

“(b) CONTENTS.—The plan—

“(1) shall include measurable goals to increase
the number of mathematics and science teachers
who participate in content-based professional develop-
ment activities; and

“(2) may include objectives and measures for—

“(A) improved student achievement on
State mathematics and science assessments;

“(B) increased participation by students in
advanced courses in mathematics and science;

“(C) increased percentages of elementary
school teachers with academic majors or mi-
nors, or group majors or minors, in mathe-
matics or the sciences; and

“(D) increased percentages of secondary
school classes in mathematics and science
taught by teachers with academic majors in
mathematics and science, respectively.

“SEC. 2025. REPORTS; REVOCA TION OF SUBGRANTS.

“(a) REPORTS.—Each eligible partnership receiving
a subgrant under this subpart annually shall report to the
State regarding the eligible partnership’s progress in
meeting the performance objectives described in section 2024.

“(b) Revocation.—If the State determines that an eligible partnership that receives a subgrant under this subpart for 5 years is not making substantial progress in meeting the performance objectives described in section 2024 by the end of the third year of the subgrant, the subgrant payments shall not be made for the fourth and fifth years.

“SEC. 2026. DEFINITIONS.

“In this subpart:

“(1) Eligible partnership.—The term ‘eligible partnership’ means a partnership that—

“(A) shall include—

“(i) a State educational agency;

“(ii) a mathematics or science department of a private independent institution of higher education or a State-supported public institution of higher education; and

“(iii) a high need local educational agency; and

“(B) may include—

“(i) another institution of higher education or the teacher training department of such an institution;
“(ii) additional local educational agencies, public charter schools, public or private elementary or secondary schools, or a consortium of such schools;

“(iii) a business; or

“(iv) a nonprofit organization of demonstrated effectiveness, including a museum or research institution.

“(2) SUMMER PROFESSIONAL DEVELOPMENT WORKSHOP OR INSTITUTE.—The term ‘summer professional development workshop or institute’ means a workshop or institute that—

“(A) is conducted during a period of not less than 2 weeks;

“(B) includes as a component a program that provides direct interaction between students and faculty; and

“(C) provides for follow-up training during the academic year that shall be conducted in the classroom for a period of not less than 3 consecutive or nonconsecutive days, except that—

“(i) if the workshop or institute is conducted during a two-week period, the
follow-up training shall be conducted for a period of at least 4 days; and

“(ii) if the follow-up training is for teachers in rural school districts, it may be conducted through distance learning.

“Subpart 3—Subgrants to Local Educational Agencies

“SEC. 2031. LOCAL USE OF FUNDS.

“Each local educational agency that receives a subgrant under this subpart may use the subgrant to carry out the following activities:

“(1) Initiatives to assist in recruiting and hiring fully qualified teachers who will be assigned teaching positions within their field, including—

“(A) providing signing bonuses or other financial incentives, such as differential pay, for teachers to teach in academic subject areas in which there exists a shortage of such fully qualified teachers within a school or the local educational agency;

“(B) establishing programs that—

“(i) recruit professionals from other fields and provide such professionals with alternative routes to teacher certification;

and

•HR 1 IH
“(ii) provide increased opportunities for minorities, individuals with disabilities, and other individuals underrepresented in the teaching profession; and

“(C) implementing hiring policies that ensure comprehensive recruitment efforts as a way to expand the applicant pool, such as through identifying teachers certified through alternative routes, coupled with a system of intensive screening designed to hire the most qualified applicant.

“(2) Initiatives to promote retention of highly qualified teachers and principals, particularly within elementary and secondary schools with a high percentage of low-achieving students, including programs that provide—

“(A) mentoring to newly hired teachers, such as from master teachers;

“(B) incentives, including financial incentives, to retain teachers who have a record of success in helping low-achieving students improve their academic success; or

“(C) incentives, including financial incentives, to principals who have a record of improving the performance of all students, but par-
particularly students from economically disadvantaged families and students from racial and ethnic minority groups.

“(3) Programs and activities that are designed to improve the quality of the teacher force, such as—

“(A) innovative professional development programs (which may be through partnerships including institutions of higher education), including programs that train teachers and principals to utilize technology to improve teaching and learning, are consistent with the requirements of section 2033, and are coordinated with part B of title V;

“(B) development and utilization of proven, cost-effective strategies for the implementation of professional development activities, such as through the utilization of technology and distance learning;

“(C) tenure reform;

“(D) merit pay;

“(E) testing of elementary and secondary school teachers in the subject areas taught by such teachers;
“(F) professional development programs that provide instruction in how to teach children with different learning styles, particularly children with disabilities and children with special learning needs (including those who are gifted and talented);

“(G) professional development programs that provide instruction in how best to discipline children in the classroom and identify early and appropriate interventions to help children described in subparagraph (F) learn; and

“(H) professional development programs that provide instruction in how to teach character education in a manner that—

“(i) reflects the values of parents, teachers, and local communities; and

“(ii) incorporates elements of good character, including honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness.

“(4) Teacher opportunity payments, consistent with section 2034.

“(5) Professional activities designed to improve the quality of principals.
“(6) Hiring fully qualified teachers, including teachers who become fully qualified through State and local alternative routes, and special education teachers, in order to reduce class size.

“SEC. 2032. LOCAL APPLICATIONS.

“(a) IN GENERAL.—A local educational agency seeking to receive a subgrant from a State under this subpart shall submit an application to the State—

“(1) at such time as the State shall require; and

“(2) which is coordinated with other programs under this Act, or other Acts, as appropriate.

“(b) LOCAL APPLICATION CONTENTS.—The local application described in subsection (a), shall include, at a minimum, the following:

“(1) An assurance that the local educational agency will target funds to schools within the jurisdiction of the local educational agency that—

“(A) have the lowest proportion of fully qualified teachers;

“(B) have the largest average class size; or

“(C) are identified for school improvement under section 1116(b).

“(2) A description of how the local educational agency will coordinate professional development ac-
tivities authorized under this subpart with profes-
sional development activities provided through other
Federal, State, and local programs, including those
authorized under title I, part A of title V, part B
of title V, part A of title III, and (where applicable)
the Individuals with Disabilities Education Act and
the Carl D. Perkins Vocational and Technical Edu-
cation Act.

“(3) A description of how the local educational
agency will integrate funds under this subpart with
funds received under part B of title V that are used
for professional development to train teachers to uti-
lize technology to improve teaching and learning.

“(4) A description of how the local educational
agency has collaborated with teachers, principals,
parents, and administrators in the preparation of
the application.

“SEC. 2033. PROFESSIONAL DEVELOPMENT FOR TEACHERS.

“(a) REQUIREMENTS FOR PROFESSIONAL DEVELOP-
MENT ACTIVITIES.—Professional development activities
under this subpart shall—

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

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

“(3) advance teacher understanding of effective instructional strategies based on scientifically based research for improving student achievement, at a minimum, in reading or language arts and mathematics;

“(4) be directly related to the curriculum and content areas in which the teacher provides instruction, except this does not apply to activities that instruct in methods of disciplining children;

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

“(6) be tied to scientifically based research demonstrating the effectiveness of such professional development activities or programs in increasing student achievement or substantially increasing the knowledge and teaching skills of teachers;

“(7) be of sufficient intensity and duration (not to include 1-day or short-term workshops and con-
ferences) to have a positive and lasting impact on
the teacher’s performance in the classroom;
“(8) be developed with extensive participation
of teachers, principals, parents, and administrators
of schools to be served under this part;
“(9) to the extent appropriate, provide training
for teachers and principals in the use of technology
so that technology and its applications are effectively
used in the classroom to improve teaching and learn-
ing in the curriculum and academic content areas in
which the teachers provide instruction; and
“(10) as a whole, be regularly evaluated for
their impact on increased teacher effectiveness and
improved student achievement, with the findings of
such evaluations used to improve the quality of pro-
fessional development.
“(b) PROFESSIONAL DEVELOPMENT ACTIVITIES.—
Professional development activities under this subpart
may include—
“(1) instruction in the use of data and assess-
ments to inform and instruct classroom practice;
“(2) instruction in ways that teachers, prin-
cipals, pupil services personnel, and school adminis-
trators may work more effectively with parents;
“(3) the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and novice teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

“(4) the creation of programs for paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under this part) to obtain the education necessary for such paraprofessionals to become licensed and certified teachers; and

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

“(c) ACCOUNTABILITY.—

“(1) IN GENERAL.—A State shall notify a local educational agency that the agency is on notice of the possibility that the agency may be subject to the requirement in paragraph (3) if, after any fiscal year, the State determines that the programs or activities funded by the agency fail to meet the requirements of subsection (a).

“(2) TECHNICAL ASSISTANCE.—A local educational agency that has been put on notice pursuant to paragraph (1) may request technical assist-
ance from the State in order to provide the opportunity for such local educational agency to comply with the requirements of subsection (a).

“(3) REQUIREMENT TO PROVIDE TEACHER OPPORTUNITY PAYMENTS.—A local educational agency that has been put on notice by the State pursuant to paragraph (1) during any 2 consecutive fiscal years shall expend under section 2034 for the succeeding fiscal year a proportion of the amount made available to the agency under this subpart equal to the proportion of such amount expended by the agency on professional development for the second fiscal year in which it was put on notice.

“SEC. 2034. TEACHER OPPORTUNITY PAYMENTS.

“(a) IN GENERAL.—A local educational agency receiving funds under this subpart may (or, in the case of a local educational agency described in section 2033(c)(3), shall) provide funds directly to a teacher or a group of teachers seeking opportunities to participate in a professional development activity of their choice.

“(b) NOTICE TO TEACHERS.—Local educational agencies distributing funds under this section shall establish and implement a timely process through which proper notice of availability of funds will be given to all teachers within schools identified by the agency and shall develop
a process whereby teachers will be specifically rec-
ommended by principals to participate in such program
by virtue of—

“(1) their not being fully qualified to teach in
the subject or subjects in which they teach; or

“(2) their need for additional assistance to en-
sure that their students make progress toward meet-
ing challenging State content standards and student
achievement standards.

“(c) SELECTION OF TEACHERS.—In the event ade-
quate funding is not available to provide payments under
this section to all teachers seeking such assistance, or
identified as needing such assistance pursuant to sub-
section (b), a local educational agency shall establish pro-
cedures for selecting teachers which provide a priority for
those teachers described in paragraph (1) or (2) of sub-
section (b).

“(d) ELIGIBLE PROGRAM.—Teachers receiving a pay-
ment under this section shall have the choice of attending
any professional development program that meets the cri-
teria set forth in section 2033(a).
“Subpart 4—Troops-to-Teachers Program

SEC. 2041. AUTHORIZATION OF TROOPS-TO-TEACHERS PROGRAM.

“(a) PROGRAM AUTHORIZED.—The Secretary may carry out a program (to be known as the ‘Troops-to-Teachers Program’)—

“(1) to assist eligible members and former members of the Armed Forces described in section 2042 to obtain certification or licensure as elementary school teachers, secondary school teachers, or vocational or technical teachers; and

“(2) to facilitate the employment of such members in elementary schools or secondary schools or as vocational or technical teachers.

“(b) ADMINISTRATION OF PROGRAM.—The Secretary shall enter into a memorandum of agreement with the Secretary of Defense under which the Secretary of Defense, acting through the Defense Activity for Non-Traditional Education Support of the Department of Defense, will perform the actual administration of the Program, other than section 2045. Using funds appropriated to the Secretary to carry out this subpart, the Secretary shall transfer to the Secretary of Defense such amounts as may be necessary to administer the Program pursuant to the memorandum of agreement.
“(c) Information Regarding Program.—The Secretary shall provide to the Secretary of Defense, for distribution as part of preseparation counseling provided under section 1142 of title 10, United States Code, to members of the Armed Forces described in section 2042, information regarding the Troops-to-Teachers Program and applications to participate in the program.

“(d) Placement Assistance and Referral Services.—As part of the Troops-to-Teachers Program, the Secretary may, with the agreement of the Secretary of Defense, provide placement assistance and referral services regarding employment opportunities with local educational agencies to members of the Armed Forces who are discharged or released from active duty under other than adverse conditions. Unless the member is also selected to participate in the Program under section 2042, a member receiving placement assistance and referral services under the authority of this subsection is not eligible for financial assistance under section 2043.

“Sec. 2042. Recruitment and Selection of Program Participants.

“(a) Eligible Members.—The following members and former members of the Armed Forces are eligible for selection to participate in the Troops-to-Teachers Program:
“(1) Any member who—

“(A) on or after October 1, 1999, becomes entitled to retired or retainer pay in the manner provided in title 10 or title 14, United States Code; or

“(B) on or after the date of the enactment of the No Child Left Behind Act of 2001, has an approved date of voluntary retirement and, as of the date the member submits an application to participate in the Program, has one year or less of active duty remaining before retirement.

“(2) Any member who, on or after the date of the enactment of the No Child Left Behind Act of 2001—

“(A) is separated or released from active duty after six or more years of continuous active duty immediately before the separation or release; and

“(B) executes a reserve commitment agreement for a period of three years under subsection (e)(2).

“(3) Any member who, on or after the date of the enactment of the No Child Left Behind Act of
2001, is retired or separated for physical disability
under chapter 61 of title 10, United States Code.

“(4) Any member who—

“(A) during the period beginning on Octo-
ber 1, 1990, and ending on September 30,
1999, was involuntarily discharged or released
from active duty for purposes of a reduction of
force after six or more years of continuous ac-
tive duty immediately before the discharge or
release; or

“(B) applied for the teacher placement
program administered under section 1151 of
title 10, United States Code, before its repeal,
and who satisfied the eligibility criteria specified
in subsection (e) of such section 1151.

“(b) SUBMISSION OF APPLICATIONS.—

“(1) FORM AND SUBMISSION.—Selection of eli-
gible members and former members of the Armed
Forces to participate in the Troops-to-Teachers Pro-
gram shall be made on the basis of applications sub-
mitted to the Secretary within the time periods spec-
ified in paragraph (2). An application shall be in
such form and contain such information as the Sec-
retary may require.
“(2) TIME FOR SUBMISSION.—An application shall be considered to be submitted on a timely basis under paragraph (1) if—

“(A) in the case of a member or former member of the Armed Forces described in paragraph (1), (2), or (3) of subsection (a), the application is submitted not later than four years after the date on which the member is retired or separated or released from active duty, whichever applies to the member; or

“(B) in the case of a member or former member described in subsection (a)(4), the application is submitted not later than September 30, 2003.

“(c) SELECTION CRITERIA.—

“(1) ESTABLISHMENT.—Subject to paragraphs (2) and (3), the Secretary shall prescribe the criteria to be used to select eligible members and former members of the Armed Forces to participate in the Troops-to-Teachers Program.

“(2) EDUCATIONAL BACKGROUND.—If a member or former member of the Armed Forces described in paragraph (1), (2), or (3) of subsection (a) is applying for assistance for placement as an elementary or secondary school teacher, the Secretary
shall require the member to have received a baccalaureate or advanced degree from an accredited institution of higher education. If such a member is applying for assistance for placement as a vocational or technical teacher, the Secretary shall require the member—

“(A) to have received the equivalent of one year of college from an accredited institution of higher education and have six or more years of military experience in a vocational or technical field; or

“(B) to otherwise meet the certification or licensure requirements for a vocational or technical teacher in the State in which the member seeks assistance for placement under the Program.

“(3) HONORABLE SERVICE.—A member or former member of the Armed Forces is eligible to participate in the Troops-to-Teachers Program only if the member’s last period of service in the Armed Forces was characterized as honorable. If the member is selected to participate in the Program before the retirement of the member or the separation or release of the member from active duty, the member may continue to participate in the Program only if,
upon the retirement or separation or release from active duty, the member’s last period of service is characterized as honorable.

“(d) SELECTION PRIORITIES.—In selecting eligible members and former members of the Armed Forces to receive assistance for placement as elementary or secondary school teachers or vocational or technical teachers, the Secretary shall give priority to members who have educational or military experience in science, mathematics, special education, or vocational or technical subjects and agree to seek employment as science, mathematics, or special education teachers in elementary or secondary schools or in other schools under the jurisdiction of a local educational agency.

“(e) OTHER CONDITIONS ON SELECTION.—

“(1) SELECTION SUBJECT TO FUNDING.—The Secretary may not select an eligible member or former member of the Armed Forces to participate in the Troops-to-Teachers Program under this section and receive financial assistance under section 2043 unless the Secretary has sufficient appropriations for the Program available at the time of the selection to satisfy the obligations to be incurred by the United States under section 2043 with respect to the member.
“(2) Reserve commitment agreement.—

The Secretary may not select an eligible member or former member of the Armed Forces described in subsection (a)(2)(A) to participate in the Troops-to-Teachers Program under this section and receive financial assistance under section 2043 unless—

“(A) the Secretary notifies the Secretary concerned and the member that the Secretary has reserved a full stipend or bonus under section 2043 for the member; and

“(B) the member executes a written agreement with the Secretary concerned to serve as a member of the Selected Reserve of a reserve component of the Armed Forces for a period of three years (in addition to any other reserve commitment the member may have).

“SEC. 2043. PARTICIPATION AGREEMENT AND FINANCIAL ASSISTANCE.

“(a) Participation agreement.—An eligible member or former member of the Armed Forces selected to participate in the Troops-to-Teachers Program under section 2042 and receive financial assistance under this section shall be required to enter into an agreement with the Secretary in which the member agrees—
“(1) to obtain, within such time as the Secretary may require, certification or licensure as an elementary school teacher, secondary school teacher, or vocational or technical teacher; and

“(2) to accept an offer of full-time employment as an elementary school teacher, secondary school teacher, or vocational or technical teacher for not less than three school years with a local educational agency or public charter school, to begin the school year after obtaining that certification or licensure.

“(b) Violation of Participation Agreement; Exceptions.—A participant in the Troops-to-Teachers Program shall not be considered to be in violation of the participation agreement entered into under subsection (a) during any period in which the participant—

“(1) is pursuing a full-time course of study related to the field of teaching at an institution of higher education;

“(2) is serving on active duty as a member of the Armed Forces;

“(3) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician;
“(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;
“(5) is seeking and unable to find full-time employment as a teacher in an elementary or secondary school or as a vocational or technical teacher for a single period not to exceed 27 months; or
“(6) satisfies the provisions of additional reimbursement exceptions that may be prescribed by the Secretary.

“(c) Stipend for Participants.—
“(1) Stipend Authorized.—Subject to paragraph (2), the Secretary may pay to a participant in the Troops-to-Teachers Program selected under section 2042 a stipend in an amount up to $5,000.
“(2) Limitation.—The total number of stipends that may be paid under paragraph (1) in any fiscal year may not exceed 3,000.

“(d) Bonus for Participants.—
“(1) Bonus Authorized.—Subject to paragraph (2), the Secretary may, in lieu of paying a stipend under subsection (c), pay a bonus of $10,000 to a participant in the Troops-to-Teachers Program selected under section 2042 who agrees in the participation agreement under subsection (a) to accept
full-time employment as an elementary school teacher, secondary school teacher, or vocational or technical teacher for not less than three years in a high need school.

“(2) LIMITATION.—The total number of bonuses that may be paid under paragraph (1) in any fiscal year may not exceed 1,000.

“(3) HIGH NEED SCHOOL DEFINED.—For purposes of this subsection, the term ‘high need school’ means a public elementary school, public secondary school, or public charter school that meets one or more of the following criteria:

“(A) At least 50 percent of the students enrolled in the school were children counted under subsection (c) of section 1124 for purposes of making grants under such section to local educational agencies, when such counting was most recently performed.

“(B) The school has a large percentage of students who qualify for assistance under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

“(C) The school meets any other criteria established by the Secretary in consultation with the National Assessment Governing Board.
“(e) Treatment of Stipend and Bonus.—A stipend or bonus paid under this section to a participant in the Troops-to-Teachers Program shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

“(f) Reimbursement Under Certain Circumstances.—

“(1) Reimbursement Required.—A participant in the Troops-to-Teachers Program who is paid a stipend or bonus under this section shall be required to repay the stipend or bonus under the following circumstances:

“(A) The participant fails to obtain teacher certification or licensure or employment as an elementary school teacher, secondary school teacher, or vocational or technical teacher as required by the participation agreement under subsection (a).

“(B) The participant voluntarily leaves, or is terminated for cause, from employment as an elementary school teacher, secondary school teacher, or vocational or technical teacher dur-
ing the three years of required service in viola-

tion of the participation agreement.

“(C) The participant executed a written

agreement with the Secretary concerned under 

section 2042(e)(2) to serve as a member of a 

reserve component of the Armed Forces for a 

period of three years and fails to complete the 

required term of service.

“(2) AMOUNT OF REIMBURSEMENT.—A partici-

pant required to reimburse the Secretary for a sti-

pend or bonus paid to the participant under this sec-

tion shall pay an amount that bears the same ratio 

to the amount of the stipend or bonus as the 

unserved portion of required service bears to the 

three years of required service. Any amount owed by 

the participant shall bear interest at the rate equal 

to the highest rate being paid by the United States 

on the day on which the reimbursement is deter-

mined to be due for securities having maturities of 

ninety days or less and shall accrue from the day on 

which the participant is first notified of the amount 

due.

“(3) TREATMENT OF OBLIGATION.—The obliga-

tion to reimburse the Secretary under this sub-

section is, for all purposes, a debt owing the United
States. A discharge in bankruptcy under title 11, United States Code, shall not release a participant from the obligation to reimburse the Secretary.

“(4) Exceptions to reimbursement requirement.—A participant shall be excused from reimbursement under this subsection if the participant becomes permanently totally disabled as established by sworn affidavit of a qualified physician. The Secretary may also waive reimbursement in cases of extreme hardship to the participant, as determined by the Secretary.

“(g) Relationship to Educational Assistance under Montgomery GI Bill.—The receipt by a participant in the Troops-to-Teachers Program of a stipend or bonus under this section shall not reduce or otherwise affect the entitlement of the participant to any benefits under chapter 30 of title 38, United States Code, or chapter 1606 of title 10, United States Code.

“SEC. 2044. PARTICIPATION BY STATES.

“(a) Discharge of State Activities Through Consortia of States.—The Secretary may permit States participating in the Troops-to-Teachers Program to carry out activities authorized for such States under the Program through one or more consortia of such States.

“(b) Assistance to States.—
“(1) GRANTS AUTHORIZED.—Subject to paragraph (2), the Secretary may make grants to States participating in the Troops-to-Teachers Program, or to consortia of such States, in order to permit such States or consortia of States to operate offices for purposes of recruiting eligible members and former members of the Armed Forces for participation in the Program and facilitating the employment of participants in the Program as elementary school teachers, secondary school teachers, and vocational or technical teachers.

“(2) LIMITATION.—The total amount of grants under paragraph (1) in any fiscal year may not exceed $4,000,000.

“SEC. 2045. SUPPORT OF INNOVATIVE PRERETIREMENT TEACHER CERTIFICATION PROGRAMS.

“(a) DEVELOPMENT, IMPLEMENTATION AND DEMONSTRATION.—The Secretary may enter into a memorandum of agreement with a State, an institution of higher education, or a consortia of States or institutions of higher education, to develop, implement, and demonstrate teacher certification programs for members of the Armed Forces described in section 2042(a)(1)(B) for the purpose of assisting such members to consider and prepare for a career as an elementary school teacher, secondary school
teacher, or vocational or technical teacher upon their re-
tirement from the Armed Forces.

“(b) PROGRAM ELEMENTS.—A teacher certification
program under subsection (a) must—

“(1) provide recognition of military experience
and training as related to licensure or certification
requirements;

“(2) provide courses of instruction that may be
conducted on or near a military installation;

“(3) incorporate alternative approaches to
achieve teacher certification, such as innovative
methods to gaining field-based teaching experiences,
and assessment of background and experience as re-
lated to skills, knowledge, and abilities required of
elementary school teachers, secondary school teach-
ers, or vocational or technical teachers;

“(4) provide for courses to also be delivered via
distance education methods; and

“(5) address any additional requirements or
specifications as established by the Secretary.

“(c) APPLICATION PROCEDURES.—A State or insti-
tution of higher education (or a consortia of States or in-
stitutions of higher education) that has a program leading
to State approved teacher certification programs may sub-
mitt a proposal to the Secretary for consideration under
subsection (a). The Secretary shall give preference to proposals that provide for a sharing of the costs to carry out the teacher certification program.

“(d) CONTINUATION OF PROGRAMS.—The purpose of this section is to provide funding to develop, implement, and demonstrate teacher certification programs under subsection (a). Upon successful completion of the demonstration phase, the continued operation of the teacher certification programs shall not be the responsibility of the Secretary.

“(e) FUNDING LIMITATION.—The total amount obligated by the Secretary under this section in any fiscal year may not exceed $5,000,000.

“SEC. 2046. REPORTING REQUIREMENTS.

“(a) REPORT REQUIRED.—Not later than March 31 of each year, the Secretary (in consultation with the Secretary of Defense and the Secretary of Transportation) and the Comptroller General shall each submit to Congress a report on the effectiveness of the Troops-to-Teachers Program in the recruitment and retention of qualified personnel by local educational agencies and public charter schools.

“(b) ELEMENTS OF REPORT.—The report under subsection (a) shall include information on the following:
“(1) The number of participants in the Troops-to-Teachers Program.

“(2) The schools in which the participants are employed.

“(3) The grade levels at which the participants teach.

“(4) The subject matters taught by the participants.

“(5) The rates of retention of the participants by the local educational agencies and public charter schools employing the participants.

“(6) Such other matters as the Secretary or the Comptroller General, as the case may be, considers appropriate.

“(c) RECOMMENDATIONS.—The report of the Comptroller General under this section shall also include any recommendations of the Comptroller General regarding any means of improving the Troops-to-Teachers Program, including means of enhancing the recruitment and retention of participants in the Program.

“SEC. 2047. DEFINITIONS.

“For purposes of this subpart:

“(1) ARMED FORCES.—The term ‘Armed Forces’ means the Army, Navy, Air Force, Marine Corps, and Coast Guard.
“(2) PROGRAM.—The term ‘Program’ means the Troops-to-Teachers Program authorized by this subpart.

“(3) RESERVE COMPONENT.—The term ‘reserve component’ means—

“(A) the Army National Guard of the United States;

“(B) the Army Reserve;

“(C) the Naval Reserve;

“(D) the Marine Corps Reserve;

“(E) the Air National Guard of the United States;

“(F) the Air Force Reserve; and

“(G) the Coast Guard Reserve.

“(4) SECRETARY CONCERNED.—The term ‘Secretary concerned’ means—

“(A) the Secretary of the Army, with respect to matters concerning a reserve component of the Army;

“(B) the Secretary of the Navy, with respect to matters concerning a reserve component of the Navy;

“(C) the Secretary of the Air Force, with respect to matters concerning a reserve component of the Air Force; and
“(D) the Secretary of Transportation, with respect to matters concerning the Coast Guard Reserve.

“Subpart 5—Funding

“SEC. 2051. AUTHORIZATIONS OF APPROPRIATIONS.

“(a) IN GENERAL.—For the purpose of carrying out this part, other than subpart 4, there are authorized to be appropriated $2,600,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

“(b) SUBPART 4.—For the purpose of carrying out subpart 4, there are authorized to be appropriated $30,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

“Subpart 6—General Provisions

“SEC. 2061. DEFINITIONS.

“For purposes of this part—

“(1) ARTS AND SCIENCES.—The term ‘arts and sciences’ means—

“(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers one or more academic majors in disciplines or content areas corresponding to the academic subject matter areas in which teachers provide instruction; and

•HR 1 IH
“(B) when referring to a specific academic subject matter area, the disciplines or content areas in which academic majors are offered by the arts and sciences organizational unit.

“(2) BEGINNING TEACHER.—The term ‘beginning teacher’ means an educator in a public school who has not yet been teaching 3 full school years.

“(3) MENTORING PROGRAM.—The term ‘mentoring program’ means to provide professional support and development, instruction, and guidance to beginning teachers, but does not include a teacher or individual who begins to work in a supervisory position.

“(4) PUBLICLY REPORT.—The term ‘publicly report’, when used with respect to the dissemination of information, means that the information is made widely available to the public, including parents and students, through such means as the Internet and major print and broadcast media outlets.

“SEC. 2062. PROVISIONS RELATED TO PRIVATE SCHOOLS.

“The provisions of sections 8503 through 8506 apply to programs under this part.
“PART B—TEACHER LIABILITY PROTECTION

“SEC. 2101. TEACHER IMMUNITY.

“(a) IMMUNITY.—Notwithstanding any other provi-
sion of law, no school board member of, or teacher or ad-
ministrator in, a local educational agency that receives
funds under this Act shall be liable for monetary damages
in his or her personal capacity for an action that was
taken in carrying out his or her official duties and in-
tended to maintain school discipline, so long as that action
was not prohibited under State or local law and did not
constitute reckless or criminal misconduct.

“(b) LIMITATION.—The immunity established under
subsection (a) shall apply only to liability arising under
Federal law.”.

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

PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT CHILDREN

SEC. 301. PROGRAMS AUTHORIZED.

(a) Title Heading.—The heading for title III is
amended to read as follows:
“TITLE III—EDUCATION OF LIMITED ENGLISH PROFICIENT CHILDREN; INDIAN AND ALASKA NATIVE EDUCATION”. 

(b) Short Title.—Section 3101 (20 U.S.C. 6801) is repealed.

(c) Limitation on Availability of Certain Funds for Schools.—Section 3601 (20 U.S.C. 7001)—

(1) is transferred to part B of title V (as amended by section 501) and inserted after section 5204 (as so amended);

(2) is redesignated as section 5205; and

(3) is amended by striking “this title” each place such term appears and inserting “this part”.

(d) Limited English Proficient Children.—

Parts A through E of title III (20 U.S.C. 6811 et seq.) are amended to read as follows:

“PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT CHILDREN

“Subpart 1—English Language Education

“SEC. 3101. SHORT TITLE.

“This subpart may be cited as the ‘English Language Proficiency and Academic Achievement Act’.

“SEC. 3102. FINDINGS AND PURPOSES.

“(a) FINDINGS.—The Congress finds as follows:
“(1) English is the common language of the United States and every citizen and other person residing in the United States should have a command of the English language in order to develop to their full potential.

“(2) Limited English proficient children, including recent immigrant children, must overcome a number of challenges in receiving an education in order to participate fully in American society, including—

“(A) segregated education programs;

“(B) disproportionate and improper placement in special education and other special programs due to the use of inappropriate evaluation procedures;

“(C) the limited English proficiency of their own parents, which hinders the parents’ ability to fully participate in the education of their children; and

“(D) a need for additional teachers and other staff who are professionally trained and qualified to serve such children.

“(3) States and local educational agencies need assistance in developing the capacity to provide programs of instruction that offer and provide an equal
educational opportunity to children who need special assistance because English is not their dominant language.

“(4) Native Americans, including native residents of the outlying areas, and Native American languages (as such terms are defined in section 103 of the Native American Languages Act) have a unique status under Federal law that requires special policies within the broad purposes of this subpart to serve the educational needs of language minority students in the United States.

“(5) Research, evaluation, and data collection capabilities in the field of instruction for limited English proficient children need to be strengthened so that educators and other staff teaching limited English proficient children in the classroom can better identify and promote programs, program implementation strategies, and instructional practices that result in the effective education of limited English proficient children.

“(b) PURPOSES.—The purposes of this part are—

“(1) to help ensure that children who are limited English proficient, including recent immigrant children, attain English proficiency, develop high levels of academic attainment in English, and meet the
same challenging State content standards and chal-
lenging State student achievement standards ex-
pected of all children;

“(2) to develop high-quality programs designed
to assist local educational agencies in teaching lim-
ited English proficient children;

“(3) to assist local educational agencies to de-
velop and enhance their capacity to provide high-
quality instructional programs designed to prepare
limited English proficient students, including recent
immigrant students, to enter all-English instruc-
tional settings within 3 years; and

“(4) to provide State educational agencies and
local educational agencies with the flexibility to im-
plement instructional programs, tied to scientifically
based research, that the agencies believe to be the
most effective for teaching English.

“SEC. 3103. PARENTAL NOTIFICATION AND CONSENT FOR
ENGLISH LANGUAGE INSTRUCTION.

“(a) Notification.—If an eligible entity uses funds
under this subpart to provide English language instruction
to limited English proficient children, the entity shall in-
form a parent or the parents of a child participating in
an English language instruction program for limited
English proficient children assisted under this subpart of—

“(1) the reasons for the identification of the child as being in need of English language instruction;

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

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

“(4) what the specific exit requirements are for the program;

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

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

“(b) CONSENT.—

“(1) IN GENERAL.—A parent or the parents of a limited English proficient child who is identified for participation in an English language instruction
program for limited English proficient children assisted under this subpart shall—

“(A) sign a form consenting to the student’s placement in such a program prior to such time as the student is enrolled in the program; and

“(B) select among methods of instruction, if more than 1 method is offered in the program.

“(2) Removal from program upon parental request.—A parent or the parents of a limited English proficient child who is participating in an English language instruction program for limited English proficient children assisted under this subpart shall have the right to have their child immediately removed from the program upon their request.

“(c) Receipt of information.—A parent or the parents of a limited English proficient child who is identified for participation in an English language instruction program for limited English proficient children assisted under this subpart shall receive, in a manner and form understandable to the parent or parents, the information required by this subsection. At a minimum, the parent or parents shall receive—
“(1) timely information about English language instruction programs for limited English proficient children assisted under this subpart;

“(2) if a parent of a participating child so desires, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents; and

“(3) procedural information for removing a child from a program for limited English proficient children.

“(d) Basis for Admission or Exclusion.—Students shall not be admitted to, or excluded from, any federally-assisted education program on the basis of a surname or language-minority status.

“SEC. 3104. TESTING OF LIMITED ENGLISH PROFICIENT CHILDREN.

“(a) In General.—Assessments of limited English proficient children participating in programs funded under this subpart, to the extent practicable, shall be in the language and form most likely to yield accurate and reliable information on what such students know and can do in content areas.

“(b) Special Rule.—Notwithstanding subsection (a), in the case of an assessment of reading or language arts of any student who has attended school in the United
States (excluding Puerto Rico) for 3 or more consecutive school years, the assessment shall be in the form of a test written in English, except that, if the eligible entity determines, on a case-by-case individual basis, that assessments in another language and form would likely yield more accurate and reliable information on what such students know and can do, the eligible entity may assess such students in the appropriate language other than English for 1 additional year.

“SEC. 3105. AUTHORIZATIONS OF APPROPRIATIONS.

“For the purpose of carrying out this subpart, there are authorized to be appropriated $460,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

“SEC. 3106. FORMULA GRANTS TO STATES.

“(a) In General.—In the case of each State that in accordance with section 3108 submits to the Secretary an application for a fiscal year, the Secretary shall make a grant for the year to the State for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the State under subsection (c).

“(b) Purposes of Grants.—

“(1) Required expenditures.—The Secretary may make a grant under subsection (a) only if the State involved agrees that the State will ex-
pend at least 95 percent of its allotment under sub-
section (c) for the purpose of making subgrants to
eligible entities to provide assistance to limited
English proficient children in accordance with sec-
tion 3109.

“(2) AUTHORIZED EXPENDITURES.—Subject to
paragraph (3), a State that receives a grant under
subsection (a) may expend not more than 5 percent
of its allotment under subsection (c) for 1 or more
of the following purposes:

“(A) Professional development and activi-
ties that assist personnel in meeting State and
local certification requirements for teaching lim-
ited English proficient children.

“(B) Providing scholarships and fellow-
ships to students who agree to teach limited
English proficient children once they graduate.

“(C) Planning, administration, and inter-
agency coordination related to the subgrants re-
ferred to in paragraph (1).

“(D) Providing technical assistance and
other forms of assistance to local educational
agencies that—

“(i) educate limited English proficient
children; and
“(ii) are not receiving a subgrant from a State under this subpart.

“(E) Providing bonuses to subgrantees whose performance has been exceptional in terms of the speed with which children enrolled in the subgrantee’s programs and activities attain English language proficiency and meet challenging State content standards and challenging State student achievement standards.

“(3) LIMITATION ON ADMINISTRATIVE COSTS.—In carrying out paragraph (2), a State that receives a grant under subsection (a) may expend not more than 2 percent of its allotment under subsection (c) for the purposes described in paragraph (2)(C).

“(c) DETERMINATION OF ALLOTMENT AMOUNTS.—“(1) Reservations.—From the amount appropriated under section 3105 to carry out this subpart for each fiscal year, the Secretary shall reserve—

“(A) .5 percent of such amount for payments to entities that are considered to be local educational agencies under section 3107(a) for activities approved by the Secretary;

“(B) .5 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assist-
ance under this subpart, as determined by the Secretary, for activities, approved by the Secretary, consistent with this subpart; and

“(C) .5 percent of such amount for payments to the Commonwealth of Puerto Rico for activities, approved by the Secretary, consistent with this subpart.

“(2) State allotments.—

“(A) In general.—From the amount appropriated under section 3105 to carry out this subpart for each fiscal year that remains after making the reservations described in paragraph (1), the Secretary shall allot to each State an amount which bears the same ratio to such amount as the total number of children who are limited English proficient and who reside in the State bears to the total number of such children residing in all States that, in accordance with section 3108, submit to the Secretary an application for the year.

“(B) Hold harmless amounts.—For fiscal year 2002, and for each of the 4 succeeding fiscal years, notwithstanding subparagraph (A), the total amount allotted to each State under such subparagraph shall be not less
than 85 percent of the total amount the State and entities within the State received for the previous fiscal year under—

“(i) parts A and B of title VII (as such parts were in effect on the day before the date of the enactment of the No Child Left Behind Act of 2001); or

“(ii) this subpart.

“(C) REALLOCATION.—

“(i) IN GENERAL.—If any State does not submit to the Secretary an application for a fiscal year, or submits an application (or any modification to an application) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of this subpart, the Secretary—

“(I) shall endeavor to make that State’s allotment available on a competitive basis to specially qualified agencies within the State that satisfy the requirements applicable to eligible entities under section 3109 and any additional requirements that may be imposed by the Secretary; and
“(II) shall reallocate any portion of such allotment remaining after the application of subclause (I) to the remaining States in accordance with subparagraph (A).

“(ii) Requirements on specially qualified agencies.—If a specially qualified agency receives funds under this subparagraph, the requirements of subsection (b) shall not apply to the agency. In lieu of those requirements, the specially qualified agency shall expend the funds for the authorized activities described in section 3109(b) and otherwise shall satisfy the requirements of section 3109.

“(D) Definition.—In this paragraph, the term ‘State’ means each of the 50 States and the District of Columbia.

“(3) Use of state data for determinations.—For purposes of paragraph (2), any determination of the number of children who are limited English proficient and reside in a State shall be made using the most recent limited English proficient school enrollment data available to, and reported to the Secretary by, the State. The State
shall provide assurances to the Secretary that such
data are valid and reliable. In a case described in
paragraph (2)(C), specially qualified agencies applying for a State’s allotment shall satisfy the require-
ments of this paragraph to the maximum extent practicable.

“(4) NO REDUCTION PERMITTED BASED ON
TEACHING METHOD.—The Secretary may not reduce
a State’s allotment based on the State’s selection of
the immersion method of instruction as its preferred
method of teaching the English language to children
who are limited English proficient.

“SEC. 3107. NATIVE AMERICAN AND ALASKA NATIVE CHIL-
DREN IN SCHOOL.

“(a) ELIGIBLE ENTITIES.—For the purpose of car-
rying out programs under this subpart for individuals
served by elementary, secondary, and postsecondary
schools operated predominately for Native American or
Alaska Native children, the following shall be considered
to be a local educational agency:

“(1) An Indian tribe.

“(2) A tribally sanctioned educational author-
ity.
“(3) A Native Hawaiian or Native American Pacific Islander native language educational organization.

“(4) An elementary or secondary school that is operated or funded by the Bureau of Indian Affairs, or a consortium of such schools.

“(5) An elementary or secondary school operated under a contract with or grant from the Bureau of Indian Affairs, in consortium with another such school or a tribal or community organization.

“(6) An elementary or secondary school operated by the Bureau of Indian Affairs and an institution of higher education, in consortium with an elementary or secondary school operated under a contract with or grant from the Bureau of Indian Affairs or a tribal or community organization.

“(b) Submission of Applications for Assistance.—Notwithstanding any other provision of this subpart, an entity that is considered to be a local educational agency under subsection (a), and that desires to submit an application for Federal financial assistance under this subpart, shall submit the application to the Secretary. In all other respects, such an entity shall be eligible for a grant under this subpart on the same basis as any other local educational agency.
“SEC. 3108. APPLICATIONS BY STATES.

“For purposes of section 3106, an application submitted by a State for a grant under such section for a fiscal year is in accordance with this section if the application—

“(1) describes the process that the State will use in making subgrants to eligible entities under this subpart;

“(2) contains an agreement that the State—

“(A) will provide 1 year of funding for an application for a subgrant under section 3109 from an eligible entity that describes a program that, on the day preceding the date of the enactment of the No Child Left Behind Act of 2001, was receiving funding under a grant—

“(i) awarded by the Secretary under subpart 1 or 3 of part A of the Bilingual Education Act (as such Act was in effect on such day); and

“(ii) that was not under its terms due to expire before a period of 1 year or more had elapsed; and

“(B) after such 1-year extension, will give special consideration to such applications if the period of their award would not yet otherwise
have expired if the No Child Left Behind Act of 2001 had not been enacted;
“(3) contains an agreement that, in carrying out this subpart, the State will address the needs of school systems of all sizes and in all geographic areas, including rural and urban schools;
“(4) contains an agreement that subgrants to eligible entities under section 3109 shall be of sufficient size and scope to allow such entities to carry out high quality education programs for limited English proficient children;
“(5) contains an agreement that the State will coordinate its programs and activities under this subpart with its other programs and activities under this Act and other Acts, as appropriate;
“(6) contains an agreement that the State—
“(A) shall monitor the progress of students enrolled in programs and activities receiving assistance under this subpart in attaining English proficiency and in attaining challenging State content standards and challenging State achievement standards;
“(B) shall establish standards and benchmarks for English language development that
are aligned with State content and achievement standards;

“(C) subject to subparagraph (D), after the 1-year period described in such subparagraph, shall withdraw funding from such programs and activities in cases where 75 percent of students are not attaining English proficiency and attaining challenging State content standards and challenging State achievement standards after 3 academic years of enrollment based on the evaluation measures in section 3121(d); and

“(D) shall provide technical assistance to eligible entities that fail to satisfy the criterion in subparagraph (C) for 1 year prior to the withdrawal of funding under such subparagraph;

“(7) contains an assurance that the State will develop high-quality annual assessments to measure English language proficiency and require eligible entities receiving a subgrant under section 3109 annually to assess the English proficiency of all children with limited English proficiency participating in a program funded under this subpart;
“(8) contains an agreement that the State will develop annual performance objectives for raising the level of English proficiency of each limited English proficient student, and that these objectives shall include percentage increases in performance on annual assessments in reading, writing, speaking, and listening comprehension as compared to the preceding school year; and

“(9) contains an agreement that the State will require eligible entities receiving a grant under this subpart to use the grant in ways that will build such recipient’s capacity to continue to offer high-quality English language instruction and programs which assist limited English proficient children in attaining challenging State content standards and challenging State achievement standards once assistance under this subpart is no longer available.

“SEC. 3109. SUBGRANTS TO ELIGIBLE ENTITIES.

“(a) PURPOSES OF SUBGRANTS.—A State may make a subgrant to an eligible entity from funds received by the State under this subpart only if the entity agrees to expend the funds to improve the education of limited English proficient children and their families, through the acquisition of English and the attainment of challenging State academic content standards and challenging State
achievement standards, using approaches and methodologies based on scientifically based reading research and sound research and theory on teaching limited English proficient children, by—

“(1) developing and implementing new English language and academic content instructional programs for children who are limited English proficient, including programs of early childhood education and kindergarten through 12th grade education;

“(2) carrying out highly focused, innovative, locally designed projects to expand or enhance existing English language and academic content instruction programs for limited English proficient children;

“(3) implementing, within an individual school, schoolwide programs for restructuring, reforming, and upgrading all relevant programs and operations relating to English language and academic content instruction for limited English proficient students; or

“(4) implementing, within the entire jurisdiction of a local educational agency, agencywide programs for restructuring, reforming, and upgrading all relevant programs and operations relating to
English language and academic content instruction for limited English proficient students.

“(b) AUTHORIZED SUBGRANTEE ACTIVITIES.—

“(1) IN GENERAL.—Subject to paragraph (2), a State may make a subgrant to an eligible entity from funds received by the State under this subpart in order that the eligible entity may achieve 1 of the purposes described in subsection (a) by undertaking 1 or more of the following activities to improve the understanding, and use, of the English language, based on a child’s learning skills:

“(A) Upgrading program objectives and effective instructional strategies.

“(B) Improving the instruction program for limited English proficient students by identifying, acquiring, and upgrading curricula, instructional materials, educational software, and assessment procedures.

“(C) Providing—

“(i) tutorials and academic or vocational education for limited English proficient children; and

“(ii) intensified instruction.

“(D) Developing and implementing elementary or secondary school English language in-
structional programs that are coordinated with other relevant programs and services.

“(E) Providing professional development to classroom teachers, principals, administrators, and other school or community-based organizational personnel to improve the instruction and assessment of children who are limited English proficient children.

“(F) Improving the English language proficiency and academic performance of limited English proficient children.

“(G) Improving the instruction of limited English proficient children by providing for the acquisition or development of education technology or instructional materials, access to and participation in electronic networks for materials, training and communications, and incorporation of such resources in curricula and programs, such as those funded under this subpart.

“(H) Developing tutoring programs for limited English proficient children that provide early intervention and intensive instruction in order to improve academic achievement, to increase graduation rates among limited English
proficient children, and to prepare students for
transition as soon as possible into classrooms
where instruction is not tailored for limited
English proficient children.

“(I) Providing family literacy services and
parent outreach and training activities to lim-
ited English proficient children and their fami-
lies to improve their English language skills and
assist parents in helping their children to im-
prove their academic performance.

“(J) Other activities that are consistent
with the purposes of this subpart.

“(2) MOVING CHILDREN OUT OF SPECIALIZED
CLASSROOMS.—Any program or activity undertaken
by an eligible entity using a subgrant from a State
under this subpart shall be designed to assist stu-
dents enrolled in the program or activity to attain
English proficiency and meet challenging State con-
tent standards and challenging State achievement
standards as soon as possible, but not later than
after 3 consecutive years of school attendance, and
to move into a classroom where instruction is not
tailored for limited English proficient children.

“(c) SELECTION OF METHOD OF INSTRUCTION.—To
receive a subgrant from a State under this subpart, an
eligible entity shall select 1 or more methods or forms of
instruction to be used in the programs and activities un-
dertaken by the entity to assist limited English proficient
children to attain English proficiency and meet chal-
lenging State content standards and challenging State stu-
dent achievement standards. Such selection shall be con-
sistent with sections 3134 and 3135.

“(d) DURATION OF SUBGRANTS.—The duration of a
subgrant made by a State under this section shall be de-
termined by the State in its discretion.

“(e) APPLICATIONS BY ELIGIBLE ENTITIES.—

“(1) IN GENERAL.—To receive a subgrant from
a State under this subpart, an eligible entity shall
submit an application to the State at such time, in
such form, and containing such information as the
State may require.

“(2) REQUIRED DOCUMENTATION.—The appli-
cation shall—

“(A) describe the programs and activities
proposed to be developed, implemented, and ad-
ministered under the subgrant;

“(B) describe how the eligible entity will
use the subgrant funds to satisfy the require-
ment in subsection (b)(2);
“(C) describe how the eligible entity will hold elementary schools and secondary schools accountable for—

“(i) meeting such achievement goals; and

“(ii) making adequate yearly progress with limited English proficient students in the core academic subjects as described in section 1111(b)(2); and

“(D) describe how the eligible entity will use the disaggregated results of the student assessments required under section 1111(b)(4), and other measures or indicators available to the entity, to review annually the progress of each school served by the agency under this part and under title I to determine whether the schools are making the adequate yearly progress necessary to ensure that limited English proficient students attending the schools will meet the State’s proficient level of performance on the State assessment described in section 1111(b)(4) within 10 years after the date of enactment of the No Child Left Behind Act of 2001.
“(3) Requirements for approval.—The application shall contain assurances that—

“(A) the eligible entity will use qualified personnel who have appropriate training and professional credentials in teaching English to children who are limited English proficient, and who are proficient in English, including written and oral communication skills;

“(B) if the eligible entity includes 1 or more local educational agencies, each such agency is complying with section 3103(b) prior to, and throughout, each school year;

“(C) the eligible entity annually will assess the English proficiency of all children with limited English proficiency participating in programs funded under this subpart;

“(D) the eligible entity has based its proposal on scientifically based reading research and sound research and theory on teaching limited English proficient children;

“(E) the eligible entity has described in the application how students enrolled in the programs and activities proposed in the application will be fluent in English after 3 academic years of enrollment;
“(F) the eligible entity will ensure that programs will enable children to speak, read, write, and comprehend the English language and meet challenging State content and challenging State achievement standards; and

“(G) the eligible entity is not in violation of any State law, including State constitutional law, regarding the education of limited English proficient children, consistent with sections 3134 and 3135.

“(4) QUALITY.—In determining which applications to select for approval, a State shall consider the quality of each application and ensure that it is of sufficient size and scope to meet the purposes of this subpart.

_SEC. 3110. DISTRIBUTION OF GRANTS TO ELIGIBLE ENTITIES._

“(a) IN GENERAL.—Subject to subsection (b), a State receiving a grant under this subpart shall distribute subgrants to eligible entities on a competitive basis.

“(b) PRIORITY.—In distributing subgrants to eligible entities, a State receiving a grant under this subpart shall give priority to an eligible entity that is, or includes as a participant, a local educational agency that—
“(1) enrolls a large percentage or a large number of children who are limited English proficient, as compared to the enrollments of other local educational agencies that are seeking a subgrant; and

“(2) is in need of assistance in order to address a need brought about through a significant increase, as compared to the previous 2 years, in the percentage or number of children who are limited English proficient in a school or in the agency, including schools and agencies in areas with low concentrations of such children.

“Subpart 2—Administration

“SEC. 3121. EVALUATIONS.

“(a) IN GENERAL.—Each eligible entity that receives a subgrant from a State under subpart 1 shall provide the State, at the conclusion of every second fiscal year during which the subgrant is received, with an evaluation, in a form prescribed by the State, of—

“(1) the programs and activities conducted by the entity with funds received under subpart 1 during the 2 immediately preceding fiscal years;

“(2) the progress made by students in learning the English language and meeting challenging State content standards and challenging State student achievement standards;
“(3) the number and percentage of students in the programs and activities attaining English language proficiency by the end of each school year, as determined by a valid and reliable assessment of English proficiency; and

“(4) the progress made by students in meeting challenging State content and challenging State achievement standards for each of the 2 years after such students are no longer receiving services under this part.

“(b) USE OF EVALUATION.—An evaluation provided by an eligible entity under subsection (a) shall be used by the entity and the State—

“(1) for improvement of programs and activities;

“(2) to determine the effectiveness of programs and activities in assisting children who are limited English proficient to attain English proficiency (as measured consistent with subsection (d)) and meet challenging State content standards and challenging State student achievement standards; and

“(3) in determining whether or not to continue funding for specific programs or projects.
“(c) Evaluation Components.—An evaluation provided by an eligible entity under subsection (a) shall include—

“(1) an evaluation of whether students enrolling in a program or activity conducted by the entity with funds received under subpart 1—

“(A) have attained English proficiency and are meeting challenging State content standards and challenging State student achievement standards; and

“(B) have achieved a working knowledge of the English language that is sufficient to permit them to perform, in English, in a classroom that is not tailored to limited English proficient children; and

“(2) such other information as the State may require.

“(d) Evaluation Measures.—In prescribing the form of an evaluation provided by an entity under subsection (a), a State shall approve evaluation measures, as applicable, for use under subsection (c) that are designed to assess—

“(1) oral language proficiency in kindergarten;

“(2) oral language proficiency, including speaking and listening skills, in first grade;
“(3) both oral language proficiency, including speaking and listening skills, and reading and writing proficiency in grades 2 and higher; and

“(4) attainment of challenging State achievement standards.

“SEC. 3122. REPORTING REQUIREMENTS.

“(a) STATES.—Based upon the evaluations provided to a State under section 3121, each State that receives a grant under subpart 1 shall prepare and submit every second year to the Secretary a report on programs and activities undertaken by the State under such subpart and the effectiveness of such programs and activities in improving the education provided to children who are limited English proficient.

“(b) SECRETARY.—Every second year, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on—

“(1) programs and activities undertaken by States under subpart 1 and the effectiveness of such programs and activities in improving the education provided to children who are limited English proficient;
“(2) the types of instructional programs used under subpart 1 to teach limited English proficient children;

“(3) the number of programs or projects, if any, that were terminated because they were not able to reach program goals; and

“(4) other information gathered from the reports submitted under subsection (a).

“SEC. 3123. COORDINATION WITH RELATED PROGRAMS.

“In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient students that are administered by the Department and other agencies.

“Subpart 3—General Provisions

“SEC. 3131. DEFINITIONS.

“For purposes of this part:

“(1) CHILDREN AND YOUTH.—The term ‘children and youth’ means individuals aged 3 through 21.

“(2) COMMUNITY-BASED ORGANIZATION.—The term ‘community-based organization’ means a private nonprofit organization of demonstrated effec-
tiveness or Indian tribe or tribally sanctioned educational authority which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander native language educational organization.

“(3) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

“(A) 1 or more local educational agencies;

or

“(B) 1 or more local educational agencies in collaboration with an institution of higher education, community-based organization, or State educational agency.

“(4) NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.—The term ‘Native Hawaiian or Native American Pacific Islander native language educational organization’ means a nonprofit organization with a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in their educational programs and with not less than 5 years
successful experience in providing educational services in traditional Native American languages.

“(5) NATIVE LANGUAGE.—The term ‘native language’, when used with reference to an individual who is limited English proficient, means the language normally used by such individual.

“(6) SPECIALLY QUALIFIED AGENCY.—The term ‘specially qualified agency’, when used with respect to a fiscal year, means an eligible entity located in a State that, for that year—

“(A) does not submit to the Secretary an application under sections 3106(a) and 3108; or

“(B) submits an application (or any modification to an application) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of subpart 1.

“(7) TRIBALLY SANCTIONED EDUCATIONAL AUTHORITY.—The term ‘tribally sanctioned educational authority’ means—

“(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and
“(B) any nonprofit institution or organization that is—

“(i) chartered by the governing body of an Indian tribe to operate a school described in section 3107(a) or otherwise to oversee the delivery of educational services to members of the tribe; and

“(ii) approved by the Secretary for the purpose of carrying out programs under subpart 1 for individuals served by a school described in section 3107(a).

“SEC. 3132. RULES OF CONSTRUCTION.

“Nothing in subpart 1 shall be construed—

“(1) to prohibit a local educational agency from serving limited English proficient children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate;

“(2) to require a State or a local educational agency to establish, continue, or eliminate any particular type of instructional program for limited English proficient children; or

“(3) to limit the preservation or use of Native American languages as defined in the Native American Languages Act of 1990.
“SEC. 3133. LIMITATION ON FEDERAL REGULATIONS.

“The Secretary shall issue regulations under this part only to the extent that such regulations are necessary to ensure compliance with the specific requirements of this part.

“SEC. 3134. LEGAL AUTHORITY UNDER STATE LAW.

“Nothing in this part shall be construed to negate or supersede the legal authority, under State law, of any State agency, State entity, or State public official over programs that are under the jurisdiction of the State agency, entity, or official.

“SEC. 3135. CIVIL RIGHTS.

“Nothing in this part shall be construed in a manner inconsistent with any Federal law guaranteeing a civil right.

“SEC. 3136. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

“Programs authorized under subpart 1 that serve Native American children, Native Pacific Island children, and children in the Commonwealth of Puerto Rico, notwithstanding any other provision of subpart 1, may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that a primary outcome of programs serv-
ing such children shall be increased English proficiency
among such children.”.

SEC. 302. CONFORMING AMENDMENT TO DEPARTMENT OF
EDUCATION ORGANIZATION ACT.

(a) In General.—The Department of Education
Organization Act is amended by striking “Office of Biling-
gual Education and Minority Languages Affairs” each
place such term appears in the text and inserting “Office
of Educational Services for Limited English Proficient
Children”.

(b) Clerical Amendments.—

(1) Section 209.—The section heading for sec-
tion 209 of the Department of Education Organiza-
tion Act is amended to read as follows:

“OFFICE OF EDUCATIONAL SERVICES FOR LIMITED
ENGLISH PROFICIENT CHILDREN”.

(2) Section 216.—The section heading for sec-
tion 216 of the Department of Education Organiza-
tion Act is amended to read as follows:

“SEC. 216. OFFICE OF EDUCATIONAL SERVICES FOR LIM-
ITED ENGLISH PROFICIENT CHILDREN.”.

(3) Table of Contents.—

(A) Section 209.—The table of contents
of the Department of Education Organization
Act is amended by amending the item relating
to section 209 to read as follows:
“Sec. 209. Office of Educational Services for Limited English Proficient Children.”

(B) Section 216.—The table of contents of the Department of Education Organization Act is amended by amending the item relating to section 216 to read as follows:

“Sec. 216. Office of Educational Services for Limited English Proficient Children.”

PART B—INDIAN AND ALASKA NATIVE EDUCATION

SEC. 311. ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

(a) In general.—Title III (as amended by section 301 of this Act) is further amended by adding at the end the following new part:

“PART B—INDIAN AND ALASKA NATIVE EDUCATION

“Subpart 1—Indian Education

“SEC. 3201. FINDINGS.

“Congress finds that—

“(1) the Federal Government has a special responsibility to ensure that educational programs for all American Indian and Alaska Native children and adults—

“(A) are based on high-quality, internationally competitive content standards and
student performance standards and build on Indian culture and the Indian community;

“(B) assist local educational agencies, Indian tribes, and other entities and individuals in providing Indian students the opportunity to achieve such standards; and

“(C) meet the unique educational and culturally related academic needs of American Indian and Alaska Native students;

“(2) since the date of the enactment of the initial Indian Education Act in 1972, the level of involvement of Indian parents in the planning, development, and implementation of educational programs that affect such parents and their children has increased significantly, and schools should continue to foster such involvement;

“(3) although the number of Indian teachers, administrators, and university professors has increased since 1972, teacher training programs are not recruiting, training, or retraining a sufficient number of Indian individuals as educators to meet the needs of a growing Indian student population in elementary, secondary, vocational, adult, and higher education;
“(4) the dropout rate for Indian students is unacceptably high; 9 percent of Indian students who were eighth graders in 1988 had dropped out of school by 1990;

“(5) during the period from 1980 to 1990, the percentage of Indian individuals living at or below the poverty level increased from 24 percent to 31 percent, and the readiness of Indian children to learn is hampered by the high incidence of poverty, unemployment, and health problems among Indian children and their families; and

“(6) research related specifically to the education of Indian children and adults is very limited, and much of the research is of poor quality or is focused on limited local or regional issues.

“SEC. 3202. PURPOSE.

“(a) PURPOSE.—It is the purpose of this subpart to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the unique educational and culturally related academic needs of American Indians and Alaska Natives, so that such students can achieve to the same challenging State performance standards expected of all other students.
“(b) PROGRAMS.—this subpart carries out the purpose described in subsection (a) by authorizing programs of direct assistance for—

“(1) meeting the unique educational and culturally related academic needs of American Indians and Alaska Natives;

“(2) the education of Indian children and adults;

“(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

“(4) research, evaluation, data collection, and technical assistance.

“CHAPTER I—FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES

“SEC. 3211. PURPOSE.

“It is the purpose of this chapter to support local educational agencies in their efforts to reform elementary and secondary school programs that serve Indian students in order to ensure that such programs—

“(1) are based on challenging State content standards and State student performance standards that are used for all students; and
“(2) are designed to assist Indian students in
meeting those standards and assist the Nation in
reaching the National Education Goals.

“SEC. 3212. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

“(a) IN GENERAL.—

“(1) ENROLLMENT REQUIREMENTS.—A local
educational agency shall be eligible for a grant under
this chapter for any fiscal year if the number of In-
dian children eligible under section 3217 and who
were enrolled in the schools of the agency, and to
whom the agency provided free public education,
during the preceding fiscal year—

“(A) was at least 10; or

“(B) constituted not less than 25 percent
of the total number of individuals enrolled in
the schools of such agency.

“(2) EXCLUSION.—The requirement of para-
graph (1) shall not apply in Alaska, California, or
Oklahoma, or with respect to any local educational
agency located on, or in proximity to, a reservation.

“(b) INDIAN TRIBES.—

“(1) IN GENERAL.—If a local educational agen-
cy that is eligible for a grant under this chapter does
not establish a parent committee under section
3214(e)(4) for such grant, an Indian tribe that rep-
represents not less than one-half of the eligible Indian
children who are served by such local educational
agency may apply for such grant.

“(2) SPECIAL RULE.—The Secretary shall treat
each Indian tribe applying for a grant pursuant to
paragraph (1) as if such Indian tribe were a local
educational agency for purposes of this chapter, ex-
cept that any such tribe is not subject to section
3214(c)(4), section 3218(c), or section 3219.

“SEC. 3213. AMOUNT OF GRANTS.

“(a) AMOUNT OF GRANT AWARDS.—

“(1) IN GENERAL.—Except as provided in sub-
section (b) and paragraph (2), the Secretary shall
allocate to each local educational agency which has
an approved application under this chapter an
amount equal to the product of—

“(A) the number of Indian children who
are eligible under section 3217 and served by
such agency; and

“(B) the greater of—

“(i) the average per pupil expenditure
of the State in which such agency is lo-
cated; or

“(ii) 80 percent of the average per
pupil expenditure in the United States.
“(2) REDUCTION.—The Secretary shall reduce the amount of each allocation determined under paragraph (1) in accordance with subsection (e).

“(b) MINIMUM GRANT.—

“(1) IN GENERAL.—Notwithstanding subsection (e), a local educational agency or an Indian tribe (as authorized under section 3212(b)) that is eligible for a grant under section 3212, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (d), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this chapter in an amount that is not less than $3,000.

“(2) CONSORTIA.—Local educational agencies may form a consortium for the purpose of obtaining grants under this chapter.

“(3) INCREASE.—The Secretary may increase the minimum grant under paragraph (1) to not more than $4,000 for all grantees if the Secretary determines such increase is necessary to ensure the quality of the programs provided.

“(c) DEFINITION.—For the purpose of this section, the term ‘average per pupil expenditure of a State’ means an amount equal to—
“(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

“(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

“(d) SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—(1) Subject to subsection (e), in addition to the grants awarded under subsection (a), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

“(A) the total number of Indian children enrolled in schools that are operated by—

“(i) the Bureau of Indian Affairs; or

“(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of that tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Deter-
mination Act or the Tribally Controlled Schools Act of 1988; and

“(B) the greater of—

“(i) the average per pupil expenditure of the State in which the school is located; or

“(ii) 80 percent of the average per pupil expenditure in the United States.

“(2) Any school described in paragraph (1)(A) that wishes to receive an allocation under this chapter shall submit an application in accordance with section 3214, and shall otherwise be treated as a local educational agency for the purpose of this chapter, except that such school shall not be subject to section 3214(c)(4), section 3218(c), or section 3219.

“(e) RATABLY REDUCTIONS.—If the sums appropriated for any fiscal year under section 3252(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) and for the Secretary of the Interior under subsection (d), each of those amounts shall be ratably reduced.

“SEC. 3214. APPLICATIONS.

“(a) APPLICATION REQUIRED.—Each local educational agency that desires to receive a grant under this chapter shall submit an application to the Secretary at
such time, in such manner, and containing such information as the Secretary may reasonably require.

“(b) COMPREHENSIVE PROGRAM REQUIRED.—Each application submitted under subsection (a) shall include a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

“(1) provides programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

“(2)(A) is consistent with State and local plans under other provisions of this Act; and

“(B) includes academic content and student performance goals for such children, and benchmarks for attaining such goals, that are based on the challenging State standards under title I;

“(3) explains how Federal, State, and local programs, especially under title I, will meet the needs of such students;

“(4) demonstrates how funds made available under this chapter will be used for activities described in section 3215;

“(5) describes the professional development opportunities that will be provided, as needed, to ensure that—
“(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

“(B) all teachers who will be involved in programs assisted under this chapter have been properly trained to carry out such programs; and

“(6) describes how the local educational agency—

“(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this chapter, in meeting the goals described in paragraph (2);

“(B) will provide the results of each assessment referred to in subparagraph (A) to—

“(i) the committee of parents described in subsection (c)(4); and

“(ii) the community served by the local educational agency; and

“(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).
“(c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that—

“(1) the local educational agency will use funds received under this chapter only to supplement the level of funds that, in the absence of the Federal funds made available under this chapter, such agency would make available for the education of Indian children, and not to supplant such funds;

“(2) the local educational agency will submit such reports to the Secretary, in such form and containing such information, as the Secretary may require to—

“(A) carry out the functions of the Secretary under this chapter; and

“(B) determine the extent to which funds provided to the local educational agency under this chapter are effective in improving the educational achievement of Indian students served by such agency;

“(3) the program for which assistance is sought—

“(A) is based on a comprehensive local assessment and prioritization of the unique educational and culturally related academic needs of the American Indian and Alaska Native stu-
dents to whom the local educational agency is providing an education;

“(B) will use the best available talents and resources, including individuals from the Indian community; and

“(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including public hearings held by such agency to provide the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and

“(4) the local educational agency developed the program with the participation and written approval of a committee—

“(A) that is composed of, and selected by—

“(i) parents of Indian children in the local educational agency’s schools and teachers; and

“(ii) if appropriate, Indian students attending secondary schools;
“(B) a majority of whose members are parents of Indian children;

“(C) that sets forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;

“(D) with respect to an application describing a schoolwide program in accordance with section 3215(c), that has—

“(i) reviewed in a timely fashion the program; and

“(ii) determined that the program will not diminish the availability of culturally related activities for American Indian and Alaskan Native students; and

“(E) that has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

“SEC. 3215. AUTHORIZED SERVICES AND ACTIVITIES.

“(a) General Requirements.—Each local educational agency that receives a grant under this chapter
shall use the grant funds, in a manner consistent with the purpose specified in section 3211, for services and activities that—

“(1) are designed to carry out the comprehensive program of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 3214(b);

“(2) are designed with special regard for the language and cultural needs of the Indian students; and

“(3) supplement and enrich the regular school program of such agency.

“(b) PARTICULAR ACTIVITIES.—The services and activities referred to in subsection (a) may include—

“(1) culturally related activities that support the program described in the application submitted by the local educational agency;

“(2) early childhood and family programs that emphasize school readiness;

“(3) enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of challenging State content standards and State student performance standards;
“(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

“(5) career preparation activities to enable Indian students to participate in programs such as the programs supported by the Carl D. Perkins Vocational and Technical Education Act of 1998, including programs for tech-prep, mentoring, and apprenticeship;

“(6) activities to educate individuals concerning substance abuse and to prevent substance abuse;

“(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to meet the purposes described in section 3211; and

“(8) family literacy services.

“(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this chapter to support a schoolwide program under section 1114 if—

“(1) the committee composed of parents established pursuant to section 3214(e)(4) approves the use of the funds for the schoolwide program; and

“(2) the schoolwide program is consistent with the purposes described in section 3211.
“(d) Limitation on Administrative Costs.—Not more than 5 percent of the funds provided to a grantee under this chapter for any fiscal year may be used for administrative purposes.

“SEC. 3216. INTEGRATION OF SERVICES AUTHORIZED.

“(a) Plan.—An entity receiving funds under this chapter may submit a plan to the Secretary for the integration of education and related services provided to Indian students.

“(b) Coordination of Programs.—Upon the receipt of an acceptable plan, the Secretary, in cooperation with each Federal agency providing grants for the provision of education and related services to the applicant, shall authorize the applicant to coordinate, in accordance with such plan, its federally funded education and related services programs, or portions thereof, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

“(c) Programs Affected.—The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (b) shall include funds for any Federal program exclusively serving Indian children or the funds reserved under any program to exclusively
serve Indian children under which the applicant is eligible for receipt of funds under a statutory or administrative formula for the purposes of providing education and related services which would be used to serve Indian students.

“(d) PLAN REQUIREMENTS.—For a plan to be acceptable pursuant to subsection (b), it shall—

“(1) identify the programs or funding sources to be consolidated;

“(2) be consistent with the purposes of this section authorizing the services to be integrated in a demonstration project;

“(3) describe a comprehensive strategy which identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the goals set forth in this chapter;

“(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

“(5) identify the projected expenditures under the plan in a single budget;

“(6) identify the local, State, or tribal agency or agencies to be involved in the delivery of the services integrated under the plan;
“(7) identify any statutory provisions, regulations, policies, or procedures that the applicant believes need to be waived in order to implement its plan;

“(8) set forth measures of student achievement and performance goals designed to be met within a specified period of time; and

“(9) be approved by a parent committee formed in accordance with section 3214(e)(4), if such a committee exists.

“(e) PLAN REVIEW.—Upon receipt of the plan from an eligible entity, the Secretary shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the applicant to implement its plan. Notwithstanding any other provision of law, the Secretary of the affected department or departments shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by the applicant or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the intent of this chapter or those provisions of the
statute from which the program involved derives its au-

thority which are specifically applicable to Indian stu-
dents.

“(f) PLAN APPROVAL.—Within 90 days after the re-
ceipt of an applicant’s plan by the Secretary, the Secretary
shall inform the applicant, in writing, of the Secretary’s
approval or disapproval of the plan. If the plan is dis-
approved, the applicant shall be informed, in writing, of
the reasons for the disapproval and shall be given an op-
portunity to amend its plan or to petition the Secretary
to reconsider such disapproval.

“(g) RESPONSIBILITIES OF DEPARTMENT OF EDU-
CATION.—Not later than 180 days after the date of the
enactment of the No Child Left Behind Act of 2001, the
Secretary of Education, the Secretary of the Interior, and
the head of any other Federal department or agency iden-
tified by the Secretary of Education, shall enter into an
interdepartmental memorandum of agreement providing
for the implementation of the demonstration projects au-

thorized under this section. The lead agency head for a
demonstration program under this section shall be—

“(1) the Secretary of the Interior, in the case

of applicant meeting the definition of contract or
grant school under title XI of the Education Amend-
ments of 1978; or
“(2) the Secretary of Education, in the case of any other applicant.

“(h) RESPONSIBILITIES OF LEAD AGENCY.—The responsibilities of the lead agency shall include—

“(1) the use of a single report format related to the plan for the individual project which shall be used by an eligible entity to report on the activities undertaken under the project;

“(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by an eligible entity to report on all project expenditures;

“(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

“(4) the provision of technical assistance to an eligible entity appropriate to the project, except that an eligible entity shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

“(i) REPORT REQUIREMENTS.—A single report format shall be developed by the Secretary, consistent with the requirements of this section. Such report format, together with records maintained on the consolidated program at the local level, shall contain such information as
will allow a determination that the eligible entity has com-
plied with the requirements incorporated in its approved
plan, including the demonstration of student achievement,
and will provide assurances to each Secretary that the eli-
gible entity has complied with all directly applicable statu-
tory requirements and with those directly applicable regu-
latory requirements which have not been waived.

“(j) **NO REDUCTION IN AMOUNTS.**—In no case shall
the amount of Federal funds available to an eligible entity
involved in any demonstration project be reduced as a re-
sult of the enactment of this section.

“(k) **INTERAGENCY FUND TRANSFERS AUTHORIZED.**—The Secretary is authorized to take such action
as may be necessary to provide for an interagency transfer
of funds otherwise available to an eligible entity in order
to further the purposes of this section.

“(l) **ADMINISTRATION OF FUNDS.**—

“(1) **IN GENERAL.**—Program funds shall be ad-
ministered in such a manner as to allow for a deter-
mination that funds from specific a program or pro-
grams are spent on allowable activities authorized
under such program, except that the eligible entity
shall determine the proportion of the funds granted
which shall be allocated to such program.
“(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring the eligible entity to maintain separate records tracing any services or activities conducted under its approved plan to the individual programs under which funds were authorized, nor shall the eligible entity be required to allocate expenditures among such individual programs.

“(m) OVERAGE.—All administrative costs may be commingled and participating entities shall be entitled to the full amount of such costs (under each program or department’s regulations), and no overage shall be counted for Federal audit purposes, provided that the overage is used for the purposes provided for under this section.

“(n) FISCAL ACCOUNTABILITY.—Nothing in this subpart shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to the Single Audit Act of 1984.

“(o) REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.—

“(1) PRELIMINARY REPORT.—Not later than 2 years after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a preliminary report to the
Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on the status of the implementation of the demonstration program authorized under this section.

“(2) Final Report.—Not later than 5 years after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on the results of the implementation of the demonstration program authorized under this section. Such report shall identify statutory barriers to the ability of participants to integrate more effectively their education and related services to Indian students in a manner consistent with the purposes of this section.

“(p) Definitions.—For the purposes of this section, the term ‘Secretary’ means—

“(1) the Secretary of the Interior, in the case of applicant meeting the definition of contract or grant school under title XI of the Education Amendments of 1978; or
“(2) the Secretary of Education, in the case of any other applicant.

SEC. 3217. STUDENT ELIGIBILITY FORMS.

“(a) IN GENERAL.—The Secretary shall require that, as part of an application for a grant under this chapter, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this chapter and that otherwise meets the requirements of subsection (b).

“(b) FORMS.—

“(1) IN GENERAL.—The form described in subsection (a) shall include—

“(A) either—

“(i)(I) the name of the tribe or band of Indians (as described in section 3251(3)) with respect to which the child claims membership;

“(II) the enrollment number establishing the membership of the child (if readily available); and

“(III) the name and address of the organization that maintains updated and
accurate membership data for such tribe or band of Indians; or

“(ii) if the child is not a member of a tribe or band of Indians, the name, the enrollment number (if readily available), and the organization (and address thereof) responsible for maintaining updated and accurate membership rolls of the tribe of any parent or grandparent of the child from whom the child claims eligibility;

“(B) a statement of whether the tribe or band of Indians with respect to which the child, parent, or grandparent of the child claims membership is federally recognized;

“(C) the name and address of the parent or legal guardian of the child;

“(D) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

“(E) any other information that the Secretary considers necessary to provide an accurate program profile.

“(2) Minimum information.—In order for a child to be eligible to be counted for the purpose of computing the amount of a grant award made under
section 3213, an eligibility form prepared pursuant to this section for a child shall include—

“(A) the name of the child;

“(B) the name of the tribe or band of Indians (as described in section 3251(3)) with respect to which the child claims eligibility; and

“(C) the dated signature of the parent or guardian of the child.

“(3) FAILURE.—The failure of an applicant to furnish any information described in this subsection other than the information described in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child for the purposes of determining the amount of a grant award made under section 3213.

“(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect a definition contained in section 3251.

“(d) FORMS AND STANDARDS OF PROOF.—The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–1986 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—
“(1) to establish such eligibility; and

“(2) to meet the requirements of subsection (a).

“(e) DOCUMENTATION.—For purposes of determin- 
ing whether a child is eligible to be counted for the purpose of computing the amount of a grant under section 3213, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

“(f) MONITORING AND EVALUATION REVIEW.—

“(1) IN GENERAL.—(A) For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to pro- vide technical assistance under this chapter, the Sec- retary shall conduct a monitoring and evaluation re- view of a sampling of the recipients of grants under this chapter. The sampling conducted under this subparagraph shall take into account the size of the local educational agency and the geographic location of such agency.

“(B) A local educational agency may not be held liable to the United States or be subject to any
penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act.

“(2) FALSE INFORMATION.—Any local educational agency that provides false information in an application for a grant under this chapter shall—

“(A) be ineligible to apply for any other grant under this subpart; and

“(B) be liable to the United States for any funds that have not been expended.

“(3) EXCLUDED CHILDREN.—A student who provides false information for the form required under subsection (a) shall not be counted for the purpose of computing the amount of a grant under section 3213.

“(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—Notwithstanding any other provision of this section, in awarding funds under this chapter to a tribal school that receives a grant or contract from the Bureau of Indian Affairs, the Secretary shall use only one of the following, as selected by the school:
“(1) A count of the number of students in those schools certified by the Bureau.

“(2) A count of the number of students for whom the school has eligibility forms that comply with this section.

“(h) TIMING OF CHILD COUNTS.—For purposes of determining the number of children to be counted in calculating the amount of a local educational agency’s grant under this chapter (other than in the case described in subsection (g)(1)), the local educational agency shall—

“(1) establish a date on, or a period not longer than 31 consecutive days during which, the agency counts those children, so long as that date or period occurs before the deadline established by the Secretary for submitting an application under section 3214; and

“(2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

“SEC. 3218. PAYMENTS.

“(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this chapter the amount determined under
section 3213. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

“(b) Payments Taken Into Account by the State.—The Secretary may not make a grant under this chapter to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this chapter in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

“(c) Reduction of Payment for Failure To Maintain Fiscal Effort.—

“(1) In General.—The Secretary may not pay a local educational agency the full amount of a grant award determined under section 3213 for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines that, with respect to the provision of free public education by the local educational agency for the preceding fiscal year, the combined fiscal effort of the local educational agency and the State, computed on either a
per student or aggregate expenditure basis, was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

“(2) Failure to maintain effort.—If, for any fiscal year, the Secretary determines that a local educational agency failed to maintain the fiscal effort of such agency at the level specified in paragraph (1), the Secretary shall—

“(A) reduce the amount of the grant that would otherwise be made to such agency under this chapter in the exact proportion of such agency’s failure to maintain its fiscal effort at such level; and

“(B) not use the reduced amount of the agency’s expenditures for the preceding year to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

“(3) Waiver.—(A) The Secretary may waive the requirement of paragraph (1), for not more than 1 year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such
as a natural disaster or a precipitous and unforeseen decline in the agency’s financial resources.

“(B) The Secretary shall not use the reduced amount of such agency’s expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

“(d) REALLOCATIONS.—The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this chapter, any amounts that—

“(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this chapter; or

“(2) otherwise become available for reallocation under this chapter.

“SEC. 3219. STATE EDUCATIONAL AGENCY REVIEW.

“Before submitting an application to the Secretary under section 3214, a local educational agency shall submit the application to the State educational agency, which may comment on such application. If the State educational agency comments on the application, it shall comment on
all applications submitted by local educational agencies in
the State and shall provide those comments to the respec-
tive local educational agencies, with an opportunity to re-

“CHAPTER II—SPECIAL PROGRAMS AND
PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

“SEC. 3221. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

“(a) PURPOSE.—

“(1) IN GENERAL.—It is the purpose of this
section to support projects to develop, test, and dem-
onstrate the effectiveness of services and programs
to improve educational opportunities and achieve-
ment of Indian children.

“(2) COORDINATION.—The Secretary shall take
such actions as are necessary to achieve the coordi-
nation of activities assisted under this chapter
with—

“(A) other programs funded under this
Act; and

“(B) other Federal programs operated for
the benefit of American Indian and Alaska Na-
tive children.
“(b) Eligible Entities.—For the purpose of this section, the term ‘eligible entity’ means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary and secondary school for Indian students, Indian institution, including an Indian institution of higher education, or a consortium of such institutions.

“(c) Grants Authorized.—

“(1) In General.—The Secretary shall award grants to eligible entities to enable such entities to carry out activities that meet the purpose specified in subsection (a)(1), including—

“(A) innovative programs related to the educational needs of educationally disadvantaged children;

“(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

“(C) bilingual and bicultural programs and projects;
“(D) special health and nutrition services, and other related activities, that address the unique health, social, and psychological problems of Indian children;

“(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of secondary school graduation;

“(F) comprehensive guidance, counseling, and testing services;

“(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

“(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary school to postsecondary education;

“(I) partnership projects between schools and local businesses for career preparation programs designed to provide Indian youth with
the knowledge and skills such youth need to make an effective transition from school to a high-skill, high-wage career;

“(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education;

“(K) family literacy services; or

“(L) other services that meet the purpose described in subsection (a)(1).

“(2) PROFESSIONAL DEVELOPMENT.—Professional development of teaching professionals and paraprofessional may be a part of any program assisted under this section.

“(d) GRANT REQUIREMENTS AND APPLICATIONS.—

“(1) GRANT REQUIREMENTS.—(A) The Secretary may make multiyear grants under this section for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) for a period not to exceed 5 years.

“(B) In making multiyear grants under this section, the Secretary shall give priority to applications that present a plan for combining two or more of the activities described in subsection (c) over a period of more than 1 year.
“(C) The Secretary shall make a grant payment to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (2) and any subsequent modifications to such application.

“(D)(i) In addition to awarding the multiyear grants described in subparagraph (A), the Secretary may award grants to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

“(ii) The Secretary may award a dissemination grant under this subparagraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated has been adequately reviewed and has demonstrated—

“(I) educational merit; and

“(II) the ability to be replicated.

“(2) APPLICATION.—(A) Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.
“(B) Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (1)(D), shall contain—

“(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

“(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section;

“(iii) information demonstrating that the proposed program is either a research-based program (which may be a research-based program that has been modified to be culturally appropriate for the students who will be served);

“(iv) a description of how the applicant will incorporate the proposed services into the ongoing school program once the grant period is over; and

“(v) such other assurances and information as the Secretary may reasonably require.
“(e) Administrative Costs.—Not more than 5 percent of the funds provided to a grantee under this chapter for any fiscal year may be used for administrative purposes.

“SEC. 3222. PROFESSIONAL DEVELOPMENT FOR TEACHERS AND EDUCATION PROFESSIONALS.

“(a) Purposes.—The purposes of this section are—

“(1) to increase the number of qualified Indian individuals in teaching or other education professions that serve Indian people;

“(2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

“(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

“(b) Eligible Entities.—For the purpose of this section, the term ‘eligible entity’ means—

“(1) an institution of higher education, including an Indian institution of higher education;

“(2) a State or local educational agency, in consortium with an institution of higher education; and

“(3) an Indian tribe or organization, in consortium with an institution of higher education.
“(c) Program Authorized.—The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable such entities to carry out the activities described in subsection (d).

“(d) Authorized Activities.—

“(1) In General.—Grant funds under this section shall be used to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include but are not limited to, continuing programs, symposia, workshops, conferences, and direct financial support.

“(2) Special Rules.—(A) For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

“(B) For individuals who are being trained to enter any field other than teaching, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

“(e) Application.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may reasonably require.
“(f) SPECIAL RULE.—In making grants under this section, the Secretary—

“(1) shall consider the prior performance of the eligible entity; and

“(2) may not limit eligibility to receive a grant under this section on the basis of—

“(A) the number of previous grants the Secretary has awarded such entity; or

“(B) the length of any period during which such entity received such grants.

“(g) GRANT PERIOD.—Each grant under this section shall be awarded for a period of not more than 5 years.

“(h) SERVICE OBLIGATION.—

“(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

“(A) perform work—

“(i) related to the training received under this section; and

“(ii) that benefits Indian people; or

“(B) repay all or a prorated part of the assistance received.

“(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under
which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement under paragraph (1).

“CHAPTER III—NATIONAL RESEARCH ACTIVITIES

“SEC. 3231. NATIONAL ACTIVITIES.

“(a) AUTHORIZED ACTIVITIES.—The Secretary may use funds made available under section 3252(b) for each fiscal year to—

“(1) conduct research related to effective approaches for the education of Indian children and adults;

“(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

“(3) collect and analyze data on the educational status and needs of Indians; and

“(4) carry out other activities that are consistent with the purpose of this subpart.

“(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with Indian tribes, Indian organizations, State educational
agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

“(c) COORDINATION.—Research activities supported under this section—

“(1) shall be carried out in consultation with the Office of Educational Research and Improvement to assure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

“(2) may include collaborative research activities which are jointly funded and carried out by the Office of Indian Education Programs and the Office of Educational Research and Improvement.

“CHAPTER IV—FEDERAL ADMINISTRATION

“SEC. 3241. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

“(a) MEMBERSHIP.—There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the ‘Council’), which shall—

“(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees
furnished, from time-to-time, by Indian tribes and organizations; and

“(2) represent different geographic areas of the United States.

“(b) DUTIES.—The Council shall—

“(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this subpart—

“(A) with respect to which the Secretary has jurisdiction; and

“(B)(i) that includes Indian children or adults as participants; or

“(ii) that may benefit Indian children or adults;

“(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

“(3) submit to the Congress, not later than June 30 of each year, a report on the activities of the Council, including—

“(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian
children or adults as participants, or that may
benefit Indian children or adults; and

“(B) recommendations concerning the
funding of any program described in subpara-
graph (A).

“SEC. 3242. PEER REVIEW.

“The Secretary may use a peer review process to re-
view applications submitted to the Secretary under chap-
ter II or III.

“SEC. 3243. PREFERENCE FOR INDIAN APPLICANTS.

“In making grants under chapter II or III, the Sec-
retary shall give a preference to Indian tribes, organiza-
tions, and institutions of higher education under any pro-
gram with respect to which Indian tribes, organizations,
and institutions are eligible to apply for grants.

“SEC. 3244. MINIMUM GRANT CRITERIA.

“The Secretary may not approve an application for
a grant under subpart 2 unless the application is for a
grant that is—

“(1) of sufficient size, scope, and quality to
achieve the purpose or objectives of such grant; and

“(2) based on relevant research findings.
CHAPTER V—DEFINITIONS;

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 3251. DEFINITIONS.

“For the purposes of this subpart:

“(1) ADULT.—The term ‘adult’ means an individual who—

“(A) has attained the age of 16 years; or

“(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

“(2) FREE PUBLIC EDUCATION.—The term ‘free public education’ means education that is—

“(A) provided at public expense, under public supervision and direction, and without tuition charge; and

“(B) provided as elementary or secondary education in the applicable State or to preschool children.

“(3) INDIAN.—The term ‘Indian’ means an individual who is—

“(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

“(i) any tribe or band terminated since 1940; and
“(ii) any tribe or band recognized by
the State in which the tribe or band re-
sides;

“(B) a descendant, in the first or second
degree, of an individual described in subpara-
graph (A);

“(C) considered by the Secretary of the In-
terior to be an Indian for any purpose;

“(D) an Eskimo, Aleut, or other Alaska
Native; or

“(E) a member of an organized Indian
group that received a grant under the Indian
Education Act of 1988 as it was in effect the
day preceding the date of the enactment of the
Improving America’s Schools Act of 1994.

“SEC. 3252. AUTHORIZATIONS OF APPROPRIATIONS.

“(a) CHAPTER I.—For the purpose of carrying out
chapter I of this subpart, there are authorized to be appro-
 priated $92,800,000 for fiscal year 2002, and such sums
as may be necessary for each of fiscal years 2003 through
2006.

“(b) CHAPTERS II AND III.—For the purpose of car-
rying out chapters II and III of this subpart, there are
authorized to be appropriated $22,700,000 for fiscal year
2002, and such sums as may be necessary for each of the
fiscal years 2003 through 2006.”.

(b) SAVINGS PROVISION.—Funds appropriated for
part A of title IX of the Elementary and Secondary Edu-
cation Act of 1965 (as in effect on the day before the date
of the enactment of this Act) shall be available for use
under subpart 1 of part B of title III of such Act, as added
by this section.

SEC. 312. ALASKA NATIVE EDUCATION.

(a) IN GENERAL.—Part B of title III (as added by
section 311 of this Act) is further amended by adding at
the end the following new subpart:

“Subpart 2—Alaska Native Education

SEC. 3301. SHORT TITLE.

“This subpart may be cited as the ‘Alaska Native
Educational Equity, Support, and Assistance Act’.

SEC. 3302. FINDINGS.

“The Congress finds and declares:

“(1) The attainment of educational success is
critical to the betterment of the conditions, long-
term well-being and preservation of the culture of
Alaska Natives.

“(2) It is the policy of the Federal Government
to encourage the maximum participation by Alaska
Natives in the planning and the management of Alaska Native education programs.

“(3) Alaska Native children enter and exit school with serious educational handicaps.

“(4) The educational achievement of Alaska Native children is far below national norms. In addition to low Native performance on standardized tests, Native student dropout rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result, Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

“(5) The programs authorized herein, combined with expanded Head Start, infant learning and early childhood education programs, and parent education programs are essential if educational handicaps are to be overcome.

“(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural and village Alaska should be addressed through the development and implementa-
tion of innovative, model programs in a variety of areas.

“(7) Congress finds that Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal Government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

“SEC. 3303. PURPOSE.

“It is the purpose of this subpart to—

“(1) recognize the unique educational needs of Alaska Natives;

“(2) authorize the development of supplemental educational programs to benefit Alaska Natives;

“(3) supplement existing programs and authorities in the area of education to further the purposes of this subpart; and

“(4) provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this subpart, on meeting the educational needs of Alaska Natives.

“SEC. 3304. PROGRAM AUTHORIZED.

“(a) General Authority.—
“(1) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to, or enter into contracts with, Alaska Native organizations, educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, and consortia of such organizations and entities to carry out programs that meet the purpose of this subpart.

“(2) PERMISSIBLE ACTIVITIES.—Programs under this subpart may include—

“(A) the development and implementation of plans, methods, and strategies to improve the education of Alaska Natives;

“(B) the development of curricula and educational programs that address the educational needs of Alaska Native students, including—

“(i) curriculum materials that reflect the cultural diversity or the contributions of Alaska Natives;

“(ii) instructional programs that make use of Native Alaskan languages; and

“(iii) networks that introduce successful programs, materials, and techniques to urban and rural schools;
“(C) professional development activities for educators, including—

“(i) programs to prepare teachers to address the cultural diversity and unique needs of Alaska Native students;

“(ii) in-service programs to improve the ability of teachers to meet the unique needs of Alaska Native students; and

“(iii) recruiting and preparing teachers who are Alaska Natives, reside in communities with high concentrations of Alaska Native students, or are likely to succeed as teachers in isolated, rural communities and engage in cross-cultural instruction;

“(D) the development and operation of home instruction programs for Alaska Native preschool children, the purpose of which is to ensure the active involvement of parents in their children’s education from the earliest ages;

“(E) family literacy services;

“(F) the development and operation of student enrichment programs in science and mathematics that—
“(i) are designed to prepare Alaska
Native students from rural areas, who are
preparing to enter high school, to excel in
science and math; and

“(ii) provide appropriate support serv-
ices to the families of such students that
are needed to enable such students to ben-
efit from the program;

“(G) research and data collection activities
to determine the educational status and needs
of Alaska Native children and adults;

“(H) other research and evaluation activi-
ties related to programs under this subpart;
and

“(I) other activities, consistent with the
purposes of this subpart, to meet the edu-
cational needs of Alaska Native children and
adults.

“(3) HOME INSTRUCTION PROGRAMS.—Home
instruction programs for Alaska Native preschool
children under paragraph (2)(D) may include—

“(A) programs for parents and their in-
fants, from prenatal through age three;

“(B) preschool programs; and
“(C) training, education, and support for
parents in such areas as reading readiness, ob-
servation, story-telling, and critical thinking.

“(b) LIMITATION ON ADMINISTRATIVE COSTS.—Not
more than 5 percent of funds provided to a grantee under
this section for any fiscal year may be used for administra-
tive purposes.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There
are authorized to be appropriated $15,000,000 for fiscal
year 2002, and such sums as may be necessary for each
of the fiscal years 2003 through 2006 to carry out this
subpart.

“SEC. 3305. ADMINISTRATIVE PROVISIONS.

“(a) APPLICATION REQUIRED.—No grant may be
made under this subpart, nor any contract be entered into
under this subpart, unless an application is submitted to
the Secretary in such form, in such manner, and con-
taining such information as the Secretary may determine
necessary to carry out the provisions of this subpart.

“(b) APPLICATIONS.—State and local educational
agencies may apply for an award under this subpart only
as subpart of a consortium involving an Alaska Native or-
ganization. This consortium may include other eligible ap-
plicants.
“(c) Consultation Required.—Each applicant for funding shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

“(d) Local Educational Agency Coordination.—Each applicant for an award under this subpart shall inform each local educational agency serving students who would participate in the project about its application.

“Sec. 3306. Definitions.

“For purposes of this subpart—

“(1) the term ‘Alaska Native’ has the same meaning as the term ‘Native’ has in section 3(b) of the Alaska Native Claims Settlement Act; and

“(2) the term ‘Alaska Native organization’ means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and other Alaska Native organizations that—

“(A) has or commits to acquire expertise in the education of Alaska Natives; and

“(B) has Alaska Natives in substantive and policy-making positions within the organization.”.

(b) Savings Provision.—Funds appropriated for part C of title IX of the Elementary and Secondary Edu-
cation Act of 1965 (as in effect on the day before the date
of the enactment of this Act) shall be available for use
under subpart 2 of part B of title III of such Act, as added
by this section.

SEC. 313. AMENDMENTS TO THE EDUCATION AMENDMENTS
OF 1978.

Part B of title XI of the Education Amendments of
1978 (25 U.S.C. 2001 et seq.) is amended to read as fol-
lows:

“PART B—BUREAU OF INDIAN AFFAIRS

PROGRAMS

“SEC. 1120. FINDING AND POLICY.

“(a) FINDING.—Congress finds and recognizes that
the Federal Government has the sole responsibility for the
operation and financial support of the Bureau of Indian
Affairs funded school system that it has established on
or near Indian reservations and Indian trust lands
throughout the Nation for Indian children.

“(b) POLICY.—It is the policy of the United States
to work in full cooperation with Indian tribes toward the
goal of assuring that the programs of the Bureau of In-
dian Affairs funded school system are of the highest qual-
ity and meet the unique educational and cultural needs
of Indian children.
‘‘SEC. 1121. ACCREDITATION AND STANDARDS FOR THE
BASIC EDUCATION OF INDIAN CHILDREN IN
BUREAU OF INDIAN AFFAIRS SCHOOLS.

‘‘(a) PURPOSE.—The purpose of the standards imple-
mented under this section shall be to afford Indian stu-
dents being served by a school funded by the Bureau of
Indian Affairs the same opportunities as all other students
in the United States to achieve the same challenging State
performance standards expected of all students.

‘‘(b) STUDIES AND SURVEYS RELATING TO STAND-
ARDS.—Not later than 1 year after the date of the enact-
ment of the No Child Left Behind Act of 2001, the Sec-
retary, in consultation with the Secretary of Education,
consortia of education organizations, and Indian organiza-
tions and tribes, and making the fullest use possible of
other existing studies, surveys, and plans, shall carry out
by contract with an Indian organization, studies and sur-
veys to establish and revise standards for the basic edu-
cation of Indian children attending Bureau funded
schools. Such studies and surveys shall take into account
factors such as academic needs, local cultural differences,
type and level of language skills, geographic isolation, and
appropriate teacher-student ratios for such children, and
shall be directed toward the attainment of equal edu-
cational opportunity for such children.
“(c) Revision of Minimum Academic Standards.—

“(1) In general.—Not later than 2 years after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary shall—

“(A) propose revisions to the minimum academic standards published in the Federal Register on September 9, 1995 (50 Fed. Reg. 174) for the basic education of Indian children attending Bureau funded schools in accordance with the purpose described in subsection (a) and the findings of the studies and surveys conducted under subsection (b);

“(B) publish such proposed revisions to such standards in the Federal Register for the purpose of receiving comments from the tribes, tribal school boards, Bureau funded schools, and other interested parties; and

“(C) consistent with the provisions of this section and section 1131, take such actions as are necessary to coordinate standards implemented under this section with the Comprehensive School Reform Plan developed by the Bureau and—
“(i) with the standards of the improvement plans for the States in which any school operated by the Bureau of Indian Affairs is located; or

“(ii) in the case where schools operated by the Bureau are within the boundaries of reservation land of one tribe but within the boundaries of more than one State, with the standards of the State improvement plan of one such State selected by the tribe.

“(2) Further revisions.—Not later that 6 months after the close of the comment period, the Secretary shall establish final standards, distribute such standards to all tribes and publish such final standards in the Federal Register. The Secretary shall revise such standards periodically as necessary. Prior to any revision of such final standards, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

“(3) Applicability of standards.—Except as provided in subsection (e), the final standards
published under paragraph (2) shall apply to all Bureau funded schools not accredited under subsection (f), and may also serve as a model for educational programs for Indian children in public schools.

“(4) CONSIDERATIONS WHEN ESTABLISHING AND REVISIGN STANDARDS.—In establishing and revising such standards, the Secretary shall take into account the unique needs of Indian students and support and reinforcement of the specific cultural heritage of each tribe.

“(d) ALTERNATIVE OR MODIFIED STANDARDS.—The Secretary shall provide alternative or modified standards in lieu of the standards established under subsection (c), where necessary, so that the programs of each school are in compliance with the minimum accreditation standards required for schools in the State or region where the school is located.

“(e) WAIVER OF STANDARDS; ALTERNATIVE STANDARDS.—A tribal governing body, or the local school board so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsections (c) and (d) if such standards are deemed by such body to be inappropriate. The tribal governing body or designated school board shall, not later than 60 days after a waiver under this subsection, submit
to the Secretary a proposal for alternative standards that
take into account the specific needs of the tribe’s children.
Such alternative standards shall be established by the Sec-
retary unless specifically rejected by the Secretary for
good cause and in writing to the affected tribes or local
school board, which rejection shall be final and not subject
to review.

“(f) Accreditation and Implementation of
Standards.—

“(1) Deadline for meeting standards.—
Not later the second academic year after publication
of the standards, to the extent necessary funding is
provided, all Bureau funded schools shall meet the
standards established under subsections (c) and (d)
or shall be accredited—

“(A) by a tribal accrediting body, if the ac-
creditation standards of the tribal accrediting
body have been accepted by formal action of the
tribal governing body and are equal to or ex-
ceed the accreditation standards of the State or
region in which the school is located;

“(B) by a regional accreditation agency; or

“(C) by State accreditation standards for
the State in which it is located.
“(2) Determination of standards to be applied.—The accreditation type or standards applied for each school shall be determined by the school board of the school, in consultation with the Administrator of the school, provided that in the case where the School Board and the Administrator fail to agree on the type of accreditation and standards to apply, the decision of the school board with the approval of the tribal governing body shall be final.

“(3) Assistance to school boards.—The Secretary, through contracts and grants, shall assist school boards of contract or grant schools in implementation of the standards established under subsections (c) and (d), if the school boards request that such standards, in part or in whole, be implemented.

“(4) Fiscal control and fund accounting standards.—The Bureau shall, either directly or through contract with an Indian organization, establish a consistent system of reporting standards for fiscal control and fund accounting for all contract and grant schools. Such standards shall provide data comparable to those used by Bureau operated schools.
“(g) Annual Plan for Meeting of Standards.—Except as provided in subsections (e) and (f), the Secretary shall begin to implement the standards established under this section immediately upon the date of their establishment. On an annual basis, the Secretary shall submit to the appropriate committees of Congress, all Bureau funded schools, and the tribal governing bodies of such schools a detailed plan to bring all Bureau schools and contract or grant schools up to the level required by the applicable standards established under this section. Such plan shall include detailed information on the status of each school’s educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school and specific timelines for bringing each school up to the level required by such standards.

“(h) Closure or Consolidation of Schools.—

“(1) In general.—Except as specifically required by statute, no school or peripheral dormitory operated by the Bureau on or after January 1, 1992, may be closed or consolidated or have its program substantially curtailed unless done according to the requirements of this subsection.

“(2) Exceptions.—This subsection shall not apply—
“(A) in those cases where the tribal governing body, or the local school board concerned (if so designated by the tribal governing body), requests closure or consolidation; or

“(B) when a temporary closure, consolidation, or substantial curtailment is required by plant conditions which constitute an immediate hazard to health and safety.

“(3) REGULATIONS.—The Secretary shall, by regulation, promulgate standards and procedures for the closure, transfer to another authority, consolidation, or substantial curtailment of Bureau schools, in accordance with the requirements of this subsection.

“(4) NOTICE.—Whenever closure, transfer to another authority, consolidation, or substantial curtailment of a school is under active consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, and designated local school board, will be notified immediately, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review. When a formal decision is made to close, transfer to another authority, consolidate, or substantially curtail a school, the affected tribe, tribal governing body,
and designated school board shall be notified at least 6 months prior to the end of the school year preceding the proposed closure date. Copies of any such notices and information shall be transmitted promptly to the appropriate committees of Congress and published in the Federal Register.

“(5) REPORT.—The Secretary shall make a report to the appropriate committees of Congress, the affected tribe, and the designated school board describing the process of the active consideration or review referred to in paragraph (4). The report shall include a study of the impact of such action on the student population, identify those students with particular educational and social needs, and ensure that alternative services are available to such students. Such report shall include the description of the consultation conducted between the potential service provider, current service provider, parents, tribal representatives and the tribe or tribes involved, and the Director of the Office of Indian Education Programs within the Bureau regarding such students.

“(6) LIMITATION ON CERTAIN ACTIONS.—No irrevocable action may be taken in furtherance of any such proposed school closure, transfer to another authority, consolidation, or substantial curtail-
ment (including any action which would prejudice
the personnel or programs of such school) prior to
the end of the first full academic year after such re-
port is made.

“(7) TRIBAL GOVERNING BODY APPROVAL RE-
QUIRED FOR CERTAIN ACTIONS.—The Secretary may
terminate, contract, transfer to any other authority,
consolidate, or substantially curtail the operation or
facilities of—

“(A) any Bureau funded school that is op-
erated on or after of January 1, 1999;

“(B) any program of such a school that is
operated on or after January 1, 1999; or

“(C) any school board of a school operated
under a grant under the Tribally Controlled
Schools Act of 1988,
only if the tribal governing body approves such ac-
tion.

“(i) APPLICATION FOR CONTRACTS OR GRANTS FOR
NON-BUREAU FUNDED SCHOOLS OR EXPANSION OF BU-
REAU FUNDED SCHOOLS.—

“(1) IN GENERAL.—(A)(i) The Secretary shall
only consider the factors described in subparagraph
(B) in reviewing—
“(I) applications from any tribe for the awarding of a contract or grant for a school that is not a Bureau funded school; and

“(II) applications from any tribe or school board of any Bureau funded school for—

“(aa) a school which is not a Bureau funded school; or

“(bb) the expansion of a Bureau funded school which would increase the amount of funds received by the Indian tribe or school board under section 1127.

“(ii) With respect to applications described in this subparagraph, the Secretary shall give consideration to all the factors described in subparagraph (B), but no such application shall be denied based primarily upon the geographic proximity of comparable public education.

“(B) With respect to applications described in subparagraph (A) the Secretary shall consider the following factors relating to the program and services that are the subject of the application:

“(i) The adequacy of the facilities or the potential to obtain or provide adequate facilities.
“(ii) Geographic and demographic factors in the affected areas.

“(iii) The adequacy of the applicant’s pro-
gram plans or, in the case of a Bureau funded
school, of projected needs analysis done either
by the tribe or the Bureau.

“(iv) Geographic proximity of comparable
public education.

“(v) The stated needs of all affected par-
ties, including students, families, tribal govern-
ments at both the central and local levels, and
school organizations.

“(vi) Adequacy and comparability of pro-
grams already available.

“(vii) Consistency of available programs
with tribal educational codes or tribal legisla-
tion on education.

“(viii) The history and success of these
services for the proposed population to be
served, as determined from all factors, including
but not limited to standardized examination
performance.

“(2) Determination on application.—(A)
The Secretary shall make a determination of wheth-
er to approve any application described in paragraph
(1)(A) not later than 180 days after such application is submitted to the Secretary.

“(B) If the Secretary fails to make the determination with respect to an application by the date described in subparagraph (A), the application shall be treated as having been approved by the Secretary.

“(3) REQUIREMENTS FOR APPLICATIONS.—(A) Notwithstanding paragraph (2)(B), an application described in paragraph (1)(A) may be approved by the Secretary only if—

“(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application; and

“(ii) written evidence of such approval is submitted with the application.

“(B) Each application described in paragraph (1)(A) shall provide information concerning each of the factors described in paragraph (1)(B).

“(4) DENIAL OF APPLICATIONS.—Whenever the Secretary makes a determination to deny approval of any application described in paragraph (1)(A), the Secretary shall—
“(A) state the objections in writing to the applicant not later 180 days after the application is submitted to the Secretary;

“(B) provide assistance to the applicant to overcome stated objections; and

“(C) provide the applicant a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act and an opportunity to appeal the objections raised by the Secretary.

“(5) EFFECTIVE DATE OF A SUBJECT APPLICATION.—(A) Except as otherwise provided in this paragraph, the action which is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective at the beginning of the academic year following the fiscal year in which the application is approved, or at an earlier date determined by the Secretary.

“(B) If an application is treated as having been approved by the Secretary under paragraph (2)(B), the action that is the subject of the application shall become effective on the date that is 18 months after the date on which the application is submitted to the Secretary, or at an earlier date determined by the Secretary.
“(6) **Statutory Construction.**—Nothing in this section shall be read so as to preclude the expansion of grades and related facilities at a Bureau funded school where such expansion and the maintenance of such expansion is occasioned or paid for with non-Bureau funds.

“(j) **General Use of Funds.**—Funds received by Bureau funded schools from the Bureau of Indian Affairs and under any program from the Department of Education or any other Federal agency for the purpose of providing education or related services may be used for schoolwide projects to improve the educational program for all Indian students.

“(k) **Study on Adequacy of Funds and Formulas.**—The Comptroller General shall conduct a study, in consultation with Indian tribes and local school boards, to determine the adequacy of funding, and formulas used by the Bureau to determine funding, for programs operated by Bureau funded schools, taking into account unique circumstances applicable to Bureau funded schools, as well as expenditures for comparable purposes in public schools nationally. Upon completion of the study, the Secretary of the Interior shall take such action as necessary to ensure distribution of the findings of the study to all affected...
Indian tribes, local school boards, and associations of local school boards.

"SEC. 1122. NATIONAL CRITERIA FOR HOME-LIVING SITUATIONS.

(a) In General.—The Secretary, in consultation with the Secretary of Education, Indian organizations and tribes, and Bureau funded schools, shall revise the national standards for home-living (dormitory) situations to include such factors as heating, lighting, cooling, adult-child ratios, needs for counselors (including special needs related to off-reservation home-living (dormitory) situations), therapeutic programs, space, and privacy. Such standards shall be implemented in Bureau operated schools, and shall serve as minimum standards for contract or grant schools. Once established, any revisions of such standards shall be developed according to the requirements established under section 1138A.

(b) Implementation.—The Secretary shall implement the revised standards established under this section immediately upon their completion.

(c) Plan.—At the time of each annual budget submission for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress, the tribes, and the affected schools, and publish in the Federal Register, a detailed plan to bring all Bu-
reau funded schools that provide home-living (dormitory) situations up to the standards established under this section. Such plan shall include a statement of the relative needs of each Bureau funded home-living (dormitory) school, projected future needs of each Bureau funded home-living (dormitory) school, detailed information on the status of each school in relation to the standards established under this section, specific cost estimates for meeting each standard for each such school, aggregate cost estimates for bringing all such schools into compliance with the criteria established under this section, and specific timelines for bringing each school into compliance with such standards.

“(d) Waiver.—The criteria established under this section may be waived in the same manner as the standards provided under section 1121(e) may be waived.

“(e) Closure for Failure To Meet Standards Prohibited.—No school in operation on or before January 1, 1987 (regardless of compliance or noncompliance with the criteria established under this section), may be closed, transferred to another authority, consolidated, or have its program substantially curtailed for failure to meet the criteria.
SEC. 1123. CODIFICATION OF REGULATIONS.

"(a) Part 32 of title 25 of Code of Federal Regulations.—The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Such provisions may be altered only by means of an Act of Congress. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before November 1, 1978, the provisions of this Act and the provisions of such other statutory law shall govern.

"(b) Regulation Defined.—For purposes of this part, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the executive branch.

SEC. 1124. SCHOOL BOUNDARIES.

"(a) Establishment by Secretary.—The Secretary shall establish, by regulation, separate geographical attendance areas for each Bureau funded school.

"(b) Establishment by Tribal Body.—In any case where there is more than one Bureau funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual
consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.

“(c) BOUNDARY REVISIONS.—

“(1) IN GENERAL.—On or after July 1, 2001, no geographical attendance area shall be revised or established with respect to any Bureau funded school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been afforded—

“(A) at least 6 months notice of the intention of the Bureau to revise or establish such attendance area; and

“(B) the opportunity to propose alternative boundaries.

Any tribe may petition the Secretary for revision of existing attendance area boundaries. The Secretary shall accept such proposed alternative or revised boundaries unless the Secretary finds, after consultation with the affected tribe or tribes, that such revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs. The
Secretary shall cause such revisions to be published in the Federal Register.

“(2) Tribal resolution determination.—Nothing in this section shall be interpreted as denying a tribal governing body the authority, on a continuing basis, to adopt a tribal resolution allowing parents the choice of the Bureau funded school their children may attend, regardless of the attendance boundaries established under this section.

“(d) Funding restrictions.—The Secretary shall not deny funding to a Bureau funded school for any eligible Indian student attending the school solely because that student’s home or domicile is outside of the geographical attendance area established for that school under this section. No funding shall be made available without tribal authorization to enable a school to provide transportation for any student to or from the school and a location outside the approved attendance area of the school.

“(e) Reservation as Boundary.—In any case where there is only one Bureau funded program located on an Indian reservation, the attendance area for the program shall be the boundaries (established by treaty, agreement, legislation, court decisions, or executive decisions and as accepted by the tribe) of the reservation served,
and those students residing near the reservation shall also receive services from such program.

“(f) Off-Reservation Home-Living (Dormitory) Schools.—Notwithstanding any geographical attendance areas, attendance at off-reservation home-living (dormitory) schools shall include students requiring special emphasis programs to be implemented at each off-reservation home-living (dormitory) school. Such attendance shall be coordinated between education line officers, the family, and the referring and receiving programs.

“SEC. 1125. FACILITIES CONSTRUCTION.

“(a) Compliance With Health and Safety Standards.—The Secretary shall immediately begin to bring all schools, dormitories, and other Indian education-related facilities operated by the Bureau or under contract or grant with the Bureau into compliance with all applicable tribal, Federal, or State health and safety standards, whichever provides greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards), with section 504 of the Rehabilitation Act of 1973, and with the Americans with Disabilities Act of 1990. Nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and
which is in use on the date of the enactment of the No

“(b) COMPLIANCE PLAN.—At the time that the an-
annual budget request for Bureau educational services is
presented, the Secretary shall submit to the appropriate
committees of Congress a detailed plan to bring all facili-
ties covered under subsection (a) of this section into com-
pliance with the standards referred to in subsection (a).
Such plan shall include detailed information on the status
of each facility’s compliance with such standards, specific
cost estimates for meeting such standards at each school,
and specific timelines for bringing each school into compli-
ance with such standards.

“(c) CONSTRUCTION PRIORITIES.—

“(1) SYSTEM TO ESTABLISH PRIORITIES.—On
an annual basis the Secretary shall submit to the
appropriate committees of Congress and cause to be
published in the Federal Register, the system used
to establish priorities for replacement and construc-
tion projects for Bureau funded schools and home-
living schools, including boarding schools and dor-
mitories. At the time any budget request for edu-
cation is presented, the Secretary shall publish in
the Federal Register and submit with the budget re-
quest the current list of all Bureau funded school construction priorities.

“(2) LONG-TERM CONSTRUCTION AND REPLACEMENT LIST.—In addition to the plan submitted under subsection (b), the Secretary shall—

“(A) not later than 18 months after the date of the enactment of the No Child Left Behind Act of 2001, establish a long-term construction and replacement list for all Bureau funded schools;

“(B) using the list prepared under subparagraph (A), propose a list for the orderly replacement of all Bureau funded education-related facilities over a period of 40 years to enable planning and scheduling of budget requests;

“(C) cause the list prepared under subsection (B) to be published in the Federal Register and allow a period of not less than 120 days for public comment;

“(D) make such revisions to the list prepared under subparagraph (B) as are appropriate based on the comments received; and

“(E) cause the final list to be published in the Federal Register.
“(3) Effect on Other List.—Nothing in this section shall be construed as interfering with or changing in any way the construction priority list as it exists on the date of the enactment of the No Child Left Behind Act of 2001.

“(d) Hazardous Condition at Bureau School.—

“(1) Closure or Consolidation.—A Bureau funded school may be closed or consolidated, and the programs of a Bureau funded school may be substantially curtailed by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau funded school.

“(2) Inspection.—(A) After making a determination described in paragraph (1), the Bureau health and safety officer shall conduct an inspection of the condition of such plant accompanied by an appropriate tribal, county, municipal, or State health and safety officer in order to determine whether conditions at such plant constitute an immediate hazard to health and safety. Such inspection shall be completed by not later than the date that is 30 days after the date on which the action described in para-
graph (1) is taken. No further negative action may be taken unless the findings are concurred in by the second, non-Bureau of Indian Affairs inspector.

“(B) If the health and safety officer conducting the inspection of a plant required under subparagraph (A) determines that conditions at the plant do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made under paragraph (1) shall immediately cease and any school closed by reason of conditions at the plant shall be reopened immediately.

“(C) If a Bureau funded school is temporarily closed or consolidated or the programs of a Bureau funded school are substantially curtailed under this subsection and the Secretary determines that the closure, consolidation, or curtailment will exceed 1 year, the Secretary shall submit to the Congress, by not later than 6 months after the date on which the closure, consolidation, or curtailment was initiated, a report which sets forth the reasons for such temporary actions, the actions the Secretary is taking to eliminate the conditions that constitute the hazard, and an estimated date by which such actions will be concluded.

“(e) Funding Requirement.—
“(1) DISTRIBUTION OF FUNDS.—Beginning with the fiscal year following the year of the date of the enactment of the No Child Left Behind Act of 2001, all funds appropriated for the operations and maintenance of Bureau funded schools shall be distributed by formula to the schools. No funds from this account may be retained or segregated by the Bureau to pay for administrative or other costs of any facilities branch or office, at any level of the Bureau.

“(2) REQUIREMENTS FOR CERTAIN USES.—No funds shall be withheld from the distribution to the budget of any school operated under contract or grant by the Bureau for maintenance or any other facilities or road related purpose, unless such school has consented, as a modification to the contract or in writing for grants schools, to the withholding of such funds, including the amount thereof, the purpose for which the funds will be used, and the timeline for the services to be provided. The school may, at the end of any fiscal year, cancel an agreement under this paragraph upon giving the Bureau 30 days notice of its intent to do so.

“(f) NO REDUCTION IN FEDERAL FUNDING.—Nothing in this section shall be construed to diminish any Fed-
eral funding due to the receipt by the school of funding
for facilities improvement or construction from a State or
any other source.

“SEC. 1126. BUREAU OF INDIAN AFFAIRS EDUCATION FUNC-
TIONS.

“(a) Formulation and Establishment of Policy and Procedure; Supervision of Programs and Expenditures.—The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect
to formulation and establishment of policy and procedure
and supervision of programs and expenditures of Federal
funds for the purpose of Indian education administered
by the Bureau. The Assistant Secretary shall carry out
such functions through the Director of the Office of Indian
Education Programs.

“(b) Direction and Supervision of Personnel Operations.—Not later than 6 months after the date of
the enactment of the No Child Left Behind Act of 2001,
the Director of the Office of Indian Education Programs
shall direct and supervise the operations of all personnel
directly and substantially involved in the provision of edu-
cation services by the Bureau, including school or institu-
tion custodial or maintenance personnel, facilities manage-
ment, contracting, procurement, and finance personnel.
The Assistant Secretary for Indian Affairs shall coordi-
nate the transfer of functions relating to procurement, contracts, operation, and maintenance of schools and other support functions to the Director.

“(c) Evaluation of Programs; Services and Support Functions; Technical and Coordinating Assistance.—Education personnel who are under the direction and supervision of the Director of the Office of Indian Education Programs in accordance with the first sentence of subsection (b) shall—

“(1) monitor and evaluate Bureau education programs;

“(2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions; and

“(3) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, curriculum, and operation and maintenance of school facilities.

“(d) Construction, Improvement, Operation, and Maintenance of Facilities.—

“(1) Plan for Construction.—The Assistant Secretary shall submit in the annual budget a plan—

“(A) for school facilities to be constructed under section 1125(c);
“(B) for establishing priorities among projects and for the improvement and repair of educational facilities, which together shall form the basis for the distribution of appropriated funds; and

“(C) for capital improvements to be made over the five succeeding years.

“(2) Program for Operation and Maintenance.—

“(A) Establishment.—The Assistant Secretary shall establish a program, including the distribution of appropriated funds, for the operation and maintenance of education facilities. Such program shall include—

“(i) a method of computing the amount necessary for each educational facility;

“(ii) similar treatment of all Bureau funded schools;

“(iii) a notice of an allocation of appropriated funds from the Director of the Office of Indian Education Programs directly to the education line officers and appropriate school officials;
“(iv) a method for determining the need for, and priority of, facilities repair and maintenance projects, both major and minor. In making such determination, the Assistant Secretary shall cause to be conducted a series of meetings at the agency and area level with representatives of the Bureau funded schools in those areas and agencies to receive comment on the lists and prioritization of such projects; and

“(v) a system for the conduct of routine preventive maintenance.

“(B) LOCAL SUPERVISORS.—The appropriate education line officers shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made by the appropriate education line officers, except that no funds under this chapter may be authorized for expenditure unless such appropriate education line officer is assured that the necessary maintenance has been, or will be, provided in a reasonable manner.
“(3) IMPLEMENTATION.—The requirements of this subsection shall be implemented as soon as practicable after the date of the enactment of the No Child Left Behind Act of 2001.

“(e) ACCEPTANCE OF GIFTS AND BEQUESTS.—Notwithstanding any other provision of law, the Director shall promulgate guidelines for the establishment of mechanisms for the acceptance of gifts and bequests for the use and benefit of particular schools or designated Bureau operated education programs, including, where appropriate, the establishment and administration of trust funds. When a Bureau operated program is the beneficiary of such a gift or bequest, the Director shall make provisions for monitoring its use and shall report to the appropriate committees of Congress the amount and terms of such gift or bequest, the manner in which such gift or bequest shall be used, and any results achieved by such action.

“(f) FUNCTIONS CLARIFIED.—For the purpose of this section, the term ‘functions’ includes powers and duties.

“SEC. 1127. ALLOTMENT FORMULA.

“(a) FACTORS CONSIDERED; REVISION TO REFLECT STANDARDS.—

“(1) FORMULA.—The Secretary shall establish, by regulation adopted in accordance with section
1138A, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau funded school. In establishing such formula, the Secretary shall consider—

“(A) the number of eligible Indian students served and total student population of the school;

“(B) special cost factors, such as—

“(i) the isolation of the school;

“(ii) the need for special staffing, transportation, or educational programs;

“(iii) food and housing costs;

“(iv) maintenance and repair costs associated with the physical condition of the educational facilities;

“(v) special transportation and other costs of isolated and small schools;

“(vi) the costs of home-living (dormitory) arrangements, where determined necessary by a tribal governing body or designated school board;

“(vii) costs associated with greater lengths of service by education personnel;
“(viii) the costs of therapeutic programs for students requiring such programs; and

“(ix) special costs for gifted and talented students;

“(C) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located; and

“(D) such other relevant factors as the Secretary determines are appropriate.

“(2) REVISION OF FORMULA.—Upon the establishment of the standards required in sections 1121 and 1122, the Secretary shall revise the formula established under this subsection to reflect the cost of funding such standards. Not later than January 1, 2003, the Secretary shall review the formula established under this section and shall take such steps as are necessary to increase the availability of counseling and therapeutic programs for students in off-reservation home-living (dormitory) schools and other Bureau operated residential facilities. Concurrent with such action, the Secretary shall review the standards established under section 1122 to be certain that adequate provision is made for parental no-
tification regarding, and consent for, such counseling
and therapeutic programs.

“(b) PRO RATA ALLOTMENT.—Notwithstanding any
other provision of law, Federal funds appropriated for the
general local operation of Bureau funded schools shall be
allotted pro rata in accordance with the formula estab-
lished under subsection (a).

“(c) ANNUAL ADJUSTMENT; RESERVATION OF
AMOUNT FOR SCHOOL BOARD ACTIVITIES.—

“(1) ANNUAL ADJUSTMENT.—For fiscal year
2003, and for each subsequent fiscal year, the Sec-
retary shall adjust the formula established under
subsection (a) to ensure that the formula does the
following:

“(A) Uses a weighted unit of 1.2 for each
eligible Indian student enrolled in the seventh
and eighth grades of the school in considering
the number of eligible Indian students served
by the school.

“(B) Considers a school with an enroll-
ment of less than 50 eligible Indian students as
having an average daily attendance of 50 eligi-
ble Indian students for purposes of imple-
menting the adjustment factor for small
schools.
“(C) Takes into account the provision of residential services on less than a 9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis will be implemented for the school year involved.

“(D) Uses a weighted unit of 2.0 for each eligible Indian student that—

“(i) is gifted and talented; and

“(ii) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school.

“(E) Uses a weighted unit of 0.25 for each eligible Indian student who is enrolled in a yearlong credit course in an Indian or Native language as part of the regular curriculum of a school, in considering the number of eligible Indian students served by such school. The adjustment required under this subparagraph shall be used for such school after—

“(i) the certification of the Indian or Native language curriculum by the school board of such school to the Secretary, together with an estimate of the number of
full-time students expected to be enrolled in the curriculum in the second school year for which the certification is made; and

(ii) the funds appropriated for allotment under this section are designated by the appropriations Act appropriating such funds as the amount necessary to implement such adjustment at such school without reducing allotments made under this section to any school by virtue of such adjustment.

“(2) Reservation of amount.—

“(A) In general.—From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

“(i) $8,000; or

“(ii) the lesser of—

“(I) $15,000; or

“(II) 1 percent of such allotted funds,

for school board activities for such school, including (notwithstanding any other provision of
law) meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.

“(B) TRAINING.—Each school board shall see that each new member of the school board receives, within 12 months of the individual’s assuming a position on the school board, 40 hours of training relevant to that individual’s service on the board. Such training may include legal issues pertaining to schools funded by the Bureau, legal issues pertaining to school boards, ethics, and other topics deemed appropriate by the school board.

“(d) RESERVATION OF AMOUNT FOR EMERGENCIES.—The Secretary shall reserve from the funds available for distribution for each fiscal year under this section an amount which, in the aggregate, shall equal 1 percent of the funds available for such purpose for that fiscal year. Such funds shall be used, at the discretion of the Director of the Office of Indian Education Programs, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended for education services or programs, including emergency repairs of educational facilities, at a schoolsite.
(as defined by section 5204(c)(2) of the Tribally Con-
trolled Schools Act of 1988). Funds reserved under this
subsection shall remain available without fiscal year limi-
tation until expended. However, the aggregate amount
available from all fiscal years may not exceed 1 percent
of the current year funds. Whenever, the Secretary makes
funds available under this subsection, the Secretary shall
report such action to the appropriate committees of Con-
gress within the annual budget submission.

“(e) Supplemental Appropriations.—Supple-
mental appropriations enacted to meet increased pay costs
attributable to school level personnel shall be distributed
under this section.

“(f) Eligible Indian Student Defined.—For the
purpose of this section, the term ‘eligible Indian student’
means a student who—

“(1) is a member of or is at least one-fourth de-
gree Indian blood descendant of a member of an In-
dian tribe which is eligible for the special programs
and services provided by the United States through
the Bureau because of their status as Indians; and

“(2) resides on or near an Indian reservation or
meets the criteria for attendance at a Bureau off-
reservation home-living (dormitory) school.

“(g) Tuition.—
“(1) IN GENERAL.—An eligible Indian student may not be charged tuition for attendance at a Bureau school or contract or grant school. A student attending a Bureau school under paragraph (2)(C) may not be charged tuition for attendance at such a school.

“(2) ATTENDANCE OF NON-INDIAN STUDENTS AT BUREAU SCHOOLS.—The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

“(A) the Secretary determines that the student’s attendance will not adversely affect the school’s program for eligible Indian students because of cost, overcrowding, or violation of standards or accreditation;

“(B) the school board consents;

“(C) the student is a dependent of a Bureau, Indian Health Service, or tribal government employee who lives on or near the schoolsite; or

“(D) a tuition is paid for the student that is not more than that charged by the nearest public school district for out-of-district students, and shall be in addition to the school’s allocation under this section.
“(3) Attendance of non-Indian students at contract and grant schools.—The school board of a contract or grant school may permit students who are not eligible Indian students under this subsection to attend its contract school or grant school and any tuition collected for those students shall be in addition to funding received under this section.

“(h) Funds available without fiscal year limitation.—Notwithstanding any other provision of law, at the election of the school board of a Bureau school made at any time during the fiscal year, a portion equal to not more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation. The Assistant Secretary shall take steps as may be necessary to implement this provision.

“(i) Students at Richfield dormitory, Richfield, Utah.—Tuition for out-of-State Indian students in home-living (dormitory) arrangements at the Richfield dormitory in Richfield, Utah, who attend Sevier County high schools in Richfield, Utah, shall be paid from the Indian school equalization program funds authorized in this section and section 1130 at a rate not to exceed the
amounts per weighted student unit for that year for the
instruction of such students. No additional administrative
cost funds shall be added to the grant.

“SEC. 1128. ADMINISTRATIVE COST GRANTS.

“(a) GRANTS; EFFECT UPON APPROPRIATED
AMOUNTS.—

“(1) GRANTS.—Subject to the availability of
appropriated funds, the Secretary shall provide
grants to each tribe or tribal organization operating
a contract school or grant school in the amount de-
determined under this section with respect to the tribe
or tribal organization for the purpose of paying the
administrative and indirect costs incurred in oper-
ating contract or grant schools, provided that no
school operated as a stand-alone institution shall re-
receive less than $200,000 per year for these pur-
poses, in order to—

“(A) enable tribes and tribal organizations
operating such schools, without reducing direct
program services to the beneficiaries of the pro-
gram, to provide all related administrative over-
head services and operations necessary to meet
the requirements of law and prudent manage-
ment practice; and
“(B) carry out other necessary support functions which would otherwise be provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

“(2) Effect upon appropriated amounts.—Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract or grant school.

“(b) Determination of grant amount.—

“(1) In general.—The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate of the tribe or tribal organization to the aggregate of the Bureau elementary and secondary functions operated by the tribe or tribal organization for which funds are received from or through the Bureau. The administrative cost percentage rate determined under subsection (c) does not apply to other programs operated by the tribe or tribal organization.
“(2) Direct Cost Base Funds.—The Secretary shall—

“(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by an Indian tribe or tribal organization under any Federal education program included in the direct cost base of the tribe or tribal organization; and

“(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

“(c) Administrative Cost Percentage Rate.—

“(1) In General.—For purposes of this section, the administrative cost percentage rate for a contract or grant school for a fiscal year is equal to the percentage determined by dividing—

“(A) the sum of—

“(i) the amount equal to—
“(I) the direct cost base of the tribe or tribal organization for the fiscal year, multiplied by
“(II) the minimum base rate;
plus
“(ii) the amount equal to—
“(I) the standard direct cost base; multiplied by
“(II) the maximum base rate; by
“(B) the sum of—
“(i) the direct cost base of the tribe or tribal organization for the fiscal year; plus
“(ii) the standard direct cost base.
“(2) Rounding.—The administrative cost percentage rate shall be determined to the 1/100 of a decimal point.
“(d) Combining Funds.—
“(1) In general.—Funds received by a tribe or contract or grant school as grants under this section for tribal elementary or secondary educational programs may be combined by the tribe or contract or grant school into a single administrative cost account without the necessity of maintaining separate funding source accounting.
“(2) INDIRECT COST FUNDS.—Indirect cost funds for programs at the school which share common administrative services with tribal elementary or secondary educational programs may be included in the administrative cost account described in paragraph (1).

“(e) AVAILABILITY OF FUNDS.—Funds received as grants under this section with respect to tribal elementary or secondary education programs shall remain available to the contract or grant school without fiscal year limitation and without diminishing the amount of any grants otherwise payable to the school under this section for any fiscal year beginning after the fiscal year for which the grant is provided.

“(f) TREATMENT OF FUNDS.—Funds received as grants under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or agreement shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

“(g) TREATMENT OF ENTITY OPERATING OTHER PROGRAMS.—In applying this section and section 105 of the Indian Self-Determination and Education Assistance
Act with respect to an Indian tribe or tribal organization that—

“(1) receives funds under this section for administrative costs incurred in operating a contract or grant school or a school operated under the Tribally Controlled Schools Act of 1988; and

“(2) operates one or more other programs under a contract or grant provided under the Indian Self-Determination and Education Assistance Act,

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full amount of the administrative costs that are associated with operating the contract or grant school, and of the indirect costs, that are associated with all of such other programs, provided that funds appropriated for implementation of this section shall be used only to supply the amount of the grant required to be provided by this section.

“(h) DEFINITIONS.—For purposes of this section:

“(1) ADMINISTRATIVE COST.—(A) The term ‘administrative cost’ means the costs of necessary administrative functions which—

“(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program;
“(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds; and

“(iii) are either—

“(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds; or

“(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

“(B) The term ‘administrative cost’ may include—

“(i) contract or grant (or other agreement) administration;

“(ii) executive, policy, and corporate leadership and decisionmaking;

“(iii) program planning, development, and management;

“(iv) fiscal, personnel, property, and procurement management;

“(v) related office services and record keeping; and

“(vi) costs of necessary insurance, auditing, legal, safety and security services.
“(2) Bureau elementary and secondary functions.—The term ‘Bureau elementary and secondary functions’ means—

“(A) all functions funded at Bureau schools by the Office;

“(B) all programs—

“(i) funds for which are appropriated to other agencies of the Federal Government; and

“(ii) which are administered for the benefit of Indians through Bureau schools; and

“(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

“(3) Direct cost base.—(A) Except as otherwise provided in subparagraph (B), the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—
“(i) the second fiscal year preceding such fiscal year; or

“(ii) if such programs have not been operated by the tribe or tribal organization during the two preceding fiscal years, the first fiscal year preceding such fiscal year.

“(B) In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract, grant, or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

“(4) Maximum base rate.—The term ‘maximum base rate’ means 50 percent.

“(5) Minimum base rate.—The term ‘minimum base rate’ means 11 percent.

“(6) Standard direct cost base.—The term ‘standard direct cost base’ means $600,000.

“(7) Tribal elementary or secondary educational programs.—The term ‘tribal elementary or secondary educational programs’ means all Bureau elementary and secondary functions, to-
gether with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract, grant, or agreement with the Bureau.

“(i) Studies for Determination of Factors Affecting Costs; Base Rates Limits; Standard Direct Cost Base; Report to Congress.—

“(1) Studies.—Not later than 120 days after the date of the enactment of the No Child Left Behind Act of 2001, the Director of the Office of Indian Education Programs shall—

“(A) conduct such studies as may be needed to establish an empirical basis for determining relevant factors substantially affecting required administrative costs of tribal elementary and secondary education programs, using the formula set forth in subsection (e); and

“(B) conduct a study to determine—
“(i) a maximum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the smallest tribal elementary or secondary educational programs;

“(ii) a minimum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the largest tribal elementary or secondary educational programs; and

“(iii) a standard direct cost base which is the aggregate direct cost funding level for which the percentage determined under subsection (c) will—

“(I) be equal to the median between the maximum base rate and the minimum base rate; and

“(II) ensure that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of tribal elementary or secondary educational programs closest to the size of the program.
“(2) GUIDELINES.—The studies required under paragraph (1) shall—

“(A) be conducted in full consultation (in accordance with section 1131) with—

“(i) the tribes and tribal organizations that are affected by the application of the formula set forth in subsection (e); and

“(ii) all national and regional Indian organizations of which such tribes and tribal organizations are typically members;

“(B) be conducted onsite with a representative statistical sample of the tribal elementary or secondary educational programs under a contract entered into with a nationally reputable public accounting and business consulting firm;

“(C) take into account the availability of skilled labor; commodities, business and automatic data processing services, related Indian preference and Indian control of education requirements, and any other market factors found substantially to affect the administrative costs and efficiency of each such tribal elementary or secondary educational program studied in order to assure that all required administrative activities can reasonably be delivered in a cost effec-
tive manner for each such program, given an administrative cost allowance generated by the values, percentages, or other factors found in the studies to be relevant in such formula;

“(D) identify, and quantify in terms of percentages of direct program costs, any general factors arising from geographic isolation, or numbers of programs administered, independent of program size factors used to compute a base administrative cost percentage in such formula; and

“(E) identify any other incremental cost factors substantially affecting the costs of required administrative cost functions at any of the tribal elementary or secondary educational programs studied and determine whether the factors are of general applicability to other such programs, and (if so) how the factors may effectively be incorporated into such formula.

“(3) Consultation with Inspector General.—In carrying out the studies required under this subsection, the Director shall obtain the input of, and afford an opportunity to participate to, the Inspector General of the Department of the Interior.
“(4) Consideration of delivery of administrative services.—Determinations described in paragraph (2)(C) shall be based on what is practicable at each location studied, given prudent management practice, irrespective of whether required administrative services were actually or fully delivered at these sites, or whether other services were delivered instead, during the period of the study.

“(5) Report.—Upon completion of the studies conducted under paragraph (1), the Director shall submit to Congress a report on the findings of the studies, together with determinations based upon such studies that would affect the definitions set forth under subsection (e) that are used in the formula set forth in subsection (e).

“(6) Projection of costs.—The Secretary shall include in the Bureau’s justification for each appropriations request beginning in the first fiscal year after the completion of the studies conducted under paragraph (1), a projection of the overall costs associated with the formula set forth in subsection (e) for all tribal elementary or secondary education programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.
“(7) Determination of Program Size.—For purposes of this subsection, the size of tribal elementary or secondary educational programs is determined by the aggregate direct cost program funding level for all Bureau funded programs which share common administrative cost functions.

“(j) Authorization of Appropriations.—

“(1) In general.—There are authorized to be appropriated such sums as necessary to carry out this section.

“(2) Reductions.—If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under subsection (b) for a fiscal year exceeds the amount of funds appropriated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under subsection (b) for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grants determined under subsection (b) bears to the total of all grants determined under subsection (b) section for all tribes and tribal organizations for such fiscal year.

“(k) Applicability to Schools Operating Under Tribally Controlled Schools Act of
1988.—The provisions of this section shall also apply to those schools operating under the Tribally Controlled Schools Act of 1988.

"SEC. 1129. DIVISION OF BUDGET ANALYSIS.

“(a) Establishment.—Not later than 12 months after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary shall establish within the Office of Indian Education Programs a Division of Budget Analysis (hereinafter referred to as the ‘Division’). Such Division shall be under the direct supervision and control of the Director of the Office.

“(b) Functions.—In consultation with the tribal governing bodies and tribal school boards, the Director of the Office, through the Division, shall conduct studies, surveys, or other activities to gather demographic information on Bureau funded schools and project the amount necessary to provide Indian students in such schools the educational program set forth in this part.

“(c) Annual Reports.—Not later than the date that the Assistant Secretary for Indian Affairs makes the annual budget submission, for each fiscal year after the date of the enactment of the No Child Left Behind Act of 2001, the Director of the Office shall submit to the appropriate committees of Congress (including the Appropriations committees), all Bureau funded schools, and the
tribal governing bodies of such schools, a report which shall contain—

“(1) projections, based upon the information gathered pursuant to subparagraph (b) and any other relevant information, of amounts necessary to provide Indian students in Bureau funded schools the educational program set forth in this part;

“(2) a description of the methods and formulas used to calculate the amounts projected pursuant to paragraph (1); and

“(3) such other information as the Director of the Office considers appropriate.

“(d) USE OF REPORTS.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the annual report required by subsection (c) when preparing their annual budget submissions.

“SEC. 1130. UNIFORM DIRECT FUNDING AND SUPPORT.

“(a) ESTABLISHMENT OF SYSTEM AND FORWARD FUNDING.—

“(1) IN GENERAL.—The Secretary shall establish, by regulation adopted in accordance with section 1138, a system for the direct funding and support of all Bureau funded schools. Such system shall allot funds in accordance with section 1127. All
amounts appropriated for distribution under this section may be made available under paragraph (2).

“(2) TIMING FOR USE OF FUNDS.—(A) For the purposes of affording adequate notice of funding available pursuant to the allotments made under section 1127, amounts appropriated in an appropriations Act for any fiscal year shall become available for obligation by the affected schools on July 1 of the fiscal year in which such amounts are appropriated without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year.

“(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph—

“(i) publish, not later than July 1 of the fiscal year for which the funds are appropriated, allotments to each affected school made under section 1127 of 85 percent of such appropriation; and

“(ii) publish, not later than September 30 of such fiscal year, the allotments to be made under section 1127 of the remaining 15 percent of such appropriation, adjusted to reflect the actual student attendance.
“(3) LIMITATION.—(A) Notwithstanding any other provision of law or regulation, the supervisor of a Bureau funded school may expend an aggregate of not more than $50,000 of the amount allotted the school under section 1127 to acquire materials, supplies, equipment, services, operation, and maintenance for the school without competitive bidding if—

“(i) the cost for any single item purchased does not exceed $15,000;

“(ii) the school board approves the procurement;

“(iii) the supervisor certifies that the cost is fair and reasonable;

“(iv) the documents relating to the procurement executed by the supervisor or other school staff cite this paragraph as authority for the procurement; and

“(v) the transaction is documented in a journal maintained at the school clearly identifying when the transaction occurred, what was acquired and from whom, the price paid, the quantities acquired, and any other information the supervisor or school board considers relevant.
“(B) Not later than 6 months after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary shall cause to be sent to each supervisor of a Bureau operated program and school board chairperson, the education line officer or officers of each agency and area, and the Bureau Division in charge of procurement, at both the local and national levels, notice of this paragraph.

“(C) The Director shall be responsible for determining the application of this paragraph, including the authorization of specific individuals to carry out this paragraph, and shall be responsible for the provision of guidelines on the use of this paragraph and adequate training on such guidelines.

“(4) EFFECT OF SEQUESTRATION ORDER.—If a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 reduces the amount of funds available for allotment under section 1127 for any fiscal year by more than 7 percent of the amount of funds available for allotment under such section during the preceding fiscal year—

“(A) to fund allotments under section 1127, the Secretary, notwithstanding any other law, may use—
“(i) funds appropriated for the operation of any Bureau school that is closed or consolidated; and

“(ii) funds appropriated for any program that has been curtailed at any Bureau school; and

“(B) the Secretary may waive the application of the provisions of section 1121(h) with respect to the closure or consolidation of a school, or the curtailment of a program at a school, during such fiscal year if the funds described in clauses (i) and (ii) of subparagraph (A) with respect to such school are used to fund allotments made under section 1127 for such fiscal year.

“(b) LOCAL FINANCIAL PLANS FOR EXPENDITURE OF FUNDS.—

“(1) PLAN REQUIRED.—In the case of all Bureau operated schools, allotted funds shall be expended on the basis of local financial plans which ensure meeting the accreditation requirements or standards for the school established pursuant to section 1121 and which shall be prepared by the local school supervisor in active consultation with the local school board for each school. The local school board
for each school shall have the authority to ratify, reject, or amend such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan.

“(2) The supervisor—

“(A) shall put into effect the decisions of the school board;

“(B) shall provide the appropriate local union representative of the education employees with copies of proposed draft financial plans and all amendments or modifications thereto, at the same time such copies are submitted to the local school board; and

“(C) may appeal any such action of the local school board to the appropriate education line officer of the Bureau agency by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the
appropriate education line officer may, for good cause, overturn the action of the local school board. The appropriate education line officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.

“(c) Use of Self-Determination Grants Funds.—Funds for self-determination grants under section 103(a)(2) of the Indian Self-Determination and Education Assistance Act shall not be used for providing technical assistance and training in the field of education by the Bureau unless such services are provided in accordance with a plan, agreed to by the tribe or tribes affected and the Bureau, under which control of education programs is intended to be transferred to such tribe or tribes within a specific period of time negotiated under such agreement. The Secretary may approve applications for funding tribal divisions of education and development of tribal codes of education from funds appropriated pursuant to section 104(a) of such Act.

“(d) Technical Assistance and Training.—In the exercise of its authority under this section, a local school board may request technical assistance and training from the Secretary, and the Secretary shall, to the great-
est extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

“(e) SUMMER PROGRAM OF ACADEMIC AND SUPPORT SERVICES.—

“(1) IN GENERAL.—A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary for Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

“(2) USE OF OTHER FUNDS.—Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934, and this Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

“(3) TECHNICAL ASSISTANCE AND PROGRAM COORDINATION.—The Assistant Secretary for Indian
Affairs, acting through the Director of the Office, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.

“(f) COOPERATIVE AGREEMENTS.—

“(1) IN GENERAL.—From funds allotted to a Bureau school under section 1127, the Secretary shall, if specifically requested by the tribal governing body (as defined in section 1141), implement any cooperative agreement entered into between the tribe, the Bureau school board, and the local public school district which meets the requirements of paragraph (2) and involves the school. The tribe, the Bureau school board, and the local public school district shall determine the terms of the agreement. Such agreement may encompass coordination of all or any part of the following:

“(A) Academic program and curriculum, unless the Bureau school is currently accredited by a State or regional accrediting entity and would not continue to be so accredited.
“(B) Support services, including procurement and facilities maintenance.

“(C) Transportation.

“(2) Equal benefit and burden.—Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed, though this requirement shall not be construed so as to require equal expenditures or an exchange of similar services.

“(g) Product or result of student projects.—Notwithstanding any other provision of law, where there is agreement on action between the superintendent and the school board of a Bureau funded school, the product or result of a project conducted in whole or in major part by a student may be given to that student upon the completion of such project.

“(h) Not considered Federal funds for matching requirements.—Notwithstanding any other provision of law, funds received by a Bureau funded school under this part shall not be considered Federal funds for the purposes of meeting a matching funds requirement for any Federal program.
SEC. 1131. POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION.

“(a) Facilitation of Indian Control.—It shall be the policy of the Secretary and the Bureau, in carrying out the functions of the Bureau, to facilitate tribal control of Indian affairs in all matters relating to education.

“(b) Consultation With Tribes.—

“(1) In General.—All actions under this Act shall be done with active consultation with tribes.

“(2) Requirements.—The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options presented or to present alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information available from or presented by the interested parties during one or more of the discussions and
deliberations, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.

“SEC. 1132. INDIAN EDUCATION PERSONNEL.

“(a) In General.—Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to classification, pay and leave, respectively, and the sections of such title relating to the appointment, promotion, hours of work, and removal of civil service employees, shall not apply to educators or to education positions (as defined in subsection (p)).

“(b) Regulations.—Not later than 60 days after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary shall prescribe regulations to carry out this section. Such regulations shall include—

“(1) the establishment of education positions;

“(2) the establishment of qualifications for educators and education personnel;

“(3) the fixing of basic compensation for educators and education positions;

“(4) the appointment of educators;
“(5) the discharge of educators;

“(6) the entitlement of educators to compensation;

“(7) the payment of compensation to educators;

“(8) the conditions of employment of educators;

“(9) the leave system for educators;

“(10) the annual leave and sick leave for educators; and

“(11) such matters as may be appropriate.

“(c) QUALIFICATIONS OF EDUCATORS.—

“(1) REQUIREMENTS.—In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

“(A)(i) that lists of qualified and interviewed applicants for education positions be maintained in each agency and area office of the Bureau from among individuals who have applied at the agency or area level for an education position or who have applied at the national level and have indicated in such application an interest in working in certain areas or agencies; and

“(ii) that a list of qualified and interviewed applicants for education positions be maintained in the Office from among individuals
who have applied at the national level for an
education position and who have expressed in-
terest in working in an education position any-
where in the United States;

“(B) that a local school board shall have
the authority to waive on a case-by-case basis,
any formal education or degree qualifications
established by regulation pursuant to subsection
(b)(2), in order for a tribal member to be hired
in an education position to teach courses on
tribal culture and language and that subject to
subsection (e)(2), a determination by a school
board that such a person be hired shall be insti-
tuted supervisor; and

“(C) that it shall not be a prerequisite to
the employment of an individual in an edu-
cation position at the local level that such indi-
vidual’s name appear on the national list main-
tained pursuant to subparagraph (A)(ii) or that
such individual has applied at the national level
for an education position.

“(2) EXCEPTION FOR CERTAIN TEMPORARY EM-
PLOYMENT.—The Secretary may authorize the tem-
porary employment in an education position of an
individual who has not met the certification stand-
ards established pursuant to regulations, if the Sec-
retary determines that failure to do so would result
in that position remaining vacant.

“(d) Hiring of Educators.—

“(1) Requirements.—In prescribing regula-
tions to govern the appointment of educators, the
Secretary shall require—

“(A)(i) that educators employed in a Bu-
reau operated school (other than the supervisor
of the school) shall be hired by the supervisor
of the school. In cases where there are no qual-
ified applicants available, such supervisor may
consult the national list maintained pursuant to
subsection (c)(1)(A)(ii);

“(ii) each school supervisor shall be hired
by the education line officer of the agency office
of the Bureau in which the school is located;

“(iii) educators employed in an agency off-
fee of the Bureau shall be hired by the super-
intendent for education of the agency office;
and

“(iv) each education line officer and edu-
cators employed in the Office of the Director of
Indian Education Programs shall be hired by
the Director;
“(B) that before an individual is employed in an education position in a school by the supervisor of a school (or with respect to the position of supervisor, by the appropriate agency education line officer), the local school board for the school shall be consulted. A determination by such school board that such individual should or should not be so employed shall be instituted by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education);

“(C) that before an individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted, and that a determination by such school board that such individual should or should not be employed shall be instituted by the agency superintendent for education; and

“(D) that before an individual may be employed in an education position in the Office of the Director (other than the position of Director), the national school boards representing all Bureau schools shall be consulted.

“(2) INFORMATION REGARDING APPLICATION AT NATIONAL LEVEL.—Any individual who applies
at the local level for an education position shall state on such individual’s application whether or not such individual has applied at the national level for an education position in the Bureau. If such individual is employed at the local level, such individual’s name shall be immediately forwarded to the Secretary, who shall, as soon as practicable but in no event in more than 30 days, ascertain the accuracy of the statement made by such individual pursuant to the first sentence of this paragraph. Notwithstanding subsection (e), if the individual’s statement is found to have been false, such individual, at the Secretary’s discretion, may be disciplined or discharged. If the individual has applied at the national level for an education position in the Bureau, the appointment of such individual at the local level shall be conditional for a period of 90 days, during which period the Secretary may appoint a more qualified individual (as determined by the Secretary) from the list maintained at the national level pursuant to subsection (c)(1)(A)(ii) to the position to which such individual was appointed.

“(3) STATUTORY CONSTRUCTION.—Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards au-
thority over, or control of, educators at Bureau funded schools or the authority to issue management decisions.

“(e) DISCHARGE AND CONDITIONS OF EMPLOYMENT OF EDUCATORS.—

“(1) REGULATIONS.—In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

“(A) that procedures be established for the rapid and equitable resolution of grievances of educators;

“(B) that no educator may be discharged without notice of the reasons therefore and opportunity for a hearing under procedures that comport with the requirements of due process; and

“(C) that educators employed in Bureau schools be notified 30 days prior to the end of the school year whether their employment contract will be renewed for the following year.

“(2) PROCEDURES FOR DISCHARGE.—The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B)) for cause (as determined under regulations prescribed by the Secretary) any educator employed in
such school. Upon giving notice of proposed discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action. A determination by the local school board that such educator shall not be discharged shall be followed by the supervisor. The supervisor shall have the right to appeal such action to the education line officer of the appropriate agency office of the Bureau. Upon such an appeal, the agency education line officer may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

“(3) RECOMMENDATIONS OF SCHOOL BOARDS FOR DISCHARGE.—Each local school board for a Bureau school shall have the right—

“(A) to recommend to the supervisor of such school that an educator employed in the school be discharged; and

“(B) to recommend to the education line officer of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

“(f) APPLICABILITY OF INDIAN PREFERENCE LAWS.—

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“(1) IN GENERAL.—Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action under this section respecting an applicant or employee not entitled to Indian preference if each tribal organization concerned grants a written waiver of the application of such laws with respect to such personnel action and states that such waiver is necessary. This paragraph shall not relieve the Bureau’s responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if such action is intended to fill a vacancy (no matter how such vacancy is created).

“(2) TRIBAL ORGANIZATION DEFINED.—For purposes of this subsection, the term ‘tribal organization’ means—

“(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(e) of the Alaska Native Claims Settlement Act); or

“(B) in connection with any personnel action referred to in this subsection, any local school board as defined in section 1141 which has been delegated by such governing body the
authority to grant a waiver under this sub-
section with respect to personnel action.

“(3) INDIAN PREFERENCE LAW DEFINED.—The
term ‘Indian preference laws’ means section 12 of
the Act of June 18, 1934, or any other provision of
law granting a preference to Indians in promotions
and other personnel actions. Such term shall not in-
clude section 7(b) of the Indian Self-Determination
and Education Assistance Act.

“(g) COMPENSATION OR ANNUAL SALARY.—

“(1) IN GENERAL.—(A) Except as otherwise
provided in this section, the Secretary shall fix the
basic compensation for educators and education po-
positions at rates in effect under the General Schedule
for individuals with comparable qualifications, and
holding comparable positions, to whom chapter 51 of
title 5, United States Code, is applicable or on the
basis of the Federal Wage System schedule in effect
for the locality, and for the comparable positions,
the rates of compensation in effect for the senior ex-
ecutive service.

“(B) The Secretary shall establish the rate of
basic compensation, or annual salary rates, for the
positions of teachers and counselors (including dorm-
itory counselors and home-living counselors) at the
rates of basic compensation applicable (on the date of the enactment of the No Child Left Behind Act of 2001 and thereafter) to comparable positions in the overseas schools under the Defense Department Overseas Teachers Pay Act. The Secretary shall allow the local school boards authority to implement only the aspects of the Defense Department Overseas Teacher pay provisions that are considered essential for recruitment and retention. Implementation of such provisions shall not be construed to require the implementation of the Act in its entirety.

“(C)(i) Beginning with the fiscal year following the date of the enactment of the No Child Left Behind Act of 2001, each school board may set the rate of compensation or annual salary rate for teachers and counselors (including academic counselors) who are new hires at the school and who have not worked at the school on the date of implementation of this provision, at rates consistent with the rates paid for individuals in the same positions, with the same tenure and training, in any other school within whose boundaries the Bureau school lies. In instances where the adoption of such rates cause a reduction in the payment of compensation from that which was in effect for the fiscal year following the
date of the enactment of the No Child Left Behind
Act of 2001, the new rate may be applied to the
compensation of employees of the school who worked
at the school on of the date of the enactment of that
Act by applying those rates to each contract renewal
such that the reduction takes effect in three equal
installments. Where adoption of such rates lead to
an increase in the payment of compensation from
that which was in effect for the fiscal year following
the date of the enactment of the No Child Left Be-
hind Act of 2001, the school board may make such
rates applicable at the next contract renewal such
that either—

“(I) the increase occurs in its entirety; or
“(II) the increase is applied in three equal
installments.
“(ii) The establishment of rates of basic com-
pensation and annual salary rates under subpara-
graphs (B) and (C) shall not preclude the use of
regulations and procedures used by the Bureau prior
to April 28, 1988, in making determinations regard-
ing promotions and advancements through levels of
pay that are based on the merit, education, experi-
ence, or tenure of the educator.
“(D) The establishment of rates of basic compensation and annual salary rates under subparagraphs (B) and (C) shall not affect the continued employment or compensation of an educator who was employed in an education position on October 31, 1979, and who did not make an election under subsection (p) is in effect on January 1, 1990.

“(2) POST-DIFFERENTIAL RATES.—(A) The Secretary may pay a post-differential rate not to exceed 25 percent of the rate of basic compensation, on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive.

“(B)(i) Upon the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide one or more post-differentials under subparagraph (A) unless the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that certain of the requested post-differentials should be disapproved or decreased because there is no disparity of compensation for the involved employees or positions in the Bureau school, as compared with the nearest public school, that is either—
“(I) at least 5 percent; or

“(II) less than 5 percent and affects the recruitment or retention of employees at the school.

“(ii) A request under clause (i) shall be deemed granted at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time the request is approved, approved with modification, or disapproved by the Secretary.

“(iii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post-differential authorized under this subparagraph at the beginning of a school year if—

“(I) the local school board requests that such differential be discontinued or decreased; or

“(II) the Secretary or the supervisor determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.
“(iv) On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and grants of authority under this subparagraph during the previous year and listing the positions contracted under those grants of authority.

“(h) LIQUIDATION OF REMAINING LEAVE UPON TERMINATION.—Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed pursuant to subsection (b)(10) of this section shall not be so liquidated.

“(i) TRANSFER OF REMAINING SICK LEAVE UPON TRANSFER, PROMOTION, OR REEMPLOYMENT.—In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the regulations prescribed pursuant to subsection (b)(10) shall be transferred to such person’s credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Office of Personnel Management.
“(j) Ineligibility for Employment of Voluntarily Terminated Educators.—An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

“(k) Dual Compensation.—In the case of any educator employed in an education position described in subsection (l)(1)(A) who—

“(1) is employed at the close of a school year;
“(2) agrees in writing to serve in such position for the next school year; and
“(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during a recess period for any receipt of additional compensation.

“(l) Voluntary Services.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may, subject to the approval of the local school board concerned, accept voluntary services on behalf of Bureau
schools. Nothing in this part shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees. An individual providing volunteer services under this section is a Federal employee only for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

“(m) PRORATION OF PAY.—

“(1) Election of Employee.—Notwithstanding any other provision of law, including laws relating to dual compensation, the Secretary, at the election of the employee, shall prorate the salary of an employee employed in an education position for the academic school year over the entire 12-month period. Each educator employed for the academic school year shall annually elect to be paid on a 12-month basis or for those months while school is in session. No educator shall suffer a loss of pay or benefits, including benefits under unemployment or other Federal or federally assisted programs, because of such election.

“(2) Change of Election.—During the course of such year the employee may change election once.
“(3) Lump Sum Payment.—That portion of the employee’s pay which would be paid between academic school years may be paid in a lump sum at the election of the employee.

“(4) Definitions.—For purposes of this subsection, the terms ‘educator’ and ‘education position’ have the meanings contained in paragraphs (1) and (2) of subsection (o). This subsection applies to those individuals employed under the provisions of section 1132 of this title or title 5, United States Code.

“(n) Extracurricular Activities.—

“(1) Stipend.—Notwithstanding any other provision of law, the Secretary may provide, for each Bureau area, a stipend in lieu of overtime premium pay or compensatory time off. Any employee of the Bureau who performs additional activities to provide services to students or otherwise support the school’s academic and social programs may elect to be compensated for all such work on the basis of the stipend. Such stipend shall be paid as a supplement to the employee’s base pay.

“(2) Election Not to receive Stipend.—If an employee elects not to be compensated through the stipend established by this subsection, the appro-
priate provisions of title 5, United States Code, shall apply.

“(3) APPLICABILITY OF SUBSECTION.—This subsection applies to all Bureau employees, whether employed under section 1132 of this title or title 5, United States Code.

“(o) DEFINITIONS.—For the purpose of this section—

“(1) EDUCATION POSITION.—The term ‘education position’ means a position in the Bureau the duties and responsibilities of which—

“(A) are performed on a school-year basis principally in a Bureau school and involve—

“(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

“(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor’s degree in education from an accredited institution of higher education;

“(iii) any activity in or related to the field of education notwithstanding that
academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

“(iv) support services at, or associated with, the site of the school; or

“(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs other than the position for agency superintendent for education.

“(2) EDUCATOR.—The term ‘educator’ means an individual whose services are required, or who is employed, in an education position.

“(p) COVERED INDIVIDUALS; ELECTION.—This section shall apply with respect to any educator hired after November 1, 1979 (and to any educator who elected for coverage under that provision after November 1, 1979) and to the position in which such individual is employed. The enactment of this section shall not affect the continued employment of an individual employed on October 31, 1979 in an education position, or such person’s right to receive the compensation attached to such position.

“SEC. 1133. COMPUTERIZED MANAGEMENT INFORMATION SYSTEM.

“(a) ESTABLISHMENT OF SYSTEM.—Not later than July 1, 2003, the Secretary shall establish within the Of-
office, a computerized management information system, which shall provide processing and information to the Office. The information provided shall include information regarding—

“(1) student enrollment;
“(2) curriculum;
“(3) staffing;
“(4) facilities;
“(5) community demographics;
“(6) student assessment information;
“(7) information on the administrative and program costs attributable to each Bureau program, divided into discreet elements;
“(8) relevant reports;
“(9) personnel records;
“(10) finance and payroll; and
“(11) such other items as the Secretary deems appropriate.

“(b) Implementation of System.—Not later than July 1, 2004, the Secretary shall complete implementation of such a system at each field office and Bureau funded school.
“SEC. 1134. UNIFORM EDUCATION PROCEDURES AND PRACTICES.

“The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall report such practices and procedures to the Congress.

“SEC. 1135. RECRUITMENT OF INDIAN EDUCATORS.

“The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

“SEC. 1136. BIENNIAL REPORT; AUDITS.

“(a) BIENNIAL REPORTS.—The Secretary shall submit to each appropriate committee of Congress, all Bureau funded schools, and the tribal governing bodies of such schools, a detailed biennial report on the state of education within the Bureau and any problems encountered in Indian education during the 2-year period covered by the report. Such report shall contain suggestions for the improvement of the Bureau educational system and for increasing tribal or local Indian control of such system. Such report shall also include the current status of tribally controlled community colleges. The annual budget submission for the Bureau’s education programs shall include—
“(1) information on the funds provided to previously private schools under section 208 of the Indian Self-Determination and Education Assistance Act, and recommendations with respect to the future use of such funds;

“(2) the needs and costs of operations and maintenance of tribally controlled community colleges eligible for assistance under the Tribally Controlled Community College Assistance Act of 1978 and recommendations with respect to meeting such needs and costs; and

“(3) the plans required by sections 1121 (g), 1122(c), and 1125(b).

“(b) FINANCIAL AND COMPLIANCE AUDITS.—The Inspector General of the Department of the Interior shall establish a system to ensure that financial and compliance audits are conducted of each Bureau operated school at least once in every 3 years. Audits of Bureau schools shall be based upon the extent to which such school has complied with its local financial plan under section 1130.

“SEC. 1137. RIGHTS OF INDIAN STUDENTS.

“The Secretary shall prescribe such rules and regulations as are necessary to ensure the constitutional and civil rights of Indian students attending Bureau funded schools, including such students’ right to privacy under
the laws of the United States, such students' right to free-
dom of religion and expression, and such students' right
to due process in connection with disciplinary actions, sus-
pensions, and expulsions.

“SEC. 1138. REGULATIONS.

“(a) IN GENERAL.—The Secretary is authorized to
issue only such regulations as are necessary to ensure
compliance with the specific provision of this Act. The Sec-
retary shall publish proposed regulations in the Federal
Register, shall provide a period of not less than 90 days
for public comment thereon, and shall place in parentheses
after each regulatory section the citation to any statutory
provision providing authority to promulgate such regu-
latory provision.

“(b) MISCELLANEOUS.—

“(1) CONSTRUCTION.—The provisions of this
Act shall supersede any conflicting provisions of law
(including any conflicting regulations) in effect on
the day before the date of the enactment of this Act
and the Secretary is authorized to repeal any regula-
tion inconsistent with the provisions of this Act.

“(2) LEGAL AUTHORITY TO BE STATED.—Reg-
ulations issued to implement this Act shall contain,
immediately following each substantive provision of
such regulations, citations to the particular section
or sections of statutory law or other legal authority
upon which provision is based.

“SEC. 1138A. REGIONAL MEETINGS AND NEGOTIATED
RULEMAKING.

“(a) MEETINGS.—

“(1) IN GENERAL.—The Secretary shall obtain
tribal involvement in the development of proposed
regulations under this part and the Tribally Con-
trolled Schools Act of 1988. The Secretary shall ob-
tain the advice of and recommendations from rep-
resentatives of Indian tribes with Bureau funded
schools on their reservations, Indian tribes whose
children attend Bureau funded off-reservation board-
ing schools, school boards, administrators or employ-
ees of Bureau funded schools, and parents and
teachers of students enrolled in Bureau funded
schools.

“(2) ISSUES.—The Secretary shall provide for a
comprehensive discussion and exchange of informa-
tion concerning the implementation of this part and
the Tribally Controlled Schools Act of 1988 through
such mechanisms as regional meetings and electronic
exchanges of information. The Secretary shall take
into account the information received through such
mechanisms in the development of proposed regula-
tions and shall publish a summary of such informa-
tion in the Federal Register together with such pro-
posed regulations.

“(b) DRAFT REGULATIONS.—

“(1) IN GENERAL.—After obtaining the advice
and recommendations described in subsection (a)(1)
and before publishing proposed regulations in the
Federal Register, the Secretary shall prepare draft
regulations implementing this part and the Tribally
Controlled Schools Act of 1988 and shall submit
such regulations to a negotiated rulemaking process.
Participants in the negotiations process shall be cho-
zen by the Secretary from individuals nominated by
the entities described in subsection (a)(1). To the
maximum extent possible, the Secretary shall ensure
that the tribal representative membership chosen
pursuant to the preceding sentence reflects the pro-
portionate share of students from tribes served by
the Bureau funded school system. The negotiation
process shall be conducted in a timely manner in
order that the final regulations may issued by the
Secretary no later than 18 months after the enact-
ment of this section.

“(2) NOTIFICATION TO CONGRESS.—If draft
regulations implementing this part and the Tribally

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Controlled Schools Act of 1988 are not issued in final form by the deadline provided in paragraph (1), the Secretary shall notify the appropriate committees of Congress of which draft regulations were not issued in final form by the deadline and the reason such final regulations were not issued.

“(3) EXPANSION OF NEGOTIATED RULE-MAKING.—All regulations pertaining to this part and the Tribally Controlled Schools Act of 1988 that are promulgated after the date of the enactment of this subsection shall be subject to a negotiated rulemaking (including the selection of the regulations to be negotiated), unless the Secretary determines that applying such a requirement with respect to given regulations is impracticable, unnecessary, or contrary to the public interest (within the meaning of section 553(b)(3)(B) of title 5), and publishes the basis for such determination in the Federal Register at the same time as the proposed regulations in question are first published. All published proposed regulations shall conform to agreements resulting from such negotiated rulemaking unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants in that process why the Secretary has decided to depart
from such agreements. Such negotiated rulemaking shall be conducted in accordance with the provisions of subsection (a), and the Secretary shall ensure that a clear and reliable record of agreements reached during the negotiation process is maintained.

“(c) Applicability of Federal Advisory Committee Act.—The Federal Advisory Committee Act shall apply to activities carried out under this section.

“SEC. 1139. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

“(a) In General.—The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

“(b) Amount of Grants.—

“(1) In General.—The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the total amount appropriated under the authority of subsection (g) for such fiscal year (less amounts provided under subsection (f)) as—
“(A) the total number of children under 6 years of age who are members of—

“(i) such tribe;

“(ii) the tribe that authorized such tribal organization; or

“(iii) any tribe that—

“(I) is a member of such consortium; or

“(II) authorizes any tribal organization that is a member of such consortium; bears to

“(B) the total number of all children under 6 years of age who are members of any tribe that—

“(i) is eligible to receive funds under subsection (a);

“(ii) is a member of a consortium that is eligible to receive such funds; or

“(iii) authorizes a tribal organization that is eligible to receive such funds.

“(2) LIMITATION.—No grant may be provided under subsection (a)—

“(A) to any tribe that has less than 500 members;
“(B) to any tribal organization which is authorized—

“(i) by only one tribe that has less than 500 members; or

“(ii) by one or more tribes that have a combined total membership of less than 500 members; or

“(C) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

“(c) Application.

“(1) In general.—A grant may be provided under subsection (a) to a tribe, tribal organization, or consortia of tribes and tribal organizations only if the tribe, organization, or consortia submits to the Secretary an application for the grant at such time and in such form as the Secretary shall prescribe.

“(2) Contents.—Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

“(d) Requirement of Programs Funded.—The early childhood development programs that are funded by grants provided under subsection (a)—
“(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6 years of age which are not being met by existing programs, including—

“(A) prenatal care;
“(B) nutrition education;
“(C) health education and screening;
“(D) family literacy services;
“(E) educational testing; and
“(F) other educational services;

“(2) may include instruction in the language, art, and culture of the tribe; and

“(3) shall provide for periodic assessment of the program.

“(e) COORDINATION OF FAMILY LITERACY PROGRAMS.—Family literacy programs operated under this section and other family literacy programs operated by the Bureau of Indian Affairs shall be coordinated with family literacy programs for Indian children under part B of title I of the Elementary and Secondary Education Act of 1965 in order to avoid duplication and to encourage the dissemination of information on quality family literacy programs serving Indians.

“(f) ADMINISTRATIVE COSTS.—The Secretary shall, out of funds appropriated under subsection (g), include
in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe, tribal organization, or consortium of tribes in establishing and maintaining the early childhood development program.

“(g) Authorization of Appropriations.—For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $10,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003, 2004, 2005, and 2006.

“SEC. 1140. TRIBAL DEPARTMENTS OR DIVISIONS OF EDUCATION.

“(a) In General.—Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments of education for the purpose of planning and coordinating all educational programs of the tribe.

“(b) Grants.—Grants provided under this section shall—

“(1) be based on applications from the governing body of the tribe;

“(2) reflect factors such as geographic and population diversity;

“(3) facilitate tribal control in all matters relating to the education of Indian children on Indian
reservations (and on former Indian reservations in Oklahoma);

“(4) provide for the development of coordinated educational programs on Indian reservations (and on former Indian reservations in Oklahoma) (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities;

“(5) provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs; and

“(6) otherwise comply with regulations for grants under section 103(a) of the Indian Self-Determination and Educational Assistance Act that are in effect on the date that application for such grants are made.

“(c) PRIORITIES.—
“(1) IN GENERAL.—In making grants under this section, the Secretary shall give priority to any application that—

“(A) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools, including the submission to each applicable agency of a unified application for funding for all of such schools which provides that—

“(i) no administrative costs other than those attributable to the individual programs of such schools will be associated with the unified application; and

“(ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such schools is entitled under law;

“(B) includes assurances from the tribal governing body that the tribal department of education funded under this section will admin-
ister all contracts or grants (except those covered by the other provisions of this title and the Tribally Controlled Community College Assistance Act of 1978) for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible;

“(C) includes assurances for the monitoring and auditing by or through the tribal department of education of all education programs for which funds are provided by contract or grant to ensure that the programs meet the requirements of law; and

“(D) provides a plan and schedule for—

“(i) the assumption over the term of the grant by the tribal department of education of all assets and functions of the Bureau agency office associated with the tribe, insofar as those responsibilities relate to education; and

“(ii) the termination by the Bureau of such operations and office at the time of such assumption, except that when mutually agreeable between the tribal governing body and the Assistant Secretary, the period in which such assumption
is to occur may be modified, reduced, or extended after the initial year of the grant.

“(2) TIME PERIOD OF GRANT.—Subject to the availability of appropriated funds, grants provided under this section shall be provided for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

“(d) TERMS, CONDITIONS, OR REQUIREMENTS.—The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

“(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $2,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003, 2004, 2005, and 2006.

“SEC. 1141. DEFINITIONS.

“For the purposes of this part, unless otherwise specified:

“(1) AGENCY SCHOOL BOARD.—The term ‘agency school board’ means a body, the members of which are appointed by all of the school boards of the schools located within an agency, including schools operated under contract or grant, and the
number of such members shall be determined by the Secretary in consultation with the affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties, and in agencies having schools or a school operated under contract or grant, one such member at least shall be from such a school.

“(2) BUREAU.—The term ‘Bureau’ means the Bureau of Indian Affairs of the Department of the Interior.

“(3) BUREAU FUNDED SCHOOL.—The term ‘Bureau funded school’ means—

“(A) a Bureau school;

“(B) a contract or grant school; or

“(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988.

“(4) BUREAU SCHOOL.—The term ‘Bureau school’ means a Bureau operated elementary or secondary day or boarding school or a Bureau operated dormitory for students attending a school other than a Bureau school.

“(5) CONTRACT OR GRANT SCHOOL.—The term ‘contract or grant school’ means an elementary or secondary school or dormitory which receives finan-
cial assistance for its operation under a contract, grant or agreement with the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act, or under the Tribally Controlled Schools Act of 1988.

“(6) EDUCATION LINE OFFICER.—The term ‘education line officer’ means education personnel under the supervision of the Director, whether located in the central, area, or agency offices.

“(7) FAMILY LITERACY SERVICES.—The term ‘family literacy services’ has the meaning given that term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

“(8) FINANCIAL PLAN.—The term ‘financial plan’ means a plan of services provided by each Bureau school.

“(9) INDIAN ORGANIZATION.—the term ‘Indian organization’ means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized tribes.

“(10) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ means a board of education or other legally constituted local school
authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education.

“(11) LOCAL SCHOOL BOARD.—The term ‘local school board’, when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected, and the number of such members shall be determined by the Secretary in consultation with the affected tribes.

“(12) OFFICE.—The term ‘Office’ means the Office of Indian Education Programs within the Bureau.

“(13) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior.

“(14) SUPERVISOR.—The term ‘supervisor’ means the individual in the position of ultimate authority at a Bureau school.
“(15) **Tribal governing body.**—The term ‘tribal governing body’ means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.

“(16) **Tribe.**—The term ‘tribe’ means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.”.

**SEC. 314. TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.**

Sections 5202 through 5212 of Public Law 100–297 (25 U.S.C. 2501 et seq.) are amended to read as follows:

**“SEC. 5202. FINDINGS.**

“Congress, after careful review of the Federal Government’s historical and special legal relationship with, and resulting responsibilities to, Indians, finds that—

“(1) the Indian Self-Determination and Education Assistance Act, which was a product of the legitimate aspirations and a recognition of the inher-
ent authority of Indian nations, was and is a crucial positive step towards tribal and community control;

“(2) the Bureau of Indian Affairs’ administration and domination of the contracting process under such Act has not provided the full opportunity to develop leadership skills crucial to the realization of self-government and has denied Indians an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities;

“(3) Indians will never surrender their desire to control their relationships both among themselves and with non-Indian governments, organizations, and persons;

“(4) true self-determination in any society of people is dependent upon an educational process which will ensure the development of qualified people to fulfill meaningful leadership roles;

“(5) the Federal administration of education for Indian children has not effected the desired level of educational achievement or created the diverse opportunities and personal satisfaction that education can and should provide;

“(6) true local control requires the least possible Federal interference; and
(7) the time has come to enhance the concepts made manifest in the Indian Self-Determination and Education Assistance Act.

“SEC. 5203. DECLARATION OF POLICY.

“(a) RECOGNITION.—Congress recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational services so as to render such services more responsive to the needs and desires of those communities.

“(b) COMMITMENT.—Congress declares its commitment to the maintenance of the Federal Government’s unique and continuing trust relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy for education which will deter further perpetuation of Federal bureaucratic domination of programs.

“(c) NATIONAL GOAL.—Congress declares that a major national goal of the United States is to provide the resources, processes, and structure which will enable tribes and local communities to effect the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice and to achieve the measure of self-determination essential to their social and economic well-being.
“(d) Educational Needs.—Congress affirms the reality of the special and unique educational needs of Indian peoples, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities. These may best be met through a grant process.

“(e) Federal Relations.—Congress declares its commitment to these policies and its support, to the full extent of its responsibility, for Federal relations with the Indian Nations.

“(f) Termination.—Congress hereby repudiates and rejects House Resolution 108 of the 83d Congress and any policy of unilateral termination of Federal relations with any Indian Nation.


“(a) In General.—

“(1) Eligibility.—The Secretary shall provide grants to Indian tribes, and tribal organizations that—

“(A) operate contract schools under title XI of the Education Amendments of 1978 and notify the Secretary of their election to operate the schools with assistance under this part rather than continuing as contract school;
“(B) operate other tribally controlled
schools eligible for assistance under this part
and submit applications (which are approved by
their tribal governing bodies) to the Secretary
for such grants; or

“(C) elect to assume operation of Bureau
funded schools with the assistance under this
part and submit applications (which are ap-
proved by their tribal governing bodies) to the
Secretary for such grants.

“(2) DEPOSIT OF FUNDS.—Grants provided
under this part shall be deposited into the general
operating fund of the tribally controlled school with
respect to which the grant is made.

“(3) USE OF FUNDS.—(A) Except as otherwise
provided in this paragraph, grants provided under
this part shall be used to defray, at the discretion
of the school board of the tribally controlled school
with respect to which the grant is provided, any ex-
penditures for education related activities for which
any funds that compose the grant may be used
under the laws described in section 5205(a), includ-
ing, but not limited to, expenditures for—
“(i) school operations, academic, educational, residential, guidance and counseling, and administrative purposes; and

“(ii) support services for the school, including transportation.

“(B) Grants provided under this part may, at the discretion of the school board of the tribally controlled school with respect to which such grant is provided, be used to defray operations and maintenance expenditures for the school if any funds for the operation and maintenance of the school are allocated to the school under the provisions of any of the laws described in section 5205(a).

“(b) LIMITATIONS.—

“(1) ONE GRANT PER TRIBE OR ORGANIZATION PER FISCAL YEAR.—Not more than one grant may be provided under this part with respect to any Indian tribe or tribal organization for any fiscal year.

“(2) NONSECTARIAN USE.—Funds provided under any grant made under this part may not be used in connection with religious worship or sectarian instruction.

“(3) ADMINISTRATIVE COSTS LIMITATION.— Funds provided under any grant under this part may not be expended for administrative costs (as de-
fined in section 1128(h)(1) of the Education Amendments of 1978) in excess of the amount generated for such costs under section 1128 of such Act.

“(c) LIMITATION ON TRANSFER OF FUNDS AMONG SCHOOLSITES.—

“(1) IN GENERAL.—In the case of a grantee that operates schools at more than one schoolsite, the grantee may expend not more than the lesser of—

“(A) 10 percent of the funds allocated for such schoolsite under section 1128 of the Education Amendments of 1978; or

“(B) $400,000 of such funds, at any other schoolsite.

“(2) DEFINITION OF SCHOOLSITE.—For purposes of this subsection, the term ‘schoolsite’ means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract or grant with, the Bureau for which a discreet student count is identified under the funding formula established under section 1127 of the Education Amendments of 1978.

“(d) NO REQUIREMENT TO ACCEPT GRANTS.—Nothing in this part may be construed—
“(1) to require a tribe or tribal organization to 
apply for or accept; or 
“(2) to allow any person to coerce any tribe or 
tribal organization to apply for, or accept, 
a grant under this part to plan, conduct, and administer 
all of, or any portion of, any Bureau program. Such appli-
cations and the timing of such applications shall be strictly 
voluntary. Nothing in this part may be construed as allowing or requiring any grant with any entity other than the 
entity to which the grant is provided. 
“(e) NO EFFECT ON FEDERAL RESPONSIBILITY.— 
Grants provided under this part shall not terminate, mod-
ify, suspend, or reduce the responsibility of the Federal 
Government to provide a program. 
“(f) RETROCESSION.— 
“(1) IN GENERAL.—Whenever a tribal gov-
erning body requests retrocession of any program for 
which assistance is provided under this part, such 
retrocession shall become effective upon a date speci-
fied by the Secretary that is not later than 120 days 
after the date on which the tribal governing body re-
quests the retrocession. A later date as may be spec-
ified if mutually agreed upon by the Secretary and 
the tribal governing body. If such a program is 
retroceded, the Secretary shall provide to any Indian
tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession.

“(2) Status after retrocession.—The tribe requesting retrocession shall specify whether the retrocession is to status as a Bureau operated school or as a school operated under contract under title XI of the Education Amendments of 1978.

“(3) Transfer of equipment and materials.—Except as otherwise determined by the Secretary, the tribe or tribal organization operating the program to be retroceded must transfer to the Secretary (or to the tribe or tribal organization which will operate the program as a contract school) the existing equipment and materials which were acquired—

“(A) with assistance under this part; or

“(B) upon assumption of operation of the program under this part if the school was a Bureau funded school under title XI of the Education Amendments of 1978 before receiving assistance under this part.
“(g) Prohibition of Termination for Administrative Convenience.—Grants provided under this part may not be terminated, modified, suspended, or reduced solely for the convenience of the administering agency.

“SEC. 5205. COMPOSITION OF GRANTS.

“(a) In General.—The grant provided under this part to an Indian tribe or tribal organization for any fiscal year shall consist of—

“(1) the total amount of funds allocated for such fiscal year under sections 1127 and 1128 of the Education Amendments of 1978 with respect to the tribally controlled schools eligible for assistance under this part which are operated by such Indian tribe or tribal organization, including, but not limited to, funds provided under such sections, or under any other provision of law, for transportation costs;

“(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and, notwithstanding section 105 of the Indian Self-Determination Act, or any other provision of law, other facilities accounts for such schools for such fiscal year (including but not limited to those
referenced under section 1126(d) of the Education
Amendments of 1978 or any other law); and

“(3) the total amount of funds that are allo-
cated to such schools for such fiscal year under—

“(A) title I of the Elementary and Sec-
ondary Education Act of 1965;

“(B) the Individuals with Disabilities Edu-
cation Act; and

“(C) any other Federal education law, that
are allocated to such schools for such fiscal
year.

“(b) SPECIAL RULES.—

“(1) IN GENERAL.—(A) Funds allocated to a
tribally controlled school by reason of paragraph (1)
or (2) of subsection (a) shall be subject to the provi-
sions of this part and shall not be subject to any ad-
ditional restriction, priority, or limitation that is im-
posed by the Bureau with respect to funds provided
under—

“(i) title I of the Elementary and Sec-
ondary Education Act of 1965;

“(ii) the Individuals with Disabilities Edu-
cation Act; or

“(iii) any Federal education law other than
title XI of the Education Amendments of 1978.
“(B) Indian tribes and tribal organizations to which grants are provided under this part, and tribally controlled schools for which such grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii), or (iii) of subparagraph (A).

“(2) Schools considered contract schools.—Tribally controlled schools for which grants are provided under this part shall be treated as contract schools for the purposes of allocation of funds under sections 1126(d), 1127, and 1128 of the Education Amendments of 1978.

“(3) Schools considered bureau schools.—Tribally controlled schools for which grants are provided under this chapter shall be treated as Bureau schools for the purposes of allocation of funds provided under—

“(A) title I of the Elementary and Secondary Education Act of 1965;

“(B) the Individuals with Disabilities Education Act; and
“(C) any other Federal education law, that
are distributed through the Bureau.

“(4) ACCOUNTS; USE OF CERTAIN FUNDS.—(A) Notwithstanding section 5204(a)(2), with respect to
funds from facilities improvement and repair, alteration and renovation (major or minor), health and
safety, or new construction accounts included in the
grant under section 5204(a), the grantee shall main-
tain a separate account for such funds. At the end
of the period designated for the work covered by the
funds received, the grantee shall submit to the Sec-
retary a separate accounting of the work done and
the funds expended to the Secretary. Funds received
from these accounts may only be used for the pur-
pose for which they were appropriated and for the
work encompassed by the application or submission
under which they were received.

“(B) Notwithstanding subparagraph (A), a
school receiving a grant under this part for facilities
improvement and repair may use such grant funds
for new construction if the tribal government or
other organization provides funding for the new con-
struction equal to at least 25 percent of the total
cost of such new construction.
“(C) Where the appropriations measure or the application submission does not stipulate a period for the work covered by the funds so designated, the Secretary and the grantee shall consult and determine such a period prior to the transfer of the funds. A period so determined may be extended upon mutual agreement of the Secretary and the grantee.

“(5) ENFORCEMENT OF REQUEST TO INCLUDE FUNDS.—If the Secretary fails to carry out a request made under subsection (a)(2) within 180 days of a request filed by an Indian tribe or tribal organization to include in such tribe or organization’s grant the funds described in subsection (a)(2), the Secretary shall be deemed to have approved such request and the Secretary shall immediately amend the grant accordingly. Such tribe or organization may enforce its rights under subsection (a)(2) and this paragraph, including any denial or failure to act on such tribe or organization’s request, pursuant to the disputes authority described in section 5209(e).

“SEC. 5206. ELIGIBILITY FOR GRANTS.

“(a) Rules.—
“(1) IN GENERAL.—A tribally controlled school is eligible for assistance under this part if the school—

“(A) on April 28, 1988, was a contract school under title XI of the Education Amendments of 1978 and the tribe or tribal organization operating the school submits to the Secretary a written notice of election to receive a grant under this part;

“(B) was a Bureau operated school under title XI of the Education Amendments of 1978 and has met the requirements of subsection (b);

“(C) is a school for which the Bureau has not provided funds, but which has met the requirements of subsection (c); or

“(D) is a school with respect to which an election has been made under paragraph (2) and which has met the requirements of subsection (b).

“(2) NEW SCHOOLS.—Any application which has been submitted under the Indian Self-Determination and Education Assistance Act by an Indian tribe for a school which is not in operation on the date of the enactment of the No Child Left Behind Act of 2001 shall be reviewed under the guidelines
and regulations for applications submitted under the Indian Self-Determination and Education Assistance Act that were in effect at the time the application was submitted, unless the Indian tribe or tribal organization elects to have the application reviewed under the provisions of subsection (b).

“(b) **ADDITIONAL REQUIREMENTS FOR BUREAU FUNDED SCHOOLS AND CERTAIN ELECTING SCHOOLS.**—

“(1) **BUREAU FUNDED SCHOOLS.**—A school that was a Bureau funded school under title XI of the Education Amendments of 1978 on the date of the enactment of the No Child Left Behind Act of 2001, and any school with respect to which an election is made under subsection (a)(2), meets the requirements of this subsection if—

“(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting that the Secretary—

“(i) transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school; and
“(ii) make a determination as to whether the school is eligible for assistance under this part; and

“(B) the Secretary makes a determination that the school is eligible for assistance under this part.

“(2) Certain electing schools.—(A) By not later than the date that is 120 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine—

“(i) in the case of a school which is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

“(ii) whether the school is eligible for assistance under this part.

“(B) In considering applications submitted under paragraph (1)(A), the Secretary—

“(i) shall transfer operation of the school to the Indian tribe or tribal organization, if the tribe or tribal organization is not already operating the school; and
“(ii) shall determine that the school is eligible for assistance under this part, unless the Secretary finds by clear and convincing evidence that the services to be provided by the Indian tribe or tribal organization will be deleterious to the welfare of the Indians served by the school.

“(C) In considering applications submitted under paragraph (1)(A), the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in operating the school with respect to—

“(i) equipment;

“(ii) bookkeeping and accounting procedures;

“(iii) ability to adequately manage a school; or

“(iv) adequately trained personnel.

“(c) ADDITIONAL REQUIREMENTS FOR A SCHOOL WHICH IS NOT A BUREAU FUNDED SCHOOL.—

“(1) IN GENERAL.—A school which is not a Bureau funded school under title XI of the Education Amendments of 1978 meets the requirements of this subsection if—

“(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application request-
ing a determination by the Secretary as to
whether the school is eligible for assistance
under this part; and

“(B) the Secretary makes a determination
that a school is eligible for assistance under this
part.

“(2) Deadline for determination by sec-
retary.—(A) By not later than the date that is
180 days after the date on which an application is
submitted to the Secretary under paragraph (1)(A),
the Secretary shall determine whether the school is
eligible for assistance under this part.

“(B) In making the determination under sub-
paragraph (A), the Secretary shall give equal consid-
eration to each of the following factors:

“(i) with respect to the applicant’s
proposal—

“(I) the adequacy of facilities or the
potential to obtain or provide adequate fa-
cilities;

“(II) geographic and demographic fac-
tors in the affected areas;

“(III) adequacy of the applicant’s pro-
gram plans;
“(IV) geographic proximity of comparable public education; and

“(V) the needs as expressed by all affected parties, including but not limited to students, families, tribal governments at both the central and local levels, and school organizations; and

“(ii) with respect to all education services already available—

“(I) geographic and demographic factors in the affected areas;

“(II) adequacy and comparability of programs already available;

“(III) consistency of available programs with tribal education codes or tribal legislation on education; and

“(IV) the history and success of these services for the proposed population to be served, as determined from all factors including, if relevant, standardized examination performance.

“(C) The Secretary may not make a determination under this paragraph that is primarily based upon the geographic proximity of comparable public education.
“(D) Applications submitted under paragraph (1)(A) shall include information on the factors described in subparagraph (B)(i), but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers appropriate.

“(E) If the Secretary fails to make a determination under subparagraph (A) with respect to an application within 180 days after the date on which the Secretary received the application, the Secretary shall be treated as having made a determination that the tribally controlled school is eligible for assistance under the title and the grant shall become effective 18 months after the date on which the Secretary received the application, or on an earlier date, at the Secretary’s discretion.

“(d) FILING OF APPLICATIONS AND REPORTS.—

“(1) IN GENERAL.—All applications and reports submitted to the Secretary under this part, and any amendments to such applications or reports, shall be filed with the education line officer designated by the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs. The date on which such filing occurs shall, for purposes of this
part, be treated as the date on which the application
or amendment was submitted to the Secretary.

“(2) Supporting documentation.—Any ap-
plication that is submitted under this chapter shall
be accompanied by a document indicating the action
taken by the tribal governing body in authorizing
such application.

“(e) Effective date for approved applications.—Except as provided by subsection (e)(2)(E), a
grant provided under this part, and any transfer of the
operation of a Bureau school made under subsection (b),
shall become effective beginning the academic year suc-
ceeding the fiscal year in which the application for the
grant or transfer is made, or at an earlier date determined
by the Secretary.

“(f) Denial of applications.—

“(1) In general.—Whenever the Secretary re-
fuses to approve a grant under this chapter, to
transfer operation of a Bureau school under sub-
section (b), or determines that a school is not eligi-
ble for assistance under this part, the Secretary
shall—
“(A) state the objections in writing to the tribe or tribal organization within the allotted time;

“(B) provide assistance to the tribe or tribal organization to overcome all stated objections.

“(C) at the request of the tribe or tribal organization, provide the tribe or tribal organization a hearing on the record under the same rules and regulations that apply under the Indian Self-Determination and Education Assistance Act; and

“(D) provide an opportunity to appeal the objection raised.

“(2) Timeline for reconsideration of amended applications.—The Secretary shall reconsider any amended application submitted under this part within 60 days after the amended application is submitted to the Secretary.

“(g) Report.—The Bureau shall submit an annual report to the Congress on all applications received, and actions taken (including the costs associated with such actions), under this section at the same time that the President is required to submit to Congress the budget under section 1105 of title 31, United States Code.
SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION.

(a) In General.—If the Secretary determines that a tribally controlled school is eligible for assistance under this part, the eligibility determination shall remain in effect until the determination is revoked by the Secretary, and the requirements of subsection (b) or (c) of section 5206, if applicable, shall be considered to have been met with respect to such school until the eligibility determination is revoked by the Secretary.

(b) Annual Reports.—

(1) In General.—Each recipient of a grant provided under this part shall complete an annual report which shall be limited to—

(A) an annual financial statement reporting revenue and expenditures as defined by the cost accounting established by the grantee;

(B) an annual financial audit conducted pursuant to the standards of the Single Audit Act of 1984;

(C) an annual submission to the Secretary of the number of students served and a brief description of programs offered under the grant; and

(D) a program evaluation conducted by an impartial evaluation review team, to be
based on the standards established for purposes of subsection (c)(1)(A)(ii).

“(2) Evaluation review teams.—Where appropriate, other tribally controlled schools and representatives of tribally controlled community colleges shall make up members of the evaluation review teams.

“(3) Evaluations.—In the case of a school which is accredited, evaluations will be conducted at intervals under the terms of accreditation.

“(4) Submission of report.—

“(A) To tribally governing body.—
Upon completion of the report required under paragraph (a), the recipient of the grant shall send (via first class mail, return receipt requested) a copy of such annual report to the tribal governing body (as defined in section 1132(f) of the Education Amendments of 1978) of the tribally controlled school.

“(B) To Secretary.—Not later than 30 days after receiving written confirmation that the tribal governing body has received the report send pursuant to subsection (A), the recipient of the grant shall send a copy of the report to the Secretary.
“(c) REVOCA TION OF E LIGIBILITY.—

“(1) IN GENERAL.—(A) The Secretary shall not revoke a determination that a school is eligible for assistance under this part if—

“(i) the Indian tribe or tribal organization submits the reports required under subsection (b) with respect to the school; and

“(ii) at least one of the following subclauses applies with respect to the school:

“(I) The school is certified or accredited by a State or regional accrediting association or is a candidate in good standing for such accreditation under the rules of the State or regional accrediting association, showing that credits achieved by the students within the education programs are, or will be, accepted at grade level by a State certified or regionally accredited institution.

“(II) A determination made by the Secretary that there is a reasonable expectation that the accreditation described in subclause (I), or the candidacy in good standing for such accreditation, will be reached by the school within 3 years and
that the program offered by the school is beneficial to the Indian students.

“(III) The school is accredited by a tribal department of education if such accreditation is accepted by a generally recognized regional or State accreditation agency.

“(IV) The schools accept the standards promulgated under section 1121 of the Education Amendments of 1978 and an evaluation of performance is conducted under this section in conformance with the regulations pertaining to Bureau operated schools by an impartial evaluator chosen by the grantee, but no grantee shall be required to comply with these standards to a higher degree than a comparable Bureau operated school.

“(V) A positive evaluation of the school is conducted by an impartial evaluator agreed upon by the Secretary and the grantee every 2 years under standards adopted by the contractor under a contract for a school entered into under the Indian Self-Determination and Education Assist-
ance Act (or revisions of such standards
agreed to by the Secretary and the grant-
ee) prior to the date of the enactment of
this Act. If the Secretary and the grantee
other than the tribal governing body fail to
agree on such an evaluator, the tribal gov-
erning body shall choose the evaluator or
perform the evaluation. If the Secretary
and a grantee which is the tribal governing
body fail to agree on such an evaluator,
this subclause shall not apply.

“(B) The choice of standards employed for the
purpose of subparagraph (A)(ii) shall be consistent
with section 1121(e) of the Education Amendments
of 1978.

“(2) NOTICE REQUIREMENTS FOR REVOCATION.—The Secretary shall not revoke a determina-
tion that a school is eligible for assistance under this
part, or reassume control of a school that was a Bu-
reau school prior to approval of an application sub-
mitted under section 5206(b)(1)(A) until the
Secretary—

“(A) provides notice to the tribally con-
trolled school and the tribal governing body
(within the meaning of section 1141(14) of the
Education Amendments of 1978) of the tribally controlled school which states—

“(i) the specific deficiencies that led to the revocation or resumption determination; and

“(ii) the actions that are needed to remedy such deficiencies; and

“(B) affords such authority an opportunity to effect the remedial actions.

“(3) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance as is practicable to effect such remedial actions. Such notice and technical assistance shall be in addition to a hearing and appeal to be conducted pursuant to the regulations described in section 5206(f)(1)(C).

“(d) APPLICABILITY OF SECTION PURSUANT TO ELECTION UNDER SECTION 5209(b).—With respect to a tribally controlled school which receives assistance under this part pursuant to an election made under section 5209(b)—

“(1) subsection (b) of this section shall apply; and

“(2) the Secretary may not revoke eligibility for assistance under this part except in conformance with subsection (c) of this section.
“SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS.

“(a) Payments.—

“(1) In general.—Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments, of which—

“(A) the first payment shall be made not later than July 15 of each year in an amount equal to 85 percent of the amount which the grantee was entitled to receive during the preceding academic year; and

“(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

“(2) Newly funded schools.—For any school for which no payment under this part was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this part shall be made not later than December 1 of the academic year.

“(3) Late funding.—With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to
grantees not later than December 1 of the fiscal year.

“(4) Applicability of certain Title 31 provisions.—The provisions of chapter 39 of Title 31, United States Code, shall apply to the payments required to be made by paragraphs (1), (2), and (3).

“(5) Restrictions.—Paragraphs (1), (2), and (3) shall be subject to any restriction on amounts of payments under this part that are imposed by a continuing resolution or other Act appropriating the funds involved.

“(b) Investment of Funds.—

“(1) Treatment of interest and investment income.—Notwithstanding any other provision of law, any interest or investment income that accrues to any funds provided under this part after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any
provision of Federal law. Such interest income shall be spent on behalf of the school.

“(2) PERMISSIBLE INVESTMENTS.—Funds provided under this part may be invested by the Indian tribe or tribal organization before such funds are expended for the purposes of this part so long as such funds are—

“(A) invested by the Indian tribe or tribal organization only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States, or securities that are guaranteed or insured by the United States; or

“(B) deposited only into accounts that are insured by and agency or instrumentality of the United States, or are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

“(c) RECOVERIES.—For the purposes of under-recovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived,
funds received under this part shall not be taken into consider-

SEC. 5209. APPLICATION WITH RESPECT TO INDIAN SELF-
DETERMINATION AND EDUCATION ASSIST-
ANCE ACT.

“(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—
The following provisions of the Indian Self-Determination and Education Assistance Act (and any subsequent revisions thereto or renumbering thereof), shall apply to grants provided under this part:

“(1) Section 5(f) (relating to single agency audit).

“(2) Section 6 (relating to criminal activities; penalties).

“(3) Section 7 (relating to wage and labor standards).

“(4) Section 104 (relating to retention of Federal employee coverage).

“(5) Section 105(f) (relating to Federal property).

“(6) Section 105(k) (relating to access to Federal sources of supply).

“(7) Section 105(l) (relating to lease of facility used for administration and delivery of services).
“(8) Section 106(e) (relating to limitation on remedies relating to cost allowances).

“(9) Section 106(i) (relating to use of funds for matching or cost participation requirements).

“(10) Section 106(j) (relating to allowable uses of funds).

“(11) Section 108(e) (Model Agreements provisions (1)(a)(5) (relating to limitations of costs), (1)(a)(7) (relating to records and monitoring), (1)(a)(8) (relating to property), and (a)(1)(9) (relating to availability of funds).

“(12) Section 109 (relating to reassumption).

“(13) Section 111 (relating to sovereign immunity and trusteeship rights unaffected).

“(b) ELECTION FOR GRANT IN LIEU OF CONTRACT.—

“(1) IN GENERAL.—Contractors for activities to which this part applies who have entered into a contract under the Indian Self-Determination and Education Assistance Act that is in effect upon the date of the enactment of the No Child Left Behind Act of 2001 may, by giving notice to the Secretary, elect to have the provisions of this part apply to such activity in lieu of such contract.
“(2) Effective date of election.—Any election made under paragraph (1) shall take effect on the later of—

“(A) October 1 of the fiscal year succeeding the fiscal year in which such election is made; or

“(B) 60 days after the date of such election.

“(3) Exception.—In any case in which the 60-day period referred to in paragraph (2)(B) is less than 60 days before the beginning of the succeeding fiscal year, such election shall not take effect until the fiscal year after the fiscal year succeeding the election.

“(c) No duplication.—No funds may be provided under any contract entered into under the Indian Self-Determination and Education Assistance Act to pay any expenses incurred in providing any program or services if a grant has been made under this part to pay such expenses.

“(d) Transfers and carryovers.—

“(1) Buildings, equipment, supplies, materials.—A tribe or tribal organization assuming the operation of—
“(A) a Bureau school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies, and materials to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act; or

“(B) a contract school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies and materials that were used in the operation of the contract school to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act.

“(2) FUNDS.—Any tribe or tribal organization which assumes operation of a Bureau school with assistance under this part and any tribe or tribal organization which elects to operate a school with assistance under this part rather than to continue as a contract school shall be entitled to any funds which would carryover from the previous fiscal year as if such school were operated as a contract school.

“(e) EXCEPTIONS, PROBLEMS, AND DISPUTES.—Any exception or problem cited in an audit conducted pursuant to section 5207(b)(2), any dispute regarding a grant authorized to be made pursuant to this part or any amend-
ment to such grant, and any dispute involving an adminis-
trative cost grant under section 1128 of the Education
Amendments of 1978 shall be administered under the pro-
visions governing such exceptions, problems, or disputes
in the case of contracts under the Indian Self-Determi-
ation and Education Assistance Act of 1975. The Equal
Access to Justice Act shall apply to administrative appeals
filed after September 8, 1988, by grantees regarding a
grant under this part, including an administrative cost
grant.

“SEC. 5210. ROLE OF THE DIRECTOR.

“Applications for grants under this part, and all ap-

plication modifications, shall be reviewed and approved by

personnel under the direction and control of the Director
of the Office of Indian Education Programs. Required re-

cords shall be submitted to education personnel under the
direction and control of the Director of such Office.

“SEC. 5211. REGULATIONS.

“The Secretary is authorized to issue regulations re-
lating to the discharge of duties specifically assigned to
the Secretary by this part. In all other matters relating
to the details of planning, development, implementing, and
evaluating grants under this part, the Secretary shall not
issue regulations. Regulations issued pursuant to this part
shall not have the standing of a Federal statute for the purposes of judicial review.

"SEC. 5212. THE TRIBALLY CONTROLLED GRANT SCHOOL ENDOWMENT PROGRAM."

“(a) IN GENERAL.—

“(1) TRUST FUNDS.—Each school receiving grants under this part may establish, at a Federally insured banking and savings institution, a trust fund for the purposes of this section.

“(2) AUTHORITY OF SCHOOLS REGARDING TRUST FUNDS.—The school may provide—

“(A) for the deposit into the trust fund, only funds from non-Federal sources, except that the interest on funds received from grants under this part may be used for this purpose;

“(B) for the deposit in the account of any earnings on funds deposited in the account; and

“(C) for the sole use of the school any noncash, in-kind contributions of real or personal property, such property may at any time be converted to cash.

“(b) INTEREST.—Interest from the fund established under subsection (a) may periodically be withdrawn and used, at the discretion of the school, to defray any expenses associated with the operation of the school.
“SEC. 5213. DEFINITIONS.

“For the purposes of this part:

“(1) BUREAU.—The term ‘Bureau’ means the Bureau of Indian Affairs of the Department of the Interior.

“(2) ELIGIBLE INDIAN STUDENT.—The term ‘eligible Indian student’ has the meaning of such term in section 1127(f) of the Education Amendments of 1978.

“(3) INDIAN TRIBE.—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including Alaska Native Village or regional corporations (as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“(4) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school
districts or counties as are recognized in a State as
an administrative agency for its public elementary or
secondary schools. Such term includes any other
public institution or agency having administrative
control and direction of a public elementary or sec-
ondary school.

“(5) SECRETARY.—The term ‘Secretary’ means
the Secretary of the Interior.

“(6) TRIBAL ORGANIZATION.—(A) The term
‘tribal organization’ means—

“(i) the recognized governing body of any
Indian tribe; or

“(ii) any legally established organization of
Indians which—

“(I) is controlled, sanctioned, or char-
tered by such governing body or is demo-
ocratically elected by the adult members of
the Indian community to be served by such
organization; and

“(II) includes the maximum participa-
tion of Indians in all phases of its activi-
ties.

“(B) In any case in which a grant is provided
under this part to an organization to provide serv-
ices benefiting more than one Indian tribe, the ap-
proval of the governing bodies of Indian tribes representing 80 percent of those students attending the tribally controlled school shall be considered a sufficient tribal authorization for such grant.

“(7) Tribally controlled school.—The term ‘tribally controlled school’ means a school operated by a tribe or a tribal organization, enrolling students in kindergarten through grade 12, including preschools, which is not a local educational agency and which is not directly administered by the Bureau of Indian Affairs.”.

TITLE IV—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

PART A—INNOVATIVE PROGRAMS

SEC. 401. PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS.

Title IV is amended to read as follows:

“TITLE IV—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

PART A—INNOVATIVE PROGRAMS

“SEC. 4101. FINDINGS AND STATEMENT OF PURPOSE.

“(a) FINDINGS.—Congress finds that this part—

“(1) provides flexibility to meet local needs;
“(2) promotes local and State education reforms;

“(3) contributes to the improvement of academic achievement for all students;

“(4) provides funding for critical activities; and

“(5) provides services for private school students.

“(b) STATEMENT OF PURPOSE.—It is the purpose of programs under this part—

“(1) to provide funding to enable States and local educational agencies to implement promising educational reform programs and school improvement initiatives based on scientifically based research;

“(2) to provide a continuing source of innovation and educational improvement, including support for library services and instructional and media materials; and

“(3) to meet the educational needs of all students, including at-risk youth.

“(c) STATE AND LOCAL RESPONSIBILITY.—

“(1) IN GENERAL.—The States shall have the basic responsibility for the administration of funds made available under this part, but such administra-
tion shall be carried out with a minimum of paper-
work.

“(2) Design and Implementation.—Not-
withstanding paragraph (1), local educational agen-
cies, school superintendents and principals, and
classroom teachers and supporting personnel shall be
mainly responsible for the design and implementa-
tion of programs assisted under this part, because
such agencies and individuals have the most direct
contact with students and are most likely to be able
to design programs to meet the educational needs of
students in their own school districts.

“Subpart 1—State and Local Programs

“SEC. 4111. ALLOCATION TO STATES.

“(a) Reservations.—From the sums appropriated
to carry out this part for each fiscal year, the Secretary
shall reserve not more than 1 percent for payments to out-
lying areas to be allotted in accordance with their respec-
tive needs.

“(b) Allocation of Remainder.—From the re-
mainder of such sums, the Secretary shall allocate, and
make available in accordance with this part, to each State
an amount which bears the same ratio to the amount of
such remainder as the school-age population of the State
bears to the school-age population of all States, except
that no State shall receive less than an amount equal to
½ of 1 percent of such remainder.

“SEC. 4112. ALLOCATION TO LOCAL EDUCATIONAL AGEN-
CIES.

“(a) DISTRIBUTION RULE.—

“(1) IN GENERAL.—Subject to paragraph (2),
from the sums made available each year to carry out
this part, the State shall distribute not less than 85
percent to local educational agencies within such
State according to the relative enrollments in public
and private, nonprofit schools within the jurisdic-
tions of such agencies, adjusted, in accordance with
criteria approved by the Secretary, to provide higher
per-pupil allocations to local educational agencies
that have the greatest numbers or percentages of
children whose education imposes a higher than av-
erage cost per child, such as—

“(A) children living in areas with high con-
centrations of economically disadvantaged fami-
lies;

“(B) children from economically disadvan-
taged families; and

“(C) children living in sparsely populated
areas.
“(2) Exception.—100 percent of any amount by which the funds paid to a State under this part for a fiscal year exceed the amount of such funds paid to the State for fiscal year 2001 shall be distributed to local educational agencies and used locally for innovative assistance described in section 4131(b).

“(3) Limitation on Administrative Costs.—Not more than 4 percent of the funds paid to a State under this part for a fiscal year may be used by the agency for administration and supervision of programs assisted under this part.

“(b) Calculation of Enrollments.—

“(1) In General.—The calculation of relative enrollments under subsection (a)(1) shall be on the basis of the total of—

“(A) the number of children enrolled in public schools; and

“(B) the number of children enrolled in private, nonprofit schools whose parents would like their children to participate in programs or projects assisted under this part, for the fiscal year preceding the fiscal year for which the determination is made.
“(2) CONSTRUCTION.—Nothing in this sub-
section shall diminish the responsibility of each local
educational agency to contact, on an annual basis,
appropriate officials from private nonprofit schools
within the areas served by such agencies in order to
determine whether such schools desire that their
children participate in programs assisted under this
subpart.

“(3) ADJUSTMENTS.—

“(A) IN GENERAL.—Relative enrollments
calculated under subsection (a)(1) shall be ad-
justed, in accordance with criteria approved by
the Secretary under subparagraph (B), to pro-
 vide higher per-pupil allocations only to local
educational agencies that serve the greatest
numbers or percentages of—

“(i) children living in areas with high
concentrations of economically disadvan-
taged families;

“(ii) children from economically dis-
advantaged families; or

“(iii) children living in sparsely popu-
lated areas.

“(B) CRITERIA.—The Secretary shall re-
view criteria submitted by a State for adjusting
allocations under paragraph (1) and shall ap-
prove such criteria only if the Secretary deter-
mines that such criteria are reasonably cal-
culated to produce an adjusted allocation that
reflects the relative needs of the State’s local
educational agencies based on the factors set
forth in subparagraph (A).

“(c) Payment of Allocations.—

“(1) Distribution.—From the funds paid to a
State under this part for a fiscal year, a State shall
distribute to each eligible local educational agency
that has submitted an application as required in sec-
tion 4133 the amount of such local educational
agency’s allocation, as determined under subsection
(a).

“(2) Additional Funds.—

“(A) In general.—Additional funds re-
sulting from higher per-pupil allocations pro-
vided to a local educational agency on the basis
of adjusted enrollments of children described in
subsection (a)(1) may, in the discretion of the
local educational agency, be allocated for ex-
penditures to provide services for children en-
rolled in public and private, nonprofit schools in
direct proportion to the number of children de-
scribed in subsection (a)(1) and enrolled in such schools within the local educational agency.

“(B) ELECTION.—In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

“(C) CONSTRUCTION.—Subparagraphs (A) and (B) may not be construed to require any school to limit the use of the additional funds described in subparagraph (A) to the provision of services to specific students or categories of students.

“Subpart 2—State Programs

“SEC. 4121. STATE USE OF FUNDS.

“A State may use funds made available for State use under this part only for—

“(1) State administration of programs under this part including—

“(A) supervision of the allocation of funds to local educational agencies;

“(B) planning, supervision, and processing of State funds; and
“(C) monitoring and evaluation of programs and activities under this part;
“(2) support for planning, designing, and initial implementation of charter schools as described in part B;
“(3) statewide education reform and school improvement activities and technical assistance and direct grants to local educational agencies which assist such agencies under section 4131; and
“(4) support for arrangements that provide for independent analysis to measure and report on school district achievement.

“SEC. 4122. STATE APPLICATIONS.
“(a) APPLICATION REQUIREMENTS.—Any State that desires to receive assistance under this part shall submit to the Secretary an application that—
“(1) provides for an annual statewide summary of how assistance under this part is contributing toward improving student achievement or improving the quality of education for students;
“(2) provides information setting forth the allocation of such funds required to implement section 4142;
“(3) provides that the State will keep such records and provide such information to the Sec-
retary as may be required for fiscal audit and pro-
gram evaluation (consistent with the responsibilities
of the Secretary under this section);

“(4) provides assurance that, apart from tech-
nical and advisory assistance and monitoring compli-
ance with this part, the State has not exercised and
will not exercise any influence in the decisionmaking
processes of local educational agencies as to the ex-
penditure made pursuant to an application under
section 4133;

“(5) contains assurances that there is compli-
ance with the specific requirements of this part; and

“(6) provides for timely public notice and public
dissemination of the information provided under
paragraph (2).

“(b) STATEWIDE SUMMARY.—The statewide sum-
mary referred to in subsection (a)(1) shall be submitted
to the Secretary and shall be derived from the evaluation
information submitted by local educational agencies to the
State under section 4133(a)(8). The format and content
of such summary shall be in the discretion of the State
and may include statistical measures such as the number
of students served by each type of innovative assistance
described in section 4131(b), including the number of
teachers trained.
“(c) Period of Application.—An application filed by the State under subsection (a) shall be for a period not to exceed 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

“(d) Audit Limitation.—Each local educational agency receiving less than an average of $5,000 under this part may not be audited more frequently than once every 5 years.

“Subpart 3—Local Innovative Education Programs

“Sec. 4131. Use of Funds.

“(a) In General.—Funds made available to local educational agencies under section 4112 shall be used for innovative assistance described in subsection (b).

“(b) Innovative Assistance.—The innovative assistance programs referred to in subsection (a) may include—

“(1) professional development activities and the hiring of teachers, including activities carried out in accordance with title II, that give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local content standards and student achievement standards;
“(2) technology related to the implementation of school-based reform programs, including professional development to assist teachers, and other school officials, regarding how to use effectively such equipment and software;

“(3) programs for the development or acquisition and use of instructional and educational materials, including library services and materials (including media materials), assessments, reference materials, computer software and hardware for instructional use, and other curricular materials that are tied to high academic standards, that will be used to improve student achievement, and that are part of an overall education reform program;

“(4) promising education reform projects, including effective schools and magnet schools;

“(5) programs to improve the academic skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school;

“(6) programs to combat illiteracy;

“(7) programs to provide for the educational needs of gifted and talented children;

“(8) planning, designing, and initial implementation of charter schools as described in part B;
“(9) school improvement programs or activities under sections 1116 and 1117;

“(10) community service programs that use qualified school personnel to train and mobilize young people to measurably strengthen their communities through nonviolence, responsibility, compassion, respect, and moral courage;

“(11) activities to promote consumer, economic, and personal finance education, such as disseminating and encouraging the best practices for teaching the basic principles of economics and promoting the concept of achieving financial literacy through the teaching of personal financial management skills (including the basic principles involved with earning, spending, saving, and investing);

“(12) activities to promote, implement, or expand public school choice;

“(13) activities to promote, implement, or expand private school choice for disadvantaged children in failing public schools;

“(14) expanding and improving school-based mental health services, including early identification of drug use and violence, assessment, and direct individual or group counseling services provided to stu-
students, parents, and school personnel by qualified
school based mental health services personnel;

“(15) alternative educational programs for
those students who have been expelled or suspended
from their regular educational setting, including pro-
grams to assist students to reenter the regular edu-
cational setting upon return from treatment or alter-
native educational programs;

“(16) activities to improve the quality of civics
and government education to foster civic competence
and responsibility, by educating students about the
history and principles of the Constitution of the
United States, including the Bill of Rights; and

“(17) programs that improve academic achieve-
ment by strengthening arts education as an integral
part of the elementary and secondary school cur-
riculum.

“SEC. 4132. ADMINISTRATIVE AUTHORITY.

“In order to conduct the activities authorized by this
part, each State or local educational agency may use funds
made available under this part to make grants to, and to
enter into contracts with, local educational agencies, insti-
tutions of higher education, libraries, museums, and other
public and private nonprofit agencies, organizations, and
institutions, including religious organizations.
“SEC. 4133. LOCAL APPLICATIONS.

“(a) Certification.—

“(1) In general.—A local educational agency or a consortium of such agencies may receive an allocation of funds under this part for any year for which the agency or consortium submits an application under this section that is certified by the State under paragraph (2) to meet the requirements of this section.

“(2) Contents of application.—The State shall certify each application that—

“(1) describes locally identified needs relative to the purposes of this part and to the innovative assistance described in section 4131(b);

“(2) based on the needs identified in paragraph (1), sets forth the planned allocation of funds among innovative assistance programs described in section 4131 and describes the programs, projects, and activities designed to carry out such innovative assistance programs that the local educational agency intends to support;

“(3) contains information setting forth the allocation of such funds required to implement section 4142;
“(4) describes how assistance under this part will contribute to improving student academic achievement;

“(5) provides assurances of compliance with the provisions of this part, including the participation of children enrolled in private, nonprofit schools in accordance with section 4142;

“(6) provides assurance that the local educational agency will keep such records, and provide such information to the State as may be reasonably required for fiscal audit and program evaluation, consistent with the responsibilities of the State under this part;

“(7) provides in the allocation of funds for the assistance authorized by this part, and in the design, planning, and implementation of such programs, for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local educational agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this part (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency; and
“(8) provides assurance that—

“(A) programs, services, and activities will be evaluated annually;

“(B) such evaluation will be used to determine and implement appropriate changes in program services and activities for the subsequent year;

“(C) such evaluation will describe how assistance under this part contributed toward improving student academic achievement; and

“(D) such evaluation will be submitted to the State in the time and manner requested by the State.

“(b) Time Period to Which Application Relates.—An application submitted by a local educational agency under subsection (a) may seek allocations under this part for a period of time not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without the filing of a new application.

“(c) Local Educational Agency Discretion.—

“(1) In general.—Subject to the limitations and requirements of this part, a local educational agency shall have complete discretion in determining how funds made available under this subpart will be
divided among programs and activities described in section 4131.

“(2) LIMITATION.—In exercising the discretion described in paragraph (1), a local educational agency shall ensure that expenditures under this subpart carry out the purposes of this part and are used to meet the educational needs within the schools of such local educational agency.

“Subpart 4—General Provisions

“SEC. 4141. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

“(a) MAINTENANCE OF EFFORT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this subpart for any fiscal year only if the Secretary determines that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year that is 2 fiscal years before the fiscal year for which the determination is made.
“(2) Reduction of Funds.—The Secretary shall reduce the amount of the allocation of funds under this subpart in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

“(3) Waiver.—The Secretary may waive, for 1 fiscal year only, the requirements of this section if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

“(b) Federal Funds Supplementary.—A State or local educational agency may use and allocate funds received under this subpart only to supplement and, to the extent practical, to increase the level of funds that would, in the absence of Federal funds made available under this subpart, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.
“SEC. 4142. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

“(a) Participation on Equitable Basis.—

“(1) In General.—To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this part or which serves the area in which a program or project assisted under this part is located, who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State from funds made available for State use, such agency, after consultation with appropriate private school officials—

“(A) shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair or minor remodeling of public facilities as may be necessary for their provision (consistent with subsection (c) of this section); or

“(B) if such services, materials, and equipment are not feasible or necessary in 1 or more
such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this part.

“(2) OTHER PROVISIONS FOR SERVICES.—If no program or project is carried out under paragraph (1) in the school district of a local educational agency, the State shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in such district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this part.

“(3) APPLICATION OF REQUIREMENTS.—The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this part by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

“(b) EQUAL EXPENDITURES.—
“(1) IN GENERAL.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this part for children enrolled in the public schools of the local educational agency.

“(2) CONCENTRATED PROGRAMS.—Taking into account the needs of the individual children and other factors which relate to the expenditures referred to in paragraph (1), and when funds available to a local educational agency under this part are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

“(c) ADMINISTRATIVE RULES.—

“(1) FUNDS AND PROPERTY.—The control of funds provided under this part, and title to materials, equipment, and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in this
part, and a public agency shall administer such funds and property.

“(2) Provision of Services.—The provision of services pursuant to this part shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this part shall not be commingled with State or local funds.

“(d) Waiver.—

“(1) State Prohibition Waiver.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.
“(2) FAILURE TO COMPLY.—If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

“(e) WITHHOLDING OF ALLOCATION.—Pending final resolution of any investigation or complaint that could result in a waiver under subsection (d)(1) or (d)(2), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of services to be provided by the Secretary under such subsection.

“(f) TERM OF DETERMINATIONS.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

“(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this sec-
tion, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this part.

“(h) Review.—

“(1) Written Objections.—The Secretary shall not take any final action under this section until the State and the local educational agency affected by such action have had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary’s designee to show cause why that action should not be taken.

“(2) Court Action.—If a State or local educational agency is dissatisfied with the Secretary’s final action after a proceeding under paragraph (1), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as pro-
vided in section 2112 of title 28, United States Code.

“(3) REMAND TO SECRETARY.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may make new or modified findings of fact and may modify the Secretary’s previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

“(4) COURT REVIEW.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

“SEC. 4143. FEDERAL ADMINISTRATION.

“(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to States and local educational agencies under this part.
“(b) RULEMAKING.—The Secretary shall issue regulations under this part only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this part.

“(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this part shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

“SEC. 4144. DEFINITIONS.

“In this part, the following definitions apply:

“(1) SCHOOL-AGE POPULATION.—The term ‘school-age population’ means the population aged 5 through 17.

“(2) STATE.—The term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

“SEC. 4145. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part $472,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.”.
PART B—PUBLIC CHARTER SCHOOLS

SEC. 411. PUBLIC CHARTER SCHOOLS.

Part B of title IV is amended to read as follows:

“PART B—PUBLIC CHARTER SCHOOLS

“SEC. 4201. FINDINGS AND PURPOSE.

“(a) FINDINGS.—The Congress finds that—

“(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging State content standards and challenging State student performance standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;

“(2) useful examples of such choices can come from States and communities that experiment with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;

“(3) charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational re-
results for educationally disadvantaged students consistent with challenging State content standards and challenging State student performance standards for all students;

“(4) charter schools, as such schools have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;

“(5) charter schools, including charter schools that are schools-within-schools, can help reduce school size, which reduction can have a significant effect on student achievement;

“(6) the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform; and

“(7) there is a strong documented need for cash-flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

“(b) PURPOSE.—It is the purpose of this part to increase national understanding of the charter schools model by—
“(1) providing financial assistance for the planning, program design and initial implementation of charter schools;

“(2) evaluating the effects of such schools, including the effects on students, student achievement, staff, and parents; and

“(3) expanding the number of high-quality charter schools available to students across the Nation.

“SEC. 4202. PROGRAM AUTHORIZED.

“(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 4203 to enable such agencies to conduct a charter school grant program in accordance with this part.

“(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 4203, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 4203(c).

“(c) PROGRAM PERIODS.—

“(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this part shall be awarded for a period of not more than 3 years.
“(2) GRANTS TO ELIGIBLE APPLICANTS.—
Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this part shall be awarded for a period of not more than 3 years, of which the eligible applicant may use—

“(A) not more than 18 months for planning and program design;

“(B) not more than 2 years for the initial implementation of a charter school; and

“(C) not more than 2 years to carry out dissemination activities described in section 4204(f)(6)(B).

“(d) LIMITATION.—A charter school may not receive—

“(1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or

“(2) more than one grant for activities under subparagraph (C) of subsection (c)(2).

“(e) PRIORITY TREATMENT.—In awarding grants under this part from any funds appropriated under section 4211, the Secretary shall give priority to States to the extent that the States meet the criteria described in para-
graph (2) and one or more of the criteria described in sub-
paragraph (A), (B), or (C) of paragraph (3).

“(2) Review and evaluation priority criteria.—The criteria referred to in paragraph (1) is
that the State provides for periodic review and eval-
uation by the authorized public chartering agency of
each charter school, at least once every 5 years un-
less required more frequently by State law, to deter-
mine whether the charter school is meeting the
terms of the school’s charter, and is meeting or ex-
ceeding the academic performance requirements and
goals for charter schools as set forth under State
law or the school’s charter.

“(3) Priority Criteria.—The criteria referred
to in paragraph (1) are the following:

“(A) The State has demonstrated progress,
in increasing the number of high quality charter
schools that are held accountable in the terms
of the schools’ charters for meeting clear and
measurable objectives for the educational
progress of the students attending the schools,
in the period prior to the period for which a
State educational agency or eligible applicant
applies for a grant under this part.

“(B) The State—
“(i) provides for one authorized public
chartering agency that is not a local edu-
cational agency, such as a State chartering
board, for each individual or entity seeking
to operate a charter school pursuant to
such State law; or
“(ii) in the case of a State in which
local educational agencies are the only au-
thorized public chartering agencies, allows
for an appeals process for the denial of an
application for a charter school.
“(C) The State ensures that each charter
school has a high degree of autonomy over the
charter school’s budgets and expenditures.
“(f) AMOUNT CRITERIA.—In determining the amount
of a grant to be awarded under this part to a State edu-
cational agency, the Secretary shall take into consider-
ation the number of charter schools that are operating,
or are approved to open, in the State.

**SEC. 4203. APPLICATIONS.**

“(a) APPLICATIONS FROM STATE AGENCIES.—Each
State educational agency desiring a grant from the Sec-
etary under this part shall submit to the Secretary an
application at such time, in such manner, and containing
or accompanied by such information as the Secretary may require.

“(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—Each application submitted pursuant to subsection (a) shall—

“(1) describe the objectives of the State educational agency’s charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency’s charter school grant program; and

“(2) describe how the State educational agency—

“(A) will inform each charter school in the State regarding—

“(i) Federal funds that the charter school is eligible to receive; and

“(ii) Federal programs in which the charter school may participate;

“(B) will ensure that each charter school in the State receives the charter school’s commensurate share of Federal education funds that are allocated by formula each year, includ-
ing during the first year of operation of the charter school; and

“(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

“(3) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

“(A) a description of the educational program to be implemented by the proposed charter school, including—

“(i) how the program will enable all students to meet challenging State student performance standards;

“(ii) the grade levels or ages of children to be served; and

“(iii) the curriculum and instructional practices to be used;

“(B) a description of how the charter school will be managed;

“(C) a description of—

“(i) the objectives of the charter school; and
“(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

“(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

“(E) a description of how parents and other members of the community will be involved in the planning, program design and implementation of the charter school;

“(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

“(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;
“(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

“(I) a description of how students in the community will be—

“(i) informed about the charter school; and

“(ii) given an equal opportunity to attend the charter school;

“(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

“(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part;

“(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency
in which a charter school is located, will comply
with sections 613(a)(5) and 613(e)(1)(B) of the
Individuals with Disabilities Education Act;

“(M) if the eligible applicant desires to use
subgrant funds for dissemination activities
under section 4202(c)(2)(C), a description of
those activities and how those activities will in-
volve charter schools and other public schools,
local educational agencies, developers, and po-
tential developers; and

“(N) such other information and assur-
ces as the Secretary and the State edu-
cational agency may require.

“(c) CONTENTS OF ELIGIBLE APPLICANT APPLICA-
TION.—Each eligible applicant desiring a grant pursuant
to section 4202(b) shall submit an application to the State
educational agency or Secretary, respectively, at such
time, in such manner, and accompanied by such informa-
tion as the State educational agency or Secretary, respec-
tively, may reasonably require.

“(d) CONTENTS OF APPLICATION.—Each application
submitted pursuant to subsection (c) shall contain—

“(1) the information and assurances described
in subparagraphs (A) through (N) of subsection
(b)(3), except that for purposes of this subsection
subparagraphs (J), (K), and (N) of such subsection shall be applied by striking ‘and the State educational agency’ each place such term appears; and

“(2) assurances that the State educational agency—

“(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

“(B) will assist each subgrantee in the State in receiving a waiver under section 4204(e).

“SEC. 4204. ADMINISTRATION.

“(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—The Secretary shall award grants to State educational agencies under this part on the basis of the quality of the applications submitted under section 4203(b), after taking into consideration such factors as—

“(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State content standards and State student performance standards and, in general, a State’s education improvement plan;

“(2) the degree of flexibility afforded by the State educational agency to charter schools under the State’s charter schools law;
“(3) the ambitiousness of the objectives for the State charter school grant program;

“(4) the quality of the strategy for assessing achievement of those objectives;

“(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students;

“(6) the number of high quality charter schools created under this part in the State; and

“(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under section 4202(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.

“(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award grants to eligible applicants under this part on the basis of the quality of the applications submitted under section 4203(c), after taking into consideration such factors as—

“(1) the quality of the proposed curriculum and instructional practices;

“(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;
“(3) the extent of community support for the application;

“(4) the ambitiousness of the objectives for the charter school;

“(5) the quality of the strategy for assessing achievement of those objectives;

“(6) the likelihood that the charter school will meet those objectives and improve educational results for students; and

“(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under section 4202(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.

“(c) PEER REVIEW.—The Secretary, and each State educational agency receiving a grant under this part, shall use a peer review process to review applications for assistance under this part.

“(d) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this part, shall award subgrants under this part in a manner that, to the extent possible, ensures that such grants and subgrants—
“(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

“(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

“(e) WAIVERS.—The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 4210(1), if—

“(1) the waiver is requested in an approved application under this part; and

“(2) the Secretary determines that granting such a waiver will promote the purpose of this part.

“(f) USE OF FUNDS.—

“(1) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this part shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this part, except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6).
“(2) ELIGIBLE APPLICANTS.—Each eligible ap-
plicant receiving funds from the Secretary or a State
educational agency shall use such funds to plan and
implement a charter school, or to disseminate infor-
mation about the charter school and successful prac-
tices in the charter school, in accordance with this
part.

“(3) ALLOWABLE ACTIVITIES.—An eligible ap-
plicant receiving a grant or subgrant under this part
may use the grant or subgrant funds only for—

“(A) post-award planning and design of
the educational program, which may include—

“(i) refinement of the desired edu-
cational results and of the methods for
measuring progress toward achieving those
results; and

“(ii) professional development of
teachers and other staff who will work in
the charter school; and

“(B) initial implementation of the charter
school, which may include—

“(i) informing the community about
the school;

“(ii) acquiring necessary equipment
and educational materials and supplies;
“(iii) acquiring or developing curriculum materials; and

“(iv) other initial operational costs that cannot be met from State or local sources.

“(4) ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this part.

“(5) REVOLVING LOAN FUNDS.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 10 percent of the grant amount for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this part, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

“(6) DISSEMINATION.—
“(A) IN GENERAL.—A charter school may apply for funds under this part, whether or not the charter school has applied for or received funds under this part for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

“(i) substantial progress in improving student achievement;

“(ii) high levels of parent satisfaction;

and

“(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

“(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school’s program (or certain aspects of the charter school’s program), or to disseminate information about the charter school, through such activities as—
“(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school’s developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

“(ii) developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership;

“(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

“(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

“(g) TRIBALLY CONTROLLED SCHOOLS.—Each State that receives a grant under this part and designates a trib-
ally controlled school as a charter school shall not consider payments to a school under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) in determining—

“(1) the eligibility of the school to receive any other Federal, State, or local aid; or

“(2) the amount of such aid.

“SEC. 4205. NATIONAL ACTIVITIES.

“(a) IN GENERAL.—The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this part, except that in no fiscal year shall the total amount so reserved exceed $8,000,000, to carry out the following activities:

“(1) To provide charter schools, either directly or through State educational agencies, with—

“(A) information regarding—

“(i) Federal funds that charter schools are eligible to receive; and

“(ii) other Federal programs in which charter schools may participate; and

“(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

“(2) To provide for other evaluations or studies that include the evaluation of the impact of charter
schools on student achievement, including information regarding—

“(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

“(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

“(3) To provide—

“(A) information to applicants for assistance under this part;

“(B) assistance to applicants for assistance under this part with the preparation of applications under section 4203;

“(C) assistance in the planning and startup of charter schools;

“(D) training and technical assistance to existing charter schools; and

“(E) for the dissemination to other public schools of best or promising practices in charter schools.

“(4) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding
the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

“(b) CONSTRUCTION.—Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).

“SEC. 4206. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.

“(a) IN GENERAL.—For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures not later than 6 months after the date of the enactment of the Charter School Expansion Act of 1998 as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall
ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

“(b) ADJUSTMENT AND LATE OPENINGS.—

“(1) IN GENERAL.—The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

“(2) RULE.—For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) for such academic year have a full and fair opportunity to receive those funds during the charter schools’ first year of operation.
“SEC. 4207. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.

“To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this part, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

“SEC. 4208. RECORDS TRANSFER.

“State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student’s records and, if applicable, a student’s individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(11)), are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.
SEC. 4209. PAPERWORK REDUCTION.

"To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this part results in a minimum of paperwork for any eligible applicant or charter school.

SEC. 4210. DEFINITIONS.

"As used in this part:

"(1) The term ‘charter school’ means a public school that—

"(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

"(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

"(C) operates in pursuit of a specific set of educational objectives determined by the school’s developer and agreed to by the authorized public chartering agency;

"(D) provides a program of elementary or secondary education, or both;
“(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

“(F) does not charge tuition;


“(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, or in another non-discriminatory manner consistent with State law, if more students apply for admission than can be accommodated;

“(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

“(J) meets all applicable Federal, State, and local health and safety requirements;
“(K) operates in accordance with State law; and

“(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

“(2) The term ‘developer’ means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

“(3) The term ‘eligible applicant’ means an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this part.

“(4) The term ‘authorized public chartering agency’ means a State educational agency, local educational agency, or other public entity that has the
authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

“SEC. 4211. AUTHORIZATION OF APPROPRIATIONS.

“For the purpose of carrying out this part, there are authorized to be appropriated $200,000,000 for fiscal year 2002 and such sums as may be necessary for each of the succeeding fiscal years.”.

PART C—SCHOOL CHOICE RESEARCH AND DEMONSTRATION

SEC. 421. SCHOOL CHOICE RESEARCH AND DEMONSTRATION

Part C of title IV is amended to read as follows:

“PART C—EDUCATIONAL OPPORTUNITY FUND

“SEC. 4311. PURPOSE.

“The purpose of this part is to determine the effectiveness of school choice in improving the academic achievement of disadvantaged students and the overall quality of public schools and local educational agencies.

“SEC. 4312. PROGRAM AUTHORIZED.

“The Secretary is authorized to make competitive awards to eligible entities to carry out and evaluate, through contracts or grants, research projects that demonstrate how school choice options increase the academic achievement of students, schools, and local educational agencies.
SEC. 4313. ELIGIBLE ENTITIES.

“For purposes of this part an eligible entity is—

“(1) a State educational agency;
“(2) a county agency;
“(3) a municipal agency;
“(4) a local educational agency;
“(5) a nonprofit corporation; or
“(6) a consortia thereof.

SEC. 4314. APPLICATIONS.

“Each eligible entity desiring an award under this part shall submit an application to the Secretary that shall include—

“(1) a description of the proposed research project, including a designation from which local educational agency or agencies eligible students will be selected to participate in a choice program;
“(2) a description of the annual costs of the project;
“(3) a description of the research design that the eligible entity will employ in carrying out the project;
“(4) a description of the project evaluation that will be conducted by an independent third party entity, including—
“(A) the name and qualifications of the independent entity that will conduct the evaluation; and

“(B) a description of how the evaluation will measure the academic achievement of students participating in the program, parental satisfaction and the effect of the project on the schools and agencies designated in paragraph (1);

“(5) a description of how the eligible entity will ensure the participation of students selected for the control group;

“(6) a description of the assessment that the eligible entity will use to assess annually the progress of participants in the research project in grades 3 through 8 in mathematics and reading and how it is comparable to assessments used by the agency or agencies described under paragraph (1);

“(7) an assurance that the eligible entity will assess all students that are participating in the program or in the control group at the beginning of the project;

“(8) an assurance that the eligible entity will report annually to the Secretary on the impact of the project on student achievement, including a dis-
cussion of the meaning and an attestation of validity of the achievement data;

“(9) an assurance that, if the number of students applying to participate in the project is greater than the number of students the project can serve, participants will be selected by lottery;

“(10) a description of how the amount that will be provided directly to students for tuition, fees, transportation, or supplemental services will be determined;

“(11) an assurance that schools participating under this part will abide by the nondiscrimination requirements set forth in section 4319;

“(12) an assurance that eligible students receiving assistance under this part will not be defined by reference to religion and that grants will be allocated on the basis of neutral, secular criteria that neither favor nor disfavor religion, and will be made available to children attending secular and nonsecular institutions on a nondiscriminatory basis; and

“(13) an assurance that no private school will be required to participate in the project without its consent.
“SEC. 4315. PRIORITIES.

“In awarding grants under this program, the Secretary shall give priority to applications that—

“(1) provide students and families with the widest range of educational options;

“(2) target resources to students and families that lack the financial resources to take advantage of available educational options;

“(3) are of sufficient size to have a significant impact on the public and private schools of the community that the project serves;

“(4) propose using rigorous methodologies and third party evaluators with experience in evaluating school choice proposals; and

“(5) propose serving students of varying age and grade levels.

“SEC. 4316. USE OF FUNDS.

“(a) IN GENERAL.—A grantee may reserve up to 10 percent of its award for research and evaluation activities, of which not more than 2 percent may be used for administrative purposes.

“(b) GRANTS TO STUDENTS.—A grantee shall use at least 90 percent of its award to provide grants to eligible students, who shall use the grants to—
“(1) pay the eligible educational expenses, including tuition, fees, and transportation expenses required to attend the school of their choice; or

“(2) purchase supplemental educational services.

“(c) ASSISTANCE.—All grants provided to students by the project shall be deemed assistance to students rather than to schools.

“SEC. 4317. ELIGIBLE STUDENTS.

“For purposes of the activities funded under this part, an eligible student is defined as a student who—

“(1) is eligible for a free or reduced-price lunch subsidy under the National School Lunch program; and

“(2) attended a public elementary or secondary school or was not yet of school age in the year preceding participation in this program.

“SEC. 4318. REPORTING REQUIREMENTS.

“(a) IN GENERAL.—Each grantee receiving an award under this program shall, beginning with the second year of the project, report annually to the Secretary regarding—

“(1) the activities carried out during the preceding 12 months with program funds; and
“(2) the results of the assessments given to students participating in the program and students selected for the control group.

“(b) Performance Reports.—In addition, each grantee shall, in the third year of the research project, report annually to the Secretary regarding—

“(1) the academic performance of students participating in the project; and

“(2) parental satisfaction; and

“(3) changes in the overall performance and quality of public and private elementary and secondary schools affected by the project, as well as other indicators such as teacher quality, innovative reforms, or special programs.

“(c) Report to Congress.—The Secretary shall submit to the appropriate congressional committees an annual report on the findings of the reports submitted under subsections (a) and (b), and include the comments of the independent review panel in accordance with section 4019(3).

“SEC. 4319. NONDISCRIMINATION.

“(a) Application.—Except as provided in subparagraph (B), title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, and section 504 of the Rehabilitation Act of 1973, do not apply to
a private school that enrolls an eligible child who receives funds under this part by virtue of that child’s use of those funds to enroll at that school.

“(b) Right at Private Schools.—The eligible entity shall ensure that a private school that enrolls an eligible child described in subparagraph (A) shall afford the child the same rights against discrimination provided by the statutes identified in that subparagraph, and shall afford those same rights to any eligible child who applies to enroll in that school.

“SEC. 4320. INDEPENDENT REVIEW PANEL.

“(a) Establishment.—The Secretary shall establish an independent review panel to advise the Secretary on technical and methodological issues and in overseeing the activities funded under this part.

“(b) Membership.—The Secretary shall appoint members of the independent review panel from among qualified individuals who are—

“(A) specialists in school choice research, as well as experts in statistics, evaluation, research, and assessment; and

“(B) other individuals with technical expertise who will contribute to the overall rigor and quality of the evaluations.
“(c) Powers.—The independent review panel shall consult with and advise the Secretary—

“(1) to ensure that the evaluations funded under this part adhere to the highest possible standards of quality with respect to research design and statistical analysis; and

“(2) to evaluate and comment on the degree to which annual reports submitted in accordance with section 4318 meet the requirements under subparagraph (A) with such comments included with the report submitted to the appropriate Congressional committees.

“SEC. 4321. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated $25,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.”.

PART D—MAGNET SCHOOLS ASSISTANCE

SEC. 431. MAGNET SCHOOLS ASSISTANCE.

Part D of title IV is amended to read as follows:

“PART D—MAGNET SCHOOLS ASSISTANCE

“SEC. 4401. STATEMENT OF PURPOSE.

“The purpose of this part is to assist in the desegregation of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—
“(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students;

“(2) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State content standards and challenging State student performance standards;

“(3) the development and design of innovative educational methods and practices that promote diversity and increase choices in public elementary and secondary schools and educational programs; and

“(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational and technical skills of students attending such schools.

“SEC. 4402. PROGRAM AUTHORIZED.

“The Secretary, in accordance with this part, is authorized to make grants to eligible local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this part for magnet schools that are—
“(1) part of an approved desegregation plan; and

“(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

“SEC. 4403. DEFINITION.

“For the purpose of this part, the term ‘magnet school’ means a public elementary or secondary school or public elementary or secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

“SEC. 4404. ELIGIBILITY.

“A local educational agency, or consortium of such agencies where appropriate, is eligible to receive assistance under this part to carry out the purpose of this part if such agency or consortium—

“(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary and secondary schools of such agency; or

“(2) without having been required to do so, has adopted and is implementing, or will, if assistance is
made available to such local educational agency or consortium of such agencies under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority-group-segregated children or faculty in such schools.

“SEC. 4405. APPLICATIONS AND REQUIREMENTS.

“(a) APPLICATIONS.—An eligible local educational agency, or consortium of such agencies, desiring to receive assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

“(b) INFORMATION AND ASSURANCES.—Each such application shall include—

“(1) a description of—

“(A) how assistance made available under this part will be used to promote desegregation, including how the proposed magnet school project will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

“(B) the manner and extent to which the magnet school project will increase student
achievement in the instructional area or areas
offered by the school;

“(C) how an applicant will continue the
magnet school project after assistance under
this part is no longer available, including, if ap-
plicable, an explanation of why magnet schools
established or supported by the applicant with
funds under this part cannot be continued with-
out the use of funds under this part;

“(D) how funds under this part will be
used to improve student academic performance
for all students attending the magnet schools;
and

“(E) the criteria to be used in selecting
students to attend the proposed magnet school
projects; and

“(2) assurances that the applicant will—

“(A) use funds under this part for the pur-
pose specified in section 4401;

“(B) employ fully qualified teachers in the
courses of instruction assisted under this part;

“(C) not engage in discrimination based on
race, religion, color, national origin, sex, or dis-
ability in—
“(i) the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility; 

“(ii) the assignment of students to schools, or to courses of instruction within the school, of such agency, except to carry out the approved plan; and 

“(iii) designing or operating extracurricular activities for students; 

“(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and 

“(E) give students residing in the local attendance area of the proposed magnet school projects equitable consideration for placement in those projects.

“SEC. 4406. PRIORITY.

“In approving applications under this part, the Secretary shall give priority to applicants that—

“(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out an approved desegregation plan and the projects for which assistance is sought;
“(2) propose to carry out new magnet school projects, or significantly revise existing magnet school projects; and

“(3) propose to select students to attend magnet school projects by methods such as lottery, rather than through academic examination.

“SEC. 4407. USE OF FUNDS.

“(a) IN GENERAL.—Grant funds made available under this part may be used by an eligible local educational agency or consortium of such agencies—

“(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

“(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools;

“(3) for the payment, or subsidization of the compensation, of elementary and secondary school teachers who are fully qualified, and instructional staff where applicable, who are necessary for the conduct of programs in magnet schools;
“(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

“(A) are designed to make available the special curriculum that is offered by the magnet school project to students who are enrolled in the school but who are not enrolled in the magnet school program; and

“(B) further the purpose of this part; and

“(5) for activities, which may include professional development, that will build the recipient’s capacity to operate magnet school programs once the grant period has ended.

“(b) SPECIAL RULE.—Grant funds under this part may be used in accordance with paragraphs (2) and (3) of subsection (a) only if the activities described in such paragraphs are directly related to improving the students’ academic performance based on the State’s challenging content standards and challenging student performance standards or directly related to improving the students’ reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational and technical skills.
“SEC. 4408. PROHIBITIONS.

“(a) TRANSPORTATION.—Grants under this part may not be used for transportation or any activity that does not augment academic improvement.

“(b) PLANNING.—A local educational agency shall not expend funds under this part after the third year that such agency receives funds under this part for such project.

“SEC. 4409. LIMITATIONS.

“(a) DURATION OF AWARDS.—A grant under this part shall be awarded for a period that shall not exceed three fiscal years.

“(b) LIMITATION ON PLANNING FUNDS.—A local educational agency may expend for planning not more than 50 percent of the funds received under this part for the first year of the project, 15 percent of such funds for the second such year, and 10 percent of such funds for the third such year.

“(c) AMOUNT.—No local educational agency or consortium awarded a grant under this part shall receive more than $4,000,000 under this part in any one fiscal year.

“(d) TIMING.—To the extent practicable, the Secretary shall award grants for any fiscal year under this part not later than July 1 of the applicable fiscal year.
“SEC. 4410. EVALUATIONS.

“(a) RESERVATION.—The Secretary may reserve not more than 2 percent of the funds appropriated under section 4411(a) for any fiscal year to carry out evaluations, technical assistance, and dissemination projects with respect to magnet school projects and programs assisted under this part.

“(b) CONTENTS.—Each evaluation described in subsection (a), at a minimum, shall address—

“(1) how and the extent to which magnet school programs lead to educational quality and improvement;

“(2) the extent to which magnet school programs enhance student access to quality education;

“(3) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students; and

“(4) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs.
SEC. 4411. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.

“(a) Authorization.—For the purpose of carrying out this part, there are authorized to be appropriated $110,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

“(b) Availability of Funds for Grants to Agencies Not Previously Assisted.—In any fiscal year for which the amount appropriated pursuant to subsection (a) exceeds $75,000,000, the Secretary shall give priority to using such amounts in excess of $75,000,000 to award grants to local educational agencies or consortia of such agencies that did not receive a grant under this part in the preceding fiscal year.”.

SEC. 432. CONTINUATION OF AWARDS.

Notwithstanding the amendment made by section 431, or any other provision of this Act, any local educational agency, or consortium of such agencies, that was awarded a grant under section 5111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7211) prior to the date of the enactment of this Act shall continue to receive funds in accordance with the terms of such award until the date on which the award period terminates under such terms.
TITLE V—SAFE SCHOOLS FOR THE 21ST CENTURY

SEC. 501. SAFE SCHOOLS.

Title V is amended to read as follows:

“TITLE V—SAFE SCHOOLS FOR THE 21ST CENTURY

PART A—SUPPORTING DRUG AND VIOLENCE PREVENTION AND EDUCATION FOR STUDENTS AND COMMUNITIES

SEC. 5001. SHORT TITLE.

“This part may be cited as the ‘Safe Schools for the 21st Century Act of 2001’.

SEC. 5002. PURPOSE.

“The purpose of this part is to support programs that prevent the use of drugs, prevent violence, provide before and after school activities and supervision for school age youth, involve parents and communities, and are coordinated with related Federal, State, and community efforts and resources to foster a learning environment in which students increase their academic achievement, through the provision of Federal assistance to—

“(1) States for grants to local educational agencies and consortia of such agencies to establish, operate, and improve local programs of drug and vio-
ence prevention in elementary and secondary schools;

“(2) States for grants to local educational agencies, in partnership with community-based organizations, religious organizations, and other public entities and private organizations, for before and after school programs for youth; and

“(4) public and private nonprofit and for-profit organizations to conduct training, demonstrations, and evaluations.

“SEC. 5003. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated—

“(1) $1,470,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years, for State grants under subpart 1; and

“(2) $20,000,000 for fiscal year 2002, and for each of the 4 succeeding fiscal years, for national programs under subpart 2.

“Subpart I—School Safety

“SEC. 5111. RESERVATIONS AND ALLOTMENTS.

“(a) RESERVATIONS.—From the amount made available under section 5003(1) to carry out this part for each fiscal year, the Secretary—
“(1) shall reserve 0.5 percent or $73,500,000 (whichever is greater) of such amount for grants under this subpart to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary’s determination of their respective needs; and

“(2) shall reserve 0.5 percent or $73,500,000 (whichever is greater) of such amount for the Secretary of the Interior to carry out programs under this part for Indian youth.

“(b) STATE ALLOTMENTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall, for each fiscal year, allocate among the States—

“(A) one-half of the remainder not reserved under subsection (a) according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

“(B) one-half of such remainder according to the ratio between the amount each State received under part A of title I for the preceding year and the sum of such amounts received by all the States.
“(2) Minimum.—For any fiscal year, no State shall be allotted under this subsection an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this subsection.

“(c) Reallocation of Unused Funds.—If any State does not apply for an allotment under this subpart for a fiscal year, the Secretary shall reallocate the amount of the State’s allotment to the remaining States in accordance with this section.

“SEC. 5112. WITHIN-STATE DISTRIBUTION.

“(a) Governor’s Allocation.—

“(1) In General.—The chief executive officer of a State may reserve not more than 10 percent of the total amount allocated to a State under section 5111(b) for each fiscal year for programs and activities in accordance with section 5115.

“(2) Administrative Costs.—The chief executive officer of a State may use not more than 1 percent of the amount described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section.

“(3) Grant Awards.—The chief executive officer of a State shall use the remainder of funds not reserved under paragraph (2) to award competitive
grants and contracts to local educational agencies, community-based organizations, religious organizations, and other public entities and private organizations for programs or activities described in section 5115. Such officer shall award grants based on—

“(A) the quality of the activity or program proposed; and

“(B) how closely the program or activity is aligned with the appropriate principles of effectiveness described in section 5115(a).

“(b) State Funds.—

“(1) In general.—An amount equal to the total amount allotted to a State under section 5111(b), less the amount reserved under subsection (a) and paragraphs (2) and (3) of this subsection, for each fiscal year shall be made available to the State and its local educational agencies for activities in accordance with section 5115.

“(2) State activities.—A State may use not more than 4 percent of the amount available under subsection (a) for State activities described in section 5115(b).

“(3) State administration.—A State may use not more than 1 percent of the amount made available under subsection (a) for the administrative
costs of carrying out its responsibilities under this part.

“(c) DISTRIBUTION TO LOCAL EDUCATIONAL AGENCY.—

“(1) IN GENERAL.—

(A) DISTRIBUTION.— A State shall distribute not less than 95 percent of the amount made available under subsection (b) for each fiscal year as follows:

“(i) 70 percent of such amount to local educational agencies, based on the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies.

“(ii) 30 percent of such amount to local educational agencies that the State determines have the greatest need for additional funds to carry out activities under this part.

(B) SPECIAL CONSIDERATION.—In awarding funds under clause (ii) of subparagraph (A), a State shall give special consideration to agencies that pursue a comprehensive approach to drug and violence prevention by
providing or incorporating mental health services in their programs.

“(C) PARTNERSHIPS.—In awarding funds under clause (ii) of subparagraph (A) a State shall distribute a portion of such funds to local educational agencies that partner with community-based organizations, religious organizations, other public entities, or private organizations, or consortia of such organizations, to support before and after school programs and activities.

“(D) ADMINISTRATIVE COSTS.—Of the amount received under paragraph (1), a local educational agency may use not more than 1 percent for the administrative costs of carrying out its responsibilities under this part.

“(E) OBJECTIVE DATA.—In determining which local educational agencies have the greatest need for additional funds, a State shall consider objective data such as—

“(i) low student performance on State academic assessments;

“(ii) high rates of drug use among youth;
“(iii) high rates of violence among youth;

“(iv) a high need for before and after school activities among youth;

“(v) local fiscal capacity to fund drug and violence prevention activities and programs or before and after school activities without Federal assistance; and

“(vi) a high degree of geographically rural isolation.

“(F) GEOGRAPHIC DIVERSITY.—The distribution of funds shall reflect the geographical diversity of local educational agencies in the State.

“(2) RETURN OF FUNDS TO STATE; REALLOCATION.—

“(A) RETURN.—Except as provided in subparagraph (B), upon the expiration of the 1-year period beginning on the date that a local educational agency receives its allocation—

“(i) such agency shall return to the State any funds from such allocation that remain unobligated; and

“(ii) the State shall reallocate any such amount to local educational agencies
that have submitted plans for using such amount for programs or activities on a timely basis.

“(B) CARRYOVER.—In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

“(i) an amount equal to not more than 25 percent of the allocation it received under this title for such fiscal year; or

“(ii) upon a demonstration of good cause by such agency or consortium and approval by the State, an amount that exceeds 25 percent of such allocation.

“SEC. 5113. STATE APPLICATION.

“(a) IN GENERAL.—In order to receive an allotment under section 5111 for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

“(1) describes the activities to be funded under sections 5112(a)(3) and 5112(b)(2);

“(2) describes how activities funded under this part will support State academic achievement goals in accordance with section 1111;
“(3) describes how funds under this part will be coordinated with programs under this Act, and other programs, as appropriate, in accordance with the provisions of section 8306;

“(4) provides an assurance that the application was developed in consultation and coordination with appropriate State officials and others, including the chief executive officer, the chief State school officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations, including religious organizations;

“(5) provides an assurance that the State will cooperate with, and assist, the Secretary in conducting data collection as required by section 5115;

“(6) provides an assurance that the local educational agencies in the State will comply with the provisions of section 8503 pertaining to the participation of private school children and teachers in the programs and activities under this part;
“(7) describes the results of the State’s needs assessment for drug and violence prevention programs and before and after school activities, which shall be based on the results of on-going State evaluation activities;

“(8)(A) provides a statement of the State’s performance measures for drug and violence prevention that shall be developed in consultation between the State and local officials and that consist of—

“(i) performance indicators for drug and violence prevention; and

“(ii) levels of performance for each performance indicator;

“(B) a description of the procedures the State will use for assessing and publicly reporting progress toward meeting those performance measures; and

“(C) a plan for monitoring the implementation of, and providing technical assistance regarding, the activities and programs conducted by local educational agencies under this part.

“(b) GENERAL APPROVAL.—A State application submitted pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 90-day period beginning on the date that the Secretary re-
receives the application, that the application is in violation of this part.

“(c) DISAPPROVAL.—The Secretary shall not finally disapprove a State application, except after giving the State notice and opportunity for a hearing.

“SEC. 5114. LOCAL EDUCATIONAL AGENCY APPLICATION.

“(a) IN GENERAL.—In order to be eligible to receive a distribution under section 5112(c) for any fiscal year, a local educational agency shall submit, at such time as the State requires, an application to the State. Such an application shall be amended, as necessary, to reflect changes in the activities and programs of the local educational agency.

“(b) DEVELOPMENT.—

“(1) CONSULTATION.—

“(A) IN GENERAL.—A local educational agency shall develop its application through timely and meaningful consultation with State and local government representatives and community organizations, including religious organizations, with relevant expertise and interest in drug and violence prevention and before and after school activities, school personnel, students, and parents.
“(B) CONTINUED CONSULTATION.—On an ongoing basis, the local educational agency shall consult with such representatives and organizations in order to seek advice regarding how best to coordinate such agency’s activities under this part with other related strategies, programs, and activities being conducted in the community.

“(2) DESIGN AND DEVELOPMENT.—To ensure timely and meaningful consultation, a local educational agency at the initial stages of design and development of a program or activity shall consult, in accordance with subsection (c), with appropriate entities and persons on issues regarding the design and development of the program or activity, including efforts to meet the principles of effectiveness described in section 5115(a).

“(c) CONTENTS OF APPLICATIONS.—An application submitted by a local educational agency under this section shall contain—

“(1) an assurance that the activities or programs to be funded support State academic achievement goals in accordance with section 1111;

“(2) in the case of drug and violence prevention activities, a detailed explanation of the local edu-
cational agency’s comprehensive plan for drug and violence prevention, which shall include a description of—

“(A) how the plan will be coordinated with programs under this Act, other Federal, State, and local programs for drug and violence prevention, and before and after school activities, as appropriate, in accordance with the provisions of section 8306;

“(B) the local educational agency’s performance measures for drug and violence prevention, that shall consist of—

“(i) performance indicators for drug and violence prevention; and

“(ii) levels of performance for each performance indicator;

“(C) how such agency will assess and publicly report progress toward attaining its performance measures;

“(D) the drug and violence prevention activity or program to be funded, including how the activity or program will meet the principles of effectiveness described in section 5115(a), and the means of evaluating such activity or program;
“(3) in the case of before and after school activities—

“(A) a description of the activity to be funded;

“(B) a description of how the activity is expected to improve student academic performance or contribute to drug and violence prevention;

“(C) a description of how the activity will meet the principles of effectiveness described in section 5115(a); and

“(D) a description of the partnership with a community-based organization, a religious organization, and another public entity or private organization, if appropriate.

“(4) a certification that a meaningful assessment has been conducted to determine community needs, available resources in the private sector, and capacity in the private sector, the findings of such assessments, and a description of the mechanisms used to provide effective notice to the community of an intention to submit an application under this title;

“(5) an assurance that drug prevention programs supported under this part convey a clear and
consistent message that the use of drugs is wrong
and harmful; and

“(6) such other information and assurances as
the State may reasonably require.

“(d) PEER REVIEW.—

“(1) IN GENERAL.—In reviewing local applica-
tions under this section, a State shall use a peer re-
view process or other methods of assuring the qual-
ity of such applications.

“(2) CONSIDERATIONS.—

(A) IN GENERAL.—In determining whether
to approve the application of a local educational
agency under this section, a State shall consider
the quality of the local educational agency’s
comprehensive plan, including the degree to
which the principles of effectiveness described
in section 5115(a) are met.

“(B) GENERAL APPROVAL.—A local edu-
cational agency’s application submitted to the
State under this subpart shall be deemed to be
approved by the State unless the State makes
a written determination, prior to the expiration
of the 90-day period beginning on the date that
the State receives the application, that the ap-
application is in violation of this subpart.
“(C) DISAPPROVAL.—The State shall not finally disapprove a local educational agency application, except after giving such agency notice and an opportunity for a hearing.

“SEC. 5115. AUTHORIZED ACTIVITIES.

“(a) PRINCIPLES OF EFFECTIVENESS.—

“(1) IN GENERAL.—For a program or activity developed pursuant to this part to meet the principles of effectiveness, such program or activity shall—

“(A) be based upon an assessment of objective data—

“(i) regarding the drug and violence problems in the elementary and secondary schools and communities to be served, including an objective analysis of the current conditions and consequences regarding drug use and violence, including delinquency and serious discipline problems, among students who attend such schools (including private school students who participate in the drug and violence prevention program) that is based on ongoing local assessment or evaluation activities; or
“(ii) regarding the need for before and after school programs and activities in such schools and communities;

“(B) be based upon an established set of performance measures aimed at ensuring that all elementary and secondary schools and communities served by the local educational agency have a drug-free, safe, and orderly learning environment; and

“(C) be based upon scientifically based research that provides evidence that the program to be used will be effective.

“(2) PERIODIC EVALUATION.—The program or activity shall undergo a periodic evaluation to assess its progress toward achieving its goals and objectives. The results shall be used to refine, improve, and strengthen the program, and to refine the performance measures. The results shall also be made available to the public upon request, with public notice of such availability provided.

“(3) WAIVER.—A local educational agency may apply to the State for a waiver of the requirement of paragraph (1)(C) to allow innovative activities or programs that demonstrate substantial likelihood of success.
“(b) STATE ACTIVITIES.—

“(1) IN GENERAL.—A State shall use the funds described in section 5112(b)(1), either directly, or through grants and contracts, to plan, develop, and implement capacity building, technical assistance, accountability, program improvement services, and coordination activities for local educational agencies, community-based organizations, religious organizations, other public entities, and private organizations that are designed to support the implementation of programs and activities under this part.

“(2) DATA COLLECTION.—

“(A) IN GENERAL.—A State shall use the funds described in section 5112(b)(2), either directly or through grants and contracts, to establish and implement a statewide system of collecting data regarding crimes occurring on school property.

“(B) STATISTICS.—Such data collection shall include statistics concerning the occurrence on school property of the following criminal offenses and prohibited activities as reported to school security authorities or local police agencies—

“(i) murder;
“(ii) sex offenses, forcible or nonforcible;

“(iii) robbery;

“(iv) aggravated assault;

“(v) burglary;

“(vi) manslaughter;

“(vii) arson; and

“(viii) arrests or persons referred for school disciplinary action for liquor law violations, drug-related offenses, and weapons possessions.

“(C) Compilation of statistics.—The statistics shall be compiled in accordance with definitions of such crimes as determined in the State criminal code, but shall not identify victims of crimes or persons accused of crimes.

“(D) Reporting.—Such data and statistics shall be reported to the public and shall be reported on a school-by-school basis.

“(E) Limitation.—Notwithstanding subpart 3, nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices with respect to crimes on school property or school security.
“(3) SAFE SCHOOLS.—The State shall establish and implement a statewide policy requiring that students attending persistently dangerous public elementary and secondary schools, as determined by the State, or who become a victim of a violent criminal offense, as defined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public school, including a public charter school, or a private school if no safe public school or public charter school can accommodate the student, in the same State as the unsafe public elementary or secondary school, and allowing payment of reasonable transportation costs and tuition costs for such students.

“(4) CODE OF CONDUCT—The State shall establish and implement a student code of conduct policy that clearly states responsibilities of students, teachers, and administrators in maintaining a classroom environment that allows a teacher to communicate effectively with all students in the class and that allows all students in the class to learn.

“(c) LOCAL EDUCATIONAL AGENCY ACTIVITIES.—

“(1) PROGRAM REQUIREMENTS.—A local educational agency shall use funds described in section
5112(c) to develop, implement, and evaluate comprehensive programs and activities, which are coordinated with other school and community-based services and programs, that shall—

“(A) support State academic achievement goals in accordance with section 1111;

“(B) be consistent with the principles of effectiveness described in subsection (a);

“(C) be designed to—

“(i) prevent or reduce drug use or violence, delinquency, serious discipline problems, and poor academic performance; and

“(ii) create a well disciplined environment conducive to learning, which includes consultation between teachers, principals, and other school personnel to identify early warning signs of drug use and violence and to provide behavioral interventions as part of classroom management efforts; and

“(D) include activities to promote the involvement of parents in the activity or program, to promote coordination with community groups and coalitions, including religious organizations, and government agencies, and to distribute in-
formation about the local educational agency’s needs, goals, and programs under this part.

“(2) AUTHORIZED ACTIVITIES.—Each local educational agency, or consortium of such agencies, that receives a subgrant under section 5112(c) may use such funds to carry out activities, such as—

“(A) developmentally appropriate drug and violence prevention programs in both elementary and secondary schools that incorporate a variety of prevention strategies and activities, which may include—

“(i) teaching students that most people do not use drugs;

“(ii) teaching students to recognize social and peer pressure to use drugs and the skills for resisting drug use;

“(iii) teaching students about the dangers of emerging drugs;

“(iv) engaging students in the learning process;

“(v) incorporating activities in secondary schools that reinforce prevention activities implemented in elementary schools; and
“(vi) involving families and communities in setting clear expectations against drug use and enforcing consequences for drug use;

“(B) before and after school activities that advance student achievement, including—

“(i) remedial education activities and academic enrichment learning programs, including providing additional assistance to students in order to allow them to improve their academic achievement;

“(ii) drug and violence prevention activities;

“(iii) math and science education activities;

“(iv) arts and music education activities;

“(v) entrepreneurial education programs; and

“(vi) mentoring programs;

“(C) establishing or enhancing programs or initiatives that improve academic achievement;

“(D) training and development of school personnel and parents in youth drug and vio-
ience prevention, including training in early
identification, intervention, and prevention of
threatening behavior;

“(E) law enforcement and security activi-
ties, including—

“(i) acquisition and installation of
metal detectors;

“(ii) hiring and training of security
personnel, that are related to youth drug
and violence prevention;

“(iii) reporting of criminal offenses on
school property;

“(iv) development of comprehensive
school security assessments;

“(F) counseling, mentoring, and referral
services, and other student assistance practices
and programs, including assistance provided by
qualified school based mental health services
personnel and the training of teachers by
school-based mental health service providers in
appropriate identification and intervention tech-
niques for disciplining and teaching students at
risk of violent behavior;

“(G) establishing and implementing a sys-
tem for transferring suspension and expulsion
records by a local educational agency to any public or private elementary or secondary school;

“(H) allowing students attending a persistently dangerous public elementary or secondary school, as determined by the State, or who become a victim of a violent criminal offense, as defined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, to attend a safe public school, including a public charter school, or a private school if no safe public school or safe public charter school can accommodate the student, in the same State as the unsafe public elementary and or secondary school, and allowing payment of reasonable transportation costs and tuition costs for such students;

“(I) the development and implementation of character education and training programs that reflect values, that take into account the views of parents or guardians of the student for whom the program is intended, which may include honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness;
“(J) testing students for illegal drug use or conducting student locker searches for illegal drugs or drug paraphernalia;

“(K) emergency intervention services following traumatic crisis events, such as a shooting, major accident, or a drug-related incident, that has disrupted the learning environment;

“(L) establishing and maintaining a school violence hotline;

“(M) expanding and improving school-based mental health services, including early identification of drug use and violence, assessment, and direct individual or group counseling services provided to students, parents, and school personnel by qualified school based mental health services personnel;

“(N) alternative education programs or services for students who have been expelled or suspended from the regular educational settings, including programs or services to assist students to reenter the regular education setting upon return from treatment or alternative education programs; and
“(O) the evaluation of any of the activities authorized under this subsection and the collection of any data required by this part.

“(d) GOVERNORS’ ACTIVITIES.—A chief executive officer of a State shall use funds made available under section 5112(a)(3) for competitive grants or contracts with local educational agencies, community-based organizations, religious organizations, and other public entities and private organizations to support drug and violence prevention programs and activities and before and after school activities in accordance with the activities described in subsection (c).

“SEC. 5116. EVALUATION AND REPORTING.

“(a) DATA COLLECTION.—

“(1) IN GENERAL.—The National Center for Education Statistics shall collect data to determine the frequency, seriousness, and incidence of drug use by youth in schools and communities in the States using, if appropriate, data submitted by the States pursuant to subsection (b).

“(2) REPORT.—The Secretary shall submit to the Congress a report on the data collected under this subsection.

“(b) STATE REPORT.—
“(1) IN GENERAL.—Not later than October 1, 2004, and every third year thereafter, the chief executive officer of a State, in consultation with the State educational agency, shall submit to the Secretary a report on the implementation and effectiveness of State and local programs under section 5115.

“(2) SPECIAL RULE.—The report required by this subsection shall be—

“(A) based on the State’s ongoing evaluation activities, and shall include data on the prevalence of drug use and violence by youth in schools and communities; and

“(B) made available to the public upon request, with public notice of such availability provided.

“(c) LOCAL EDUCATIONAL AGENCY REPORT.—Each local educational agency receiving funds under this part shall submit to the State such information, and at such intervals as the State reasonably requires to complete the State report required by subsection (b), information on the prevalence of drug use and violence by youth in the schools and the community and the progress of the local educational agency toward meeting its performance measures.
The report shall be made available to the public upon request, with public notice of such availability provided.

“Subpart 2—National Programs

“SEC. 5121. FEDERAL ACTIVITIES.

“(a) PROGRAM AUTHORIZED.—

“(1) IN GENERAL.—From funds made available to carry out this part under section 5003(2), the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, the Chair of the Ounce of Prevention Council, and the Attorney General, shall evaluate the effectiveness of programs and activities that prevent the illegal use of drugs and violence by youth, that promote safety and discipline for students in elementary and secondary schools, and that provide before and after school supervision and enrichment, based on the needs reported by States and local educational agencies.

“(2) COORDINATION.—The Secretary shall carry out activities described in paragraph (1) directly, or through grants, contracts, or cooperative agreements with public and private nonprofit and for-profit organizations, including religious organizations, and individuals, or through agreements with
other Federal agencies, and shall coordinate such ac-
tivities with other appropriate Federal activities.

“(3) PROGRAMS.—Activities described in para-
graph (1) may include—

“(A) demonstrations and rigorous scientif-
ically based evaluations of innovative ap-
proaches to drug and violence prevention and
before and after school activities based on needs
reported by State and local educational agen-
cies;

“(B) the provision of information on drug
abuse education and prevention to the Secretary
of Health and Human Services for dissemina-
tion by the clearinghouse for alcohol and drug
abuse information established under section
501(d)(16) of the Public Health Service Act;
and

“(C) continuing technical assistance to
chief executive officers, State agencies, and
local educational agencies to build capacity to
develop and implement high-quality, effective
programs consistent with the principles of effec-
tiveness.
“(b) Peer Review.—The Secretary shall use a peer review process in reviewing applications for funds under this section.

**Subpart 3—Gun Possession**

**SEC. 5125. GUN-FREE SCHOOL REQUIREMENTS.**

“(a) Requirements.—

“(1) State Law.—Each State receiving funds under this Act shall have in effect a State law requiring each local educational agency—

“(A) to expel from school for a period of not less than one year a student who is determined to have brought a firearm to a school under the jurisdiction of a local educational agency in that State, except that such State law shall allow the chief administering officer of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis; and

“(B) to have a policy requiring each elementary and secondary school to refer to the criminal justice or juvenile delinquency system any student who brings a firearm to school.

“(2) Construction.—Nothing in this part shall be construed to prevent a State from allowing a local educational agency that has expelled a stu-
dent from such student’s regular school setting from
providing educational services to such student in an
alternative setting.
“(b) SPECIAL RULE.—The provisions of this section
shall be construed in a manner consistent with the Individ-
uals with Disabilities Education Act.
“(c) DEFINITIONS.—For the purpose of this part—
“(1) the term ‘firearm’ has the same meaning
given to such term under section 921(a)(3) of title
18, United States Code; and
“(2) the term ‘school’ does not include a home
school, regardless of whether a home school is treat-
ed as a private school under State law.
“Subpart 4—General Provisions
“SEC. 5131. DEFINITIONS.
“For the purposes of this part, the following terms
have the following meanings:
“(1) BEFORE AND AFTER SCHOOL ACTIVI-
TIES.—The term ‘before and after school activities’
means academic, recreational, and enrichment activi-
ties for school-age youth outside of the regular
school hours or school year.
“(2) CONTROLLED SUBSTANCE.—The term
‘controlled substance’ means a drug or other sub-
stance identified under Schedule I, II, III, IV, or V
in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

“(3) DRUG.—The term ‘drug’ includes controlled substances; the illegal use of alcohol and tobacco; and the harmful, abusive, or addictive use of substances, including inhalants and anabolic steroids.

“(4) DRUG AND VIOLENCE PREVENTION.—The term ‘drug and violence prevention’ means—

“(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of drugs; and

“(B) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

“(5) NONPROFIT.—The term ‘nonprofit,’ as applied to a school, agency, organization, or institution means a school, agency, organization, or institution
owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

“(6) School-aged population.—The term ‘school-aged population’ means the population aged 5 through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

“(7) School based mental health services provider.—The term ‘school based mental health services provider’ includes a State licensed or State certified school counselor, school psychologist, school social worker, or other State licensed or certified mental health professional qualified under State law to provide such services to children and adolescents.

“(8) School personnel.—The term ‘school personnel’ includes teachers, principals, administrators, guidance counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.
“(9) STATE.—The term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

“SEC. 5132. MESSAGE AND MATERIALS.

“(a) ‘WRONG AND HARMFUL’ MESSAGE.—Drug prevention programs supported under this title shall convey a clear and consistent message that the use of drugs is wrong and harmful.

“(b) CURRICULUM.—The Secretary shall not prescribe the use of specific curricula for programs supported under this part.

“SEC. 5133. PARENTAL CONSENT.

“Upon receipt of written notification from the parents or legal guardians of a student, the local educational agency shall withdraw such student from any program or activity funded under this title. The local educational agency shall make reasonable efforts to inform parents or legal guardians of the content of such programs or activities funded under this title, other than classroom instruction.

“SEC. 5134. PROHIBITED USES OF FUNDS.

“No funds under this part may be used for—

“(1) construction (except for minor remodeling needed to accomplish the purposes of this part);
“(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of, or witnesses to, use of drugs or crime; and

“(3) activities or programs that discriminate against or denigrate the religious or moral beliefs of students who participate in such activities or programs or of the parents or legal guardians of such students.

“SEC. 5135. CONTINUATION AWARDS.

“From funds made available under section 5003(2), the Secretary is authorized to continue funding multi-year grants awarded prior to fiscal year 2001 under part I of title X, as such part was in effect on the day preceding the date of the enactment of the No Child Left Behind Act of 2001, or the Middle School Coordinator Initiative (as described in title III of the Department of Education Act, 2000, (as enacted into law by section 1004(a)(4) of Public Law 106–113) and prior appropriations Acts, prior to the date of the enactment of the No Child Left Behind Act for the duration of the original grant period.

“SEC. 5136. SERVICES PROVIDED BY CHARITABLE, RELIGIOUS, OR PRIVATE ORGANIZATIONS.

“(a) IN GENERAL.—A State may administer and provide services under the programs and activities described
in this part through grants and contracts with charitable,
religious, or private organizations.

“(b) RELIGIOUS ORGANIZATIONS.—The purpose of
this section is to allow States to provide grants to or to
contract with religious organizations on the same basis as
any other nongovernmental provider without impairing the
religious character of such organizations, and without di-
minishing the religious freedom of beneficiaries of assist-
ance funded under such program.

“(c) NONDISCRIMINATION AGAINST RELIGIOUS OR-
GANIZATIONS.—In the event a State exercises its authority
under subsection (a), religious organizations are eligible,
on the same basis as any other private organization, as
grant recipients or contractors, to provide assistance
under any program described in this part if the programs
sponsored by such religious organization are implemented
in a manner consistent with Article I of the Constitution.
Except as provided in subsection (i), neither the Federal
Government, a State, nor a local educational agency re-
ceiving funds under this part may discriminate against an
organization that is or applies to be a contractor to pro-
vide assistance on the basis that the organization has a
religious character.

“(d) RELIGIOUS CHARACTER AND FREEDOM.—
“(1) Religious Organizations.—A religious organization that receives a grant or contract under this part shall retain its religious character and control over the definition, development, practice, and expression of its religious beliefs.

“(2) Additional Safeguards.—Neither the Federal Government, a State, nor local government shall require a religious organization to—

“(A) alter its form of internal governance; or

“(B) remove religious art, icons, scripture, or other symbols; in order to be eligible to receive a grant or contract under this part.

“(e) Employment Practices.—A religious organization’s exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1), regarding employment practices, shall not be affected by its participation in, or receipt of funds from, programs under this part.

“(f) Nondiscrimination Against Beneficiaries.—Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in this part on the basis of religion,
a religious belief, or refusal to actively participate in a religious practice.

“(g) Fiscal Accountability.—

“(1) In general.—Except as provided in paragraph (2), any religious organization receiving a grant or contracting to provide assistance funded under any program described in this title shall be subject to the same regulations as other recipients or contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

“(2) Limited Audit.—Such organization shall segregate government funds provided under such program into a separate account. Only the Government funds shall be subject to audit by the Government.

“(h) Limitations on Use of Funds for Certain Purposes.—No funds provided directly to institutions or organizations to provide services and administer programs under this Act part shall be expended for sectarian worship, instruction, or proselytization.

“(i) Preemption.—Nothing in this section shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.
“(j) PROTECTION FOR BENEFICIARIES.—A charitable, religious, or private organization shall not subject a participant during a program assisted under this title to sectarian worship, instruction, or proselytization.

“SEC. 5137. DISCIPLINE OF CHILDREN WITH DISABILITIES.

“(a) AUTHORITY OF SCHOOL PERSONNEL.—Each State receiving funds under this Act shall require each local educational agency to have in effect a policy under which school personnel of such agency may discipline (including expel or suspend) a child with a disability who—

“(1) carries or possesses a weapon to or at a school, on school premises, or to or at a school function, under the jurisdiction of a State or a local educational agency,

“(2) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance at a school, on school premises, or at a school function, under the jurisdiction of a State or a local educational agency, or

“(3) commits an aggravated assault or battery (as defined under State or local law) at a school, on school premises, or at a school function, under the jurisdiction of a State or local educational agency, or
in the same manner in which such personnel may discipline a child without a disability. Such personnel may modify the disciplinary action on a case-by-case basis.

“(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to prevent a child with a disability who is disciplined pursuant to the authority provided under paragraphs (1) and (3) of subsection (a), from asserting a defense that the possession or use of the illegal drugs (or the sale or solicitation of the controlled substance) or the carrying or possession of the weapon was unintentional or innocent.

“(c) FREE APPROPRIATE PUBLIC EDUCATION.—

“(1) CEASING TO PROVIDE EDUCATION.—Notwithstanding any other provision of Federal law, a child expelled or suspended under subsection (a) shall not be entitled to continue educational services, including a free appropriate public education, required under Federal law during the term of such expulsion or suspension, if the State in which the local educational agency responsible for providing educational services to such child does not require a child without a disability to receive educational services after being expelled or suspended.

“(2) PROVIDING EDUCATION.—Notwithstanding paragraph (1), the local educational agency respon-
sible for providing educational services to a child
with a disability who is expelled or suspended under
paragraph (1) may choose to continue to provide
educational services or mental health services to
such child. If the local educational agency so chooses
to continue to provide the services—

“(A) nothing in any other provision of
Federal law shall require the local educational
agency to provide such child with any particular
level of service; and

“(B) the location where the local edu-
cational agency provides the services shall be
left to the discretion of the local educational
agency.

“(3) DEFINITIONS.—For purposes of this sub-
section:

“(A) CONTROLLED SUBSTANCE.—The
term ‘controlled substance’ shall have the same
meaning as the term is defined in section 5131.

“(B) ILLEGAL DRUG.—The term ‘illegal
drug’ means a controlled substance, but does
not include such a substance that is legally pos-
sessed or used under the supervision of a li-
censed health-care professional or that is legally
possessed or used under any other authority
under the Controlled Substances Act or under any other provision of Federal law.”.

“(C) WEAPON.—The term ‘weapon’ has the meaning given the term ‘dangerous weapon’ under subsection (g)(2) of section 930 of title 18, United States Code.

“PART B—ENHANCING EDUCATION THROUGH TECHNOLOGY

“SEC. 5201. SHORT TITLE.

“This title may be cited as the ‘Enhancing Education Through Technology Act of 2001’.

“SEC. 5202. PURPOSES.

“The purposes of this part are as follows:

“(1) To provide assistance to States and localities for implementing innovative technology initiatives that lead to increased student academic achievement and that may be evaluated for effectiveness and replicated if successful.

“(2) To encourage the establishment or expansion of initiatives, including those involving public-private partnerships, designed to increase access to technology, particularly in high-need local educational agencies.

“(3) To assist States and localities in the acquisition, development, interconnection, implementation,
improvement, and maintenance of an effective educational technology infrastructure.

“(4) To promote initiatives that provide school principals, administrators, and teachers with the capacity to effectively utilize technology in ways which integrate such technology with challenging State content and student achievement standards, through such means as high quality professional development programs.

“(5) To enhance the ongoing professional development of principals, administrators, and teachers by providing constant access to updated research in teaching and learning via electronic means.

“(6) To support the development of electronic networks and other innovative methods, such as distance learning, of delivering challenging courses and curricula for students who would otherwise not have access to such courses and curricula, especially in isolated regions.

“(7) To support the rigorous evaluation of programs funded under this part, especially the impact of such initiatives on student academic performance, and ensuring timely information on the results of such evaluations are widely accessible through electronic means.
“(8) To support local efforts for the use of technology to promote parent and family involvement in education and communication among parents, teachers and students.

“SEC. 5203. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULE.

“(a) IN GENERAL.—There are authorized to be appropriated to carry out this part—

“(1) $872,000,000 for fiscal year 2002; and

“(2) such sums as may be necessary for each of fiscal years 2003 through 2006.

“(b) ALLOCATION OF FUNDS BETWEEN NATIONAL AND STATE AND LOCAL INITIATIVES.—Except as provided in subsection (c), the amount of funds made available under subsection (a) shall be allocated as follows:

“(1) Not less than 95 percent shall be made available for State and local technology initiatives under subpart 1.

“(2) Not more than 5 percent may be made available for activities of the Secretary under subpart 2.

“SEC. 5204. DEFINITIONS.

“In this part:

“(1) The term ‘distance learning’ means the transmission of educational or instructional pro-
gramming to geographically dispersed individuals and groups via telecommunications.

“(2) The term ‘eligible local entity’ means—

“(A) a high-need local educational agency;

or

“(B) an eligible local partnership.

“(3) The term ‘eligible local partnership’ means a partnership that includes at least one high-need local educational agency and at least one—

“(A) local educational agency that can demonstrate that teachers in schools served by that agency are using technology effectively in their classrooms;

“(B) institution of higher education;

“(C) for-profit business or organization that develops, designs, manufactures, or produces technology products or services, or has substantial expertise in the application of technology;

“(D) public or private non-profit organization with demonstrated experience in the application of educational technology; or

“(E) local educational agency which has the potential to become an exemplary model for wide-scale adoption by other local educational
agencies on how to effectively integrate technology and proven research-based teaching practices which result in improvement in classroom instruction in the core academic subject areas, and the preparation of students to meet challenging State content and student achievement standards.

“(4) The term ‘high-need local educational agency’ means a local educational agency that—

“(A) is among the local educational agencies in the State with the highest numbers or percentages of children from families with incomes below the poverty line, as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2));

“(B) includes one or more low-performing schools; and

“(C) has a substantial need for assistance in acquiring and using technology.
Subpart 1—State and Local Technology for Success

Grants

SEC. 5211. DETERMINATION OF AMOUNT OF STATE ALLOTMENT.

“(a) In General.—Except as otherwise provided in this subpart, each State shall be eligible to receive a grant under this subpart for a fiscal year in an allotment determined as follows:

“(1) 50 percent shall bear the same relationship to the amount made available under section 5203(b)(1) for such year as the amount such state received under part A for title I for such year bears to the amount received for such year under such part by all States.

“(2) 50 percent shall be determined on the basis of the State’s relative population of individuals age 5 through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

“(b) Reservation of Funds for Bureau of Indian Affairs and Outlying Areas.—Of the amount made available to carry out this subpart under section 5203(b)(1) for a fiscal year—

“(1) the Secretary shall reserve ½ of 1 percent for the Secretary of the Interior for programs under this subpart for schools operated or funded by the Bureau of Indian Affairs; and

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“(2) the Secretary shall reserve 1⁄2 of 1 percent to provide assistance to the outlying areas.

“(c) MINIMUM ALLOTMENT.—The amount of any State’s allotment under subsection (a) for any fiscal year may not be less than 1⁄2 of 1 percent of the amount made available under section 5203(b)(1) for such year.

“(d) REALLOTMENT OF UNUSED FUNDS.—If any State does not apply for an allotment under this subpart for a fiscal year, the Secretary shall reallocate the amount of the State’s allotment to the remaining States in accordance with this section.

“SEC. 5212. USE OF ALLOTMENT BY STATE.

“Of the amount provided to a State from its allotment under section 5211—

“(1) the State may use not more than 5 percent to carry out activities under section 5215; and

“(2) not less than 95 percent shall be distributed to local educational agencies by the State as follows:

“(A) At least 80 percent shall be used for activities described in section 5216, to be distributed through a formula developed by the State which shall target funds to high-need local educational agencies which have submitted plans to the State under section 5214.
“(B) Not more than 20 percent shall be awarded through a State-determined competitive process to eligible local entities which have submitted plans to the State under section 5214, to be used to carry out activities consistent with this subpart.

“SEC. 5213. STATE PLANS.

“(a) IN GENERAL.—To be eligible to receive a grant under this subpart, a State shall submit a new or updated statewide, long-range strategic educational technology plan to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(b) CONTENTS.—Each State plan submitted under this section shall include the following:

“(1) A description of how the State will use funds provided under this subpart to improve the academic achievement of all students and to improve the capacity of all teachers to provide instruction in the State, through the use of education technology.

“(2) A description of the State’s goals for using advanced technology to improve student achievement aligned to challenging State content and student achievement standards, including a description of how the State will take steps to ensure that all stu-
students in the State, particularly those residing in districts served by high-need local educational agencies, will have increased access to educational technology.

“(3) A description of the accountability measures the State will use for the evaluation of the extent to which education technology funded under this subpart has been successfully integrated into teaching strategies and school curriculum, has increased the ability of teachers to teach, and has enabled students to meet challenging State content and student achievement standards.

“(4) A description of how the State will encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology and distance learning, particularly for those areas of the State which are isolated and which would not otherwise have access to such courses and curricula.

“(5) An assurance that financial assistance provided under this subpart shall supplement, not supplant, State and local funds.

“(6) A description of how the State will ensure that every teacher within a school funded under this
subpart will be computer-literate and proficient (as determined by the State) by 2006.

“(7) A description of how the State will ensure that grants to eligible local applicants are of sufficient size, scope, and quality to meet the purposes of this part effectively.

“(c) DEEMED APPROVAL.—A State plan submitted to the Secretary under this section shall be deemed to be approved by the Secretary unless the Secretary makes a written determination prior to the expiration of the 90-day period which begins on the date the Secretary receives the application that the plan is in violation of the provisions of this subpart.

“(d) DISAPPROVAL.—The Secretary may issue a final disapproval of a State’s application under this subpart only after giving the State notice and an opportunity for a hearing.

“(e) DISSEMINATION OF INFORMATION ON STATE PLANS.—The Secretary shall make information on State plans under this subpart widely available to schools and the general public, including through dissemination on the Internet, in a timely and user-friendly manner.

“SEC. 5214. LOCAL PLANS.

“(a) IN GENERAL.—An applicant seeking to receive funds from a State under this subpart shall submit a new
or updated long-range local strategic educational technology plan consistent with the objectives of the statewide education technology plan described in section 5213(a) to the State at such time, in such manner, and accompanied by such information as the State may reasonably require.

“(b) CONTENTS OF LOCAL PLAN.—Each local plan described in this section shall include the following:

“(1) A description of how the applicant will use Federal funds provided under this subpart to improve the academic achievement of all students and to improve the capacity of all teachers to provide instruction through the use of education technology.

“(2) A description of the applicant’s specific goals for using advanced technology to improve student achievement aligned to challenging State content and student achievement standards, including a description of how the applicant will take steps to ensure that all students in the local educational area (particularly those in high poverty and high-need schools) have increased access to educational technology, and a description of how such technology will be used to improve the academic achievement for such students.

“(3) A description of how the applicant will promote—
“(A) the utilization of teaching strategies and curricula, based upon scientifically based research, which effectively integrate technology into instruction, leading to improvements in student academic achievement as measured by challenging State content and student achievement standards; and

“(B) sustained and intensive, high quality professional development, based upon scientifically based research, which increases teacher capacity to create improved learning environments through the integration of technology into instruction through proven strategies and improved content as described in subparagraph (A).

“(4) A description of how the applicant will integrate technology across the curriculum and a time line for such integration, including a description of how the applicant will make effective use of new and emerging technologies and teaching practices that are linked to such emerging technologies to provide challenging content and improved classroom instruction.

“(5) A description of how the applicant will coordinate education technology activities funded
under this subpart, including (but not limited to) professional development, with any such activities provided under other Federal, State, and local programs, including those authorized under title I, title II, title IV, and (where applicable) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.).

“(6) A description of the process the applicant will use for the evaluation of the extent to which funds provided under this subpart were effective in integrating technology into school curriculum, increasing the ability of teachers to teach, and enabling students to meet challenging State content and student achievement standards.

“(7) If requested by the State—

“(A) a description of how the applicant will use funds provided under this subpart in a manner which is consistent with any broad education technology priorities which may be established by the State consistent with this subpart; and

“(B) an assurance that any technology obtained with funds provided under this subpart
will have compatibility and interconnectivity
with technology obtained with funds provided
previously under title III (as in effect the day
preceding the date of enactment of the No
Child Left Behind Act of 2001).

“(8) A description of the applicant’s Internet
filtering or blocking technology and related enforce-
ment policies.

SEC. 5215. STATE ACTIVITIES.

“(a) IN GENERAL.—From funds made available
under section 5212(1), a State shall carry out activities
and assist local efforts to carry out the purposes of this
subpart, which may include the following activities:

“(1) Developing or assisting applicants in the
development and utilization of innovative strategies
to deliver rigorous academic programs through the
use of technology and distance learning, and pro-
viding other technical assistance to such applicants
throughout the State, with a priority to high-need
local educational agencies.

“(2) Establishing or supporting joint public and
private initiatives to provide interest-free or reduced
loans for the acquisition of educational technology
for high-need local educational agencies and stu-
dents attending schools within such districts.
“(3) Assisting applicants in providing sustained and intensive high-quality professional development based upon scientifically based research in the integration of advanced technologies (including emerging technologies) into curriculum and in using those technologies to create new learning environments, including training in the use of technology to—

“(A) access data and resources to develop curricula and instructional materials;

“(B) enable teachers to use the Internet to communicate with other teachers and to retrieve Internet-based learning resources; and

“(C) lead to improvements in classroom instruction in the core academic subject areas, which effectively prepare students to meet challenging State content and student achievement standards.

“(4) Assisting applicants in providing all students (including students with disabilities and students with limited English proficiency) with access to educational technology.

“(5) Establishing or expanding access to technology in neighborhoods served by high-need local educational agencies, with special emphasis for access provided through technology centers in partner-
ship with libraries and with the support of the private sector.

“(6) Developing enhanced performance measurement systems to determine the effectiveness of education technology programs funded under this subpart, especially in determining the extent to which education technology funded under this subpart has been successfully integrated into teaching strategies and school curriculum, has increased the ability of teachers to teach, and has enabled students to meet challenging State content and student achievement standards.

“(b) LIMITATION ON ADMINISTRATIVE COSTS.—Of the 5 percent of the State’s allotment under section 5211 which may be used to carry out activities under this section, not more than 2 percent may be used by the State for administrative costs.

“SEC. 5216. LOCAL ACTIVITIES.

“(a) PROFESSIONAL DEVELOPMENT.—A recipient of funds made available under section 5212(2)(A) shall use not less than 20 percent of such funds to provide sustained and intensive high-quality professional development based on scientifically based research in the integration of advanced technologies (including emerging technologies) into curriculum and in using those technologies to create new

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learning environments, including training in the use of technology to—

“(1) access data and resources to develop curricula and instructional materials;

“(2) enable teachers to use the Internet to communicate with other teachers and retrieve Internet-based learning resources; and

“(3) lead to improvements in classroom instruction in the core academic subject areas, which effectively prepare students to meet challenging State content and student achievement standards.

“(b) Waiver.—Subsection (a) does not apply to a recipient of funds under section 5212(2)(A) who demonstrates, to the satisfaction of the State, that such recipient already provides sustained and intensive high-quality professional development based on scientifically based research in the integration of technology (including emerging technologies) into the curriculum.

“(c) Other Activities.—In addition to the activities described in subsection (a), a recipient of funds made available under section 5212(2)(A) shall use such funds to carry out other activities consistent with this subpart, which may include the following:

“(1) Adapting or expanding existing and new applications of technology to enable teachers to in-
crease student academic achievement through the
use of teaching practices and advanced technologies
which are based upon scientifically based research
and are designed to prepare students to meet chal-
lenging State content and student achievement
standards, and for developing and utilizing innova-
tive strategies to deliver rigorous academic pro-
grams.

“(2) Developing, expanding, or acquiring edu-
cation technology as a means to improve the aca-
demic achievement of all students.

“(3) The establishment or expansion of initia-
tives, especially those involving public-private part-
nerships, designed to increase access to technology,
particularly for high-need local educational agencies.

“(4) Using technology to promote parent and
family involvement and support communications be-
tween parents, teachers, and students.

“(5) Acquiring filtering, blocking, or other tech-
nologies and activities which are designed to protect
students from harmful materials which may be
accessed on the Internet.

“(6) Using technology to collect, manage, and
analyze data to inform school improvement efforts.
“(7) Implementing enhanced performance measurement systems to determine the effectiveness of education technology programs funded under this subpart, especially in determining the extent to which education technology funded under this subpart has been successfully integrated into teaching strategies and school curriculum, has increased the ability of teachers to teach, and has enabled students to meet challenging State content and student achievement standards.

“(8) Preparing one or more teachers in elementary, middle, and secondary schools as technology leaders who are provided with the means to serve as experts and train other teachers in the effective use of technology.

“(9) Establishing or expanding access to technology in neighborhoods served by high-need local educational agencies, with special emphasis for access provided through technology centers in partnership with libraries and with the support of the private sector.
“Subpart 2—National Technology Initiatives

“SEC. 5221. NATIONAL TECHNOLOGY INITIATIVES.

“(a) In General.—Using funds made available under section 5203(b)(2), the Secretary may carry out the following initiatives:

“(1) The funding of programs built upon scientifically based research, which utilize technology in education, through the competitive awarding of grants or contracts, pursuant to a peer review process, to States, local educational agencies (including eligible local entities), institutions of higher education, and public and private or nonprofit or for-profit agencies.

“(2) The provision of technical assistance to States, local educational agencies, and other grantees under this subpart (directly or through the competitive award of grants or contracts) in order to assist such States, local educational agencies, and other grantees to achieve the purposes of this part subpart.

“(b) Study of Use of Technology to Improve Academic Achievement.—Using funds made available under section 5203(b)(2), the Secretary shall conduct an independent, long-term study utilizing scientifically based research methods and control groups, on the effectiveness of the uses of educational technology on improving student
academic achievement, and shall include in the study an
identification of effective uses of educational technology
that have a measurable positive impact on student achieve-
ment.

“(c) PRIORITIES.—In funding initiatives under sub-
section (a), the Secretary shall place a priority on projects
which—

“(1) develop innovative models using electronic
networks or other forms of distance learning to pro-
vide challenging courses which are otherwise not
readily available to students in a particular school
district, particularly in rural areas; and

“(2) increase access to technology to those re-
siding in districts served by high-need local edu-
cational agencies.

“SEC. 5222. REQUIREMENTS FOR RECIPIENTS OF FUNDS.

“(a) APPLICATION.—In order to receive a grant or
contract under this subpart, an entity shall submit an ap-
plication to the Secretary (at such time and in such form
as the Secretary may require), and shall include in the
application—

“(1) a description of the project proposed to be
carried out with the grant or contract and how it
would carry out the purposes of this subpart; and
“(2) a detailed plan for the independent evaluation of the project built upon scientifically based research principles to determine the impact on the academic achievement of students served under such project, as measured by challenging State content and student achievement standards.

“(b) NON-FEDERAL SHARE.—

“(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may require any recipient of a grant or contract under this subpart to share in the cost of the activities assisted under such grant or contract, which may be in the form of cash or in-kind contributions fairly valued.

“(2) INCREASE.—The Secretary may increase the non-Federal share required of a recipient of a grant or contract under this subpart after the first year such recipient receives funds under such grant or contract.

“(3) MAXIMUM.—The non-Federal share required under this subsection may not exceed 50 percent of the cost of the activities assisted under a grant or contract under this subpart.

“(4) NOTICE.—The Secretary shall publish in the Federal Register the non-Federal share required under this subsection.
“SEC. 5223. EVALUATION AND DISSEMINATION.

“(a) Evaluation Authority.—In order to identify effective uses of educational technology that have a measurable positive impact on student achievement, the Secretary shall—

“(1) develop tools and provide resources, including technical assistance, for recipients of funds under this subpart to effectively evaluate their activities; and

“(2) conduct independent evaluations of the activities assisted under this subpart.

“(b) Post-Grant Evaluation Information and Dissemination.—

“(1) In general.—The Secretary shall make information on each project funded with a grant or contract under this subpart widely available to schools and the general public, including through dissemination on the Internet, in a timely and user-friendly manner.

“(2) Specific information required.—The information made available and disseminated under paragraph (1) shall at a minimum include the following:

“(A) Upon the awarding of such a grant or contract under this subpart, the identification of the grant or contract recipient, the amount
of the grant or contract, the stated goals of the
grant or contract, the methods by which the
grant or contract will be evaluated in meeting
such stated goals, and the timeline for meeting
such goals.

“(B) Not later than one year after the
awarding of such a grant or contract, informa-
tion on the progress of the grant or contract re-
cipient in carrying out the grant or contract, in-
cluding a detailed description of the use of the
funds provided, the extent to which the stated
goals have been reached, and the results (or
progress of) the evaluation of the project, meet-
ing the requirements of scientifically based re-
search, funded under the grant or contract.

“(C) Not later than two years after the
awarding of such a grant or contract (and up-
dated thereafter as appropriate), a follow-up to
the information described in subparagraph (B).

“PART C—CHARACTER EDUCATION

“SEC. 5301. CHARACTER EDUCATION PROGRAM.

“(a) PROGRAM AUTHORIZED.—

“(1) IN GENERAL.—After consultation with ex-

erts in the field of character education, the Sec-

retary may make grants to, or enter into contracts
with, State educational agencies, local educational agencies, public or private agencies or organizations (including religious organizations), or consortia of such agencies or organizations for the design and implementation of character education programs that—

“(A) can be integrated into State content standards for the core academic subjects; and

“(B) can be carried out in conjunction with other educational reform efforts.

“(2) DURATION.—Each grant or contract under this section shall be made for a period not to exceed 5 years, of which the grant recipient may not use more than 1 year for planning and program design.

“(b) CONTRACTS UNDER PROGRAM.—

“(1) EVALUATION.—Each recipient of assistance under this section may contract with outside sources, including institutions of higher education and private and nonprofit organizations (including religious organizations), for the purposes of—

“(A) evaluating the program for which the assistance is made available;

“(B) measuring the integration of such program into the curriculum and teaching
methods of schools where the program is carried out; and

“(C) measuring the success of such program in fostering the elements of character selected by the recipient under subsection (c)(1).

“(2) MATERIALS AND PROGRAM DEVELOPMENT.—Each recipient of assistance under this section may contract with outside sources, including institutions of higher education and private and non-profit organizations (including religious organizations), for assistance in—

“(A) developing curricula, materials, teacher training, and other activities related to character education; and

“(B) integrating character education into the curriculum and teaching methods of schools where the program is carried out.

“(c) ELEMENTS OF CHARACTER.—

“(1) SELECTION.—

“(A) IN GENERAL.—Each agency, organization, or consortium receiving assistance under this section may select the elements of character that will be taught under the program for which the assistance is made available.
“(B) Consideration of Views.—In selecting elements of character under paragraph (1), the agency, organization, or consortium shall consider the views of the parents or guardians of the students to be taught under the program.

“(2) Example Elements.—Elements of character that may be selected under this subsection include each of the following:

“(A) Trustworthiness.
“(B) Respect.
“(C) Responsibility.
“(D) Fairness.
“(E) Caring.
“(F) Citizenship.

“(d) Application.—

“(1) In General.—Each agency, organization, or consortium seeking assistance under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

“(2) Required Information.—Each application for assistance under this section shall include information that—
“(A) demonstrates that the program to be assisted has clear goals and objectives that are based on scientifically based research;

“(B) describes the activities that will be carried out with the assistance and how such activities will meet the goals and objectives described in paragraph (1); and

“(C) describes how the program to be assisted will be linked to other efforts to improve educational achievement, including—

“(i) broader educational reforms that are being instituted by the applicant or its partners; and

“(ii) applicable State content standards for student achievement.

“(e) SELECTION OF RECIPIENTS.—

“(1) PEER REVIEW.—

“(A) IN GENERAL.—In selecting agencies, organizations, or consortia to receive assistance under this section from among the applicants for such assistance, the Secretary shall use a peer review process.

“(B) USE OF FUNDS.—The Secretary may use funds appropriated under this section for
the cost of carrying out peer reviews under this paragraph.

“(2) Selection criteria.—Each selection under paragraph (1) shall be made on the basis of the quality of the application submitted, taking into consideration such factors as—

“(A) the extent of parental, student, and community involvement in the program; and

“(B) the likelihood that the goals of the program will be realistically achieved.

“(3) Diversity of programs.—In making selections under this subsection, the Secretary shall ensure, to the extent practicable under paragraph (2), that the programs assisted under this section—

“(A) are equitably distributed among the geographic regions of the United States, and among urban, suburban, and rural areas; and

“(B) serve schools with a high percentage of students from economically disadvantaged families and students from racial and ethnic minority groups.

“(f) Evaluations.—

“(1) In general.—The Secretary may not make assistance available to an agency, organization, or consortium under this section unless the
agency, organization, or consortium agrees to trans-
mit to the Secretary, not later than 5 years after re-
ceipt of the assistance, a report containing an eval-
uation of each program assisted.

“(2) ATTAINMENT OF GOALS AND OBJEC-
tives.—In conducting an evaluation referred to in
paragraph (1), the agency, organization, or consor-
tium receiving the assistance under this section shall
evaluate the degree to which the program for which
the assistance was made available attained the goals
and objectives set for the program in the application
for assistance submitted under subsection (d).

“(3) DISSEMINATION.—

“(A) IN GENERAL.—The Secretary shall
disseminate each evaluation received under this
subsection by making it publicly available upon
request.

“(B) PUBLIC NOTICE.—When the Sec-
retary receives an evaluation under this sub-
section, the Secretary shall provide public notice
that it is available.

“(g) MATCHING FUNDS.—As a condition of receipt
of assistance under this section, the Secretary may require
that each recipient provide matching funds from non-Fed-
eral sources.
“SEC. 5302. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part $25,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.”

TITLE VI—IMPACT AID PROGRAM

SEC. 601. PAYMENTS UNDER SECTION 8002 WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.

(a) Foundation Payments for Pre-1995 Recipients.—Section 8002(h)(1) (20 U.S.C. 7702(h)(1)) is amended—

(1) in subparagraph (A), by striking “and was eligible to receive a payment under section 2 of the Act of September 30, 1950” and inserting “and that filed, or has been determined pursuant to statute to have filed a timely application, and met, or has been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950”; and

(2) in subparagraph (B), by striking “(or if the local educational agency was not eligible to receive a payment under such section 2 for fiscal year 1994)” and inserting “(or if the local educational agency did not meet, or has not been determined pursuant to...
statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 for fiscal year 1994”.

(b) Payments for 1995 Recipients.—Section 8002(h)(2) (20 U.S.C. 7702(h)(2)) is amended—

(1) in subparagraph (A), by adding at the end before the period “, or whose application for fiscal year 1995 was determined pursuant to statute to be timely filed for purposes of payments for subsequent fiscal years”; and

(2) in subparagraph (B)(ii), by striking “for each local educational agency that received a payment under this section for fiscal year 1995” and inserting “for each local educational agency described in subparagraph (A)”.

(c) Remaining Funds.—Section 8002(h)(4)(B) (20 U.S.C. 7702(h)(4)(B)) is amended—

(1) by striking “(in the same manner as percentage shares are determined for local educational agencies under paragraph (2)(B)(ii))” and inserting “(by dividing the maximum amount that the agency is eligible to receive under subsection (b) by the total of the maximum amounts for all such agencies)”;

and
(2) by striking “, except that for the purpose of calculating a local educational agency’s assessed value of the Federal property” and inserting “, except that, for purposes of calculating a local educational agency’s maximum amount under subsection (b)”. 

(d) APPLICATION FOR PAYMENT.—Notwithstanding any other provision of law, the Secretary shall treat as timely filed an application under section 8002 (20 U.S.C. 7702) from Academy School District 20, Colorado, for a payment for fiscal year 1999, and shall process that application from funds appropriated for that section for fiscal year 2001.

SEC. 602. CALCULATION OF PAYMENT UNDER SECTION 8003 FOR SMALL LOCAL EDUCATIONAL AGENCIES.

Section 8003(b)(3)(B)(iv) (20 U.S.C. 7703(b)(3)(B)(iv)) is amended by inserting after “of the State in which the agency is located” the following: “or less than the average per pupil expenditure of all the States”.

SEC. 603. CONSTRUCTION.

(a) SCHOOL FACILITY MODERNIZATION GRANTS.—

(1) ELIGIBILITY REQUIREMENTS.—Section 8007(b)(2) (20 U.S.C. 7707(b)(2)) is amended—
(A) in subparagraph (A), by striking “has no capacity to issue bonds or is at such agency’s limit in bonded indebtedness” and inserting “has no practical capacity to issue bonds, or has minimal capacity to issue bonds and is at such agency’s limit in bonded indebtedness”; and

(B) by adding at the end the following:

“For purposes of subparagraph (A), a local educational agency has no practical capacity to issue bonds if the total assessed valuation of property available to the agency for taxation purposes is less than $25,000,000 and has minimal capacity to issue bonds if the total assessed valuation of property available to the agency for taxation purposes is not less than $25,000,000 but not more than $50,000,000.”.

(2) CONFORMING AMENDMENTS.—(A) Section 8007(b)(2) (20 U.S.C. 7707(b)(2)), as amended by paragraph (1)), is further amended—

(i) in the matter preceding subparagraph (A), by striking “A local educational agency” and inserting “(A) A local educational agency”; and

(ii) by redesignating the second subparagraph (A) as clause (i);
(iii) by redesignating subparagraph (B) as clause (ii) (and redesignating clauses (i) and (ii) contained therein as subclauses (I) and (II), respectively);

(iv) by striking “For purposes” and inserting “(B) For purposes”; and

(v) in subparagraph (B) (as redesignated by clause (iv))—

(I) by striking “For purposes of subparagraph (A)” and inserting “For purposes of subparagraph (A)(i)”;

(II) by striking “has no practical capacity” and inserting “(i) has no practical capacity”; and

(III) by striking “has minimal capacity” and inserting “(ii) has minimal capacity”.

(B) Section 8007(b)(4)(C) of such Act (20 U.S.C. 7707(b)(4)(C)) is amended by striking “has the authority” and inserting “has minimal capacity”.

(C) Section 8007(b)(6) of such Act (20 U.S.C. 7707(b)(6)) is amended in subparagraphs (A), (B), (C)(i), and (D) by striking “paragraph (2)(B)(ii)”
each place it appears and inserting “paragraph (2)(A)(ii)(II)”.

(b) Authorization of Appropriations.—Section 8014(e) (20 U.S.C. 7714(e)) is amended by striking “for each of the three succeeding fiscal years” and inserting “for fiscal year 2001, $62,000,000 for fiscal year 2002, and such sums as may be necessary for each of the four succeeding fiscal years”.

SEC. 604. STATE CONSIDERATION OF PAYMENTS IN PROVIDING STATE AID.

Section 8009(b)(1) (20 U.S.C. 7709(b)(1)) is amended by inserting after “section 8003(a)(2)(B)” the following: “and, with respect to a local educational agency that receives a payment under section 8003(b)(2), the amount in excess of the amount that the agency would receive if the agency were deemed to be an agency eligible to receive a payment under section 8003(b)(1) and not section 8003(b)(2)”.

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

Section 8014 (20 U.S.C. 7714) is amended by striking “three succeeding fiscal years” each place it appears and inserting “six succeeding fiscal years”.

SEC. 606. REDESIGNATION OF PROGRAM.

(a) Redesignation.—(1) Title VIII (20 U.S.C. 7701 et seq.) is redesignated as title VI.
(2) Sections 8001 through 8005 (20 U.S.C. 7701–7705) are redesignated as sections 6001 through 6005, respectively.

(3) Sections 8007 through 8014 (20 U.S.C. 7707–7714) are redesignated as sections 6006 through 6013, respectively.

(b) Conforming Amendments.—(1) Title VI (as redesignated by subsection (a)) is amended by striking “8002”, “8003”, “8004”, “8005”, “8008”, “8009”, “8011”, “8013”, and “8014” each place such terms appear and inserting “6002”, “6003”, “6004”, “6005”, “6007”, “6008”, “6010”, “6012”, and “6013”, respectively.

(2) Section 6005 (as redesignated by subsection (a)) is amended in the heading by striking “8002 AND 8003” and inserting “6002 AND 6003”.

(3) Section 6009(c)(1) (as redesignated by subsection (a)) is amended in the heading by striking “8003” and inserting “6003”.

(c) Savings Provision.—Funds appropriated for title VIII of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of the enactment of this Act) shall be available for use under title VI of such Act, as added by this section.
TITLE VII—ACCOUNTABILITY

SEC. 701. FLEXIBILITY AND ACCOUNTABILITY.

Title VII is amended to read as follows:

“TITLE VII—FLEXIBILITY AND ACCOUNTABILITY

“PART A—STATE ACCOUNTABILITY FOR IMPROVING ACADEMIC ACHIEVEMENT

“SEC. 7101. STATE FINANCIAL AWARDS.

“(a) IN GENERAL.—Beginning in the 2002–2003 school year, the Secretary shall make in accordance with this section financial awards, to be known as ‘Achievement in Education Awards’, to States that have made significant progress in improving educational achievement.

“(b) CRITERIA OF PROGRESS.—For the purposes of subsection (a), the Secretary shall judge progress using each of the following criteria, giving the greatest weight to the criterion described in paragraph (1):

“(1) The progress of the State’s students from economically disadvantaged families and students from racial and ethnic minority groups—

“(A) on the assessments administered by the State under section 1111; and

“(B) beginning in the 2003–2004 school year, on assessments of 4th and 8th grade reading and mathematics under—
“(i) the State assessments carried out as part of the National Assessment of Educational Progress under section 411 of the National Education Statistics Act of 1994 (20 U.S.C. 9010); or

“(ii) an assessment selected by the State that—

“(I) is administered annually;

“(II) yields high quality data that are valid and reliable;

“(III) meets widely recognized professional and technical standards;

“(IV) is developed by an entity independent from each State and local government agency in the State;

“(V) is not identical to the assessment used to meet the State assessment requirements under section 1111;

“(VI) provides results in such a form that they may be expressed in terms of achievement levels that are consistent with the achievement levels (basic, proficient, and advanced) set forth in section 1111;
“(VII) provides results in such a form that they may be disaggregated, at a minimum, according to income level and major racial and ethnic group; and

“(VIII) is administered to all students or to a representative sample of students in the 4th and 8th grades statewide, with a sample size that is sufficiently large to produce statistically significant estimates of statewide student achievement.

“(2) The overall improvement in the achievement of all of the State’s students, as measured by—

“(A) the assessments administered by the State under section 1111; and

“(B) beginning in the 2003–2004 school year, the assessments described in paragraph (1)(B).

“(3) The progress of the State in improving the English proficiency of students who enter school with limited English proficiency.
“(c) OTHER CONSIDERATIONS.—In judging a State’s progress under subsection (a), the Secretary may also consider—

“(1) the progress of the State in increasing the percentage of students who graduate from secondary schools; and

“(2) the progress of the State in increasing the percentage of students who take advanced coursework (such as Advanced Placement or International Baccalaureate courses) and who pass the exams associated with such coursework.

“(d) AMOUNT.—The Secretary shall determine the amount of an award under subsection (a) based on—

“(1) the school-age population of the State;

“(2) the degree of progress shown by a State with respect to the criteria set forth in subsections (b) and (c); and

“(3) whether the State has entered into a performance agreement with the Secretary under part B.

“(e) USE OF FUNDS.—

“(1) IN GENERAL.—A State receiving a financial award under this section shall use the proceeds of such award only to make financial awards to public elementary and secondary schools in the State.
that have made the most significant progress with
respect to the criteria described in subsection (b).

“(2) USE BY SCHOOLS.—In consultation with
the school’s teachers, the principal of each elemen-
tary or secondary school that receives a financial
award from a State under this section may use the
proceeds of such award for any educational purpose
permitted under State law.

“(3) RESPONSIBLE STATE AGENCY.—The State
educational agency for each State shall be the agen-
cy responsible for making awards under this sub-
section.

“(f) PEER REVIEW.—In selecting States for awards
under subsection (a), the Secretary shall use a peer-review
process.

“(g) COSTS OF INDEPENDENT ASSESSMENTS.—

“(1) IN GENERAL.—Subject to paragraph (2),
the Secretary shall make grants to States to offset
the costs of administering assessments administered
by the States to meet the requirements of
(b)(1)(B)(ii).

“(2) LIMITATIONS.—Grants made by the Sec-
retary in any year to a State under paragraph (1)—

“(A) may be awarded only to offset the
costs of a single administration of an assess-
ment described in such paragraph in the State for that year; and

“(B) may not exceed the costs of administering in the State for that year the State assessments that would be carried out under the National Assessment of Educational Progress described in subsection (b)(1)(B).

“(3) ALLOCATION.—The Secretary may determine the appropriate methodology of allocating grants to States under this subsection.

“SEC. 7102. STATE SANCTIONS.

“(a) Failure to Make Progress.—

“(1) Loss of Administrative Funds.—The Secretary shall reduce, by 30 percent, the amount of funding that a State may reserve for State administration under the State formula grant programs authorized by this Act if the Secretary determines that, for 2 consecutive years—

“(A) the State’s students from economically disadvantaged families and students from racial and ethnic minority groups failed to make adequate yearly progress on the assessments administered by the State under section 1111; and
“(B) the State’s students from economically disadvantaged families and students from racial and ethnic minority groups failed to make measurable progress in reading and mathematics, as measured by the 4th and 8th grade assessments described in subsection (b)(1)(B).

“(2) FURTHER REDUCTIONS.—In each of the first 2 years after the years described in paragraph (1), the Secretary may increase the reduction described in such paragraph by any amount up to a total of an additional 45 percent.

“(b) OTHER FAILURES.—In addition to any action taken under subsection (a)(1) or (a)(2), the Secretary shall reduce, by 10 percent, the amount of funding that a State may reserve for State administration under the State formula grant programs authorized by this Act if the Secretary determines that, for 2 consecutive years, the State failed to make adequate yearly progress—

“(1) with respect to the achievement of children with limited English proficiency under section 1111(b)(2)(C)(iii)(II)(dd); or

“(2) with respect to the acquisition of English language proficiency by children with limited
English proficiency under section 1111(b)(2)(C)(iii)(III).

“(c) USE OF FUNDS FOR IMPROVEMENT.—

“(1) IN GENERAL.—The Secretary shall require that any funds reduced under this section be allo-
cated by the State to local educational agencies in the State for school improvement purposes described in section 1116.

“(2) TREATMENT OF FUNDS.—Funds described in paragraph (1) shall not count toward the amounts that are required to be reserved by a State for school improvement under section 1003.

“SEC. 7103. DEVELOPMENT OF STATE STANDARDS AND ASSESSMENTS.

“(a) IN GENERAL.—The Secretary shall make finan-
cial awards to States to enable the States—

“(1) to pay the costs of the development of the additional State assessments and standards required by section 1111(b); and

“(2) if a State has developed the assessments and standards referred to in paragraph (1), to ad-
minister such assessments or to carry out other ac-
tivities described in this title and other activities re-
lated to ensuring accountability for results in the State’s schools and local educational agencies, such
as developing content and achievement standards and aligned assessments in other subjects not re-
quired by section 1111.

“(b) BONUSES.—The Secretary shall make a one-
time bonus payment to each State that completes the de-
velopment of the assessments described in subsection (a)
ahead of the deadline set forth in section 1111.

“SEC. 7104. AUTHORIZATION OF APPROPRIATIONS.

“(a) AWARDS AND BONUS PAYMENTS.—For the pur-
poses of making awards under section 7101 and bonus
payments under section 7103(b), there are authorized to
be appropriated $40,000,000 for fiscal year 2002 and
such sums as may be necessary for each of fiscal years
2003 through 2006.

“(b) GRANTS FOR INDEPENDENT ASSESSMENTS; AD-
MINISTRATION OF STATE ASSESSMENTS UNDER
NAEP.—For the purposes of making grants to offset the
costs of independent assessments under section 7101(g)
and for the purposes of administering the State assess-
ments carried out under the National Assessment of Edu-
cational Progress referred to in section 7101(b)(1)(B)(i),
there are authorized to be appropriated to the Secretary
$69,000,000 for fiscal year 2002 and such sums as may
be necessary for each of fiscal years 2003 through 2006.
“(c) Development and Administration of State Standards and Assessments.—For the purposes of carrying out subsection 7103(a), there are authorized to be appropriated $320,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2005.

“PART B—PERFORMANCE AGREEMENTS

“SEC. 7201. SHORT TITLE.

This part may be cited as the “Academic Achievement for All Act” or “Straight A’s Act”.

“SEC. 7202. PURPOSE.

“The purpose of this part is to create options for States and communities—

“(1) to improve the academic achievement of all students, and to focus the resources of the Federal Government upon such achievement;

“(2) to improve teacher quality and subject matter mastery, especially in mathematics, reading, and science;

“(3) to empower parents and schools to effectively address the needs of their children and students;

“(4) to give States and communities maximum freedom in determining how to boost academic achievement and implement education reforms;
“(5) to eliminate Federal barriers to implementing effective State and local education programs;

“(6) to hold States and communities accountable for boosting the academic achievement of all students, especially disadvantaged children; and

“(7) to narrow achievement gaps between the lowest and highest performing groups of students so that no child is left behind.

“SEC. 7203. PERFORMANCE AGREEMENT.

“(a) AUTHORITY.—In accordance with this part, the Secretary shall enter into performance agreements with States under which, except as otherwise provided in this part, States may consolidate and use funds under 7204.

“(b) REQUIRED TERMS OF PERFORMANCE AGREEMENT.—Each performance agreement entered into by the Secretary under this part shall have each of the following terms:

“(1) TERM.— The performance agreement shall be for a term of 5 years.

“(2) APPLICATION OF PROGRAM REQUIREMENTS.—The performance agreement shall provide that no requirements of any program described in section 7204(b) and included by the State in the
scope of the agreement shall apply to the State, ex-
cept as otherwise provided in this part.

“(3) List of Programs.—The performance agreement shall list which of the programs described in section 7204(b) are included in the scope of the performance agreement.

“(4) Use of Funds to Improve Student Achievement.—The performance agreement shall contain a 5-year plan describing how the State intends to combine and use the funds from programs included in the scope of the performance agreement to advance the education priorities of the State, improve student achievement, and narrow achievement gaps.

“(5) Accountability System Requirements.—If title I is included in the scope of the performance agreement the agreement shall include a certification that the State—

“(A) has developed and implemented the challenging State content standards, challenging State student achievement standards, and aligned assessments described in section 1111(b);
“(B) has developed and implemented a system to produce annual state report cards in accordance with section 1111(c)(1);

“(C) agrees to participate in the National Assessment of Educational Progress (carried out under section 411 of the National Education Statistics Act of 1994 (20 U.S.C. 9010)) or some other assessment in accordance with section 1111(c)(2); and

“(C) has developed and implemented a statewide system for turning around low-performing schools and holding its local educational agencies and schools accountable for improving student achievement in accordance with section 1116.

“(6) Achievement goals.—

“(A) Student Academic Achievement.—

“(i) Part A of title I included.—

If part A of title I is included in the scope of the performance agreement, the agreement shall require that the State establish annual student achievement goals for the term of the agreement—
“(I) that are designed to meet the adequate yearly progress requirements set forth in subparagraphs (B) and (C) of section 1111(b)(2); and

“(II) include goals for improving the achievement of all groups of students that are sufficient to ensure that student achievement gains exceed that which is required to meet the requirements of the State’s definition of adequate yearly progress under section 1111(b)(2)(B).

“(ii) PART A OF TITLE I NOT INCLUDED.—If part A of title I is not included in the scope of a performance agreement, the agreement shall require the State to establish academic achievement goals for such other programs.

“(B) CONSISTENCY OF ACHIEVEMENT MEASURES.—The performance agreement shall require that the State maintain, at a minimum, the same level of challenging State student achievement standards and assessments throughout the term of the performance agreement.
“(c) Optional Terms.—At the option of the State, the performance agreement entered into under this part may require the State to establish and meet goals for any additional indicators of achievement such as graduation, dropout, or attendance rates.

“(d) Approval of Performance Agreement.—

“(1) In general.—Not later than 60 days after the receipt of a proposed performance agreement submitted by a State, the Secretary shall approve the agreement or provide the State with a written determination that the performance agreement fails to satisfy the requirements of this part.

“(2) Treatment as approved.—Each performance agreement for which the Secretary fails to take the action required in paragraph (1) in the time period described in such paragraph shall be considered to be approved.

“(3) Requirement to execute approved agreements.—In accordance with this part, the Secretary shall enter into each approved performance agreement approved under this subsection.

“(e) Limitations.—The Secretary may not enter into a performance agreement with a State under this section unless each of the following conditions has been met:
“(1) Local Input.—The State has provided parents, teachers, schools, and school districts in the State with notice and an opportunity to comment on the proposed terms of the performance agreement in accordance with State law.

“(2) Fiscal Responsibilities.—The State agrees to use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds consolidated and used under the performance agreement.

“(3) Civil Rights.—The performance agreement contains an assurance that the State will meet the requirements of applicable Federal civil rights laws in carrying out the agreement and in consolidating and using the funds under the agreement.

“(4) Private School Participation.—The State agrees that in consolidating and using funds under the performance agreement—

“(A) the State will provide for the equitable participation of students and professional staff in private schools; and

“(B) that sections 8504, 8505, and 8506 shall apply to all services and assistance provided with such funds in the same manner as
such sections apply to services and assistance
provided in accordance with section 8503.

“(5) **STATE FINANCIAL PARTICIPATION.**—The State agrees that it will not reduce the level of spending of State funds for elementary and secondary education during the term of the performance agreement.

“(6) **ANNUAL REPORTS.**—The State agrees that not later than 1 year after the date on which the Secretary and the State entered into the performance agreement, and annually thereafter during the term of the agreement, the State shall disseminate widely to parents and the general public, transmit to the Secretary, distribute to print and broadcast media, and post on the Internet, a report that includes—

“(A) student achievement data as described in section 1111(b)(2); and

“(B) a detailed description of how the State used the funds consolidated under the agreement to improve student academic achievement and reduce achievement gaps.

“(f) **AMENDMENT TO PERFORMANCE AGREEMENT.**—

“(1) **IN GENERAL.**—In each of the following circumstances, the Secretary shall agree to amend a
performance agreement entered into with a State under this part:

“(A) Reduction in scope of performance agreement.—Not later than 1 year after entering into the performance agreement, a State seeks to amend the agreement to remove from the scope any program described in section 7204(b).

“(B) Expansion of scope of performance agreement.—Not later than 1 year after entering into the performance agreement, a State seeks to amend the agreement to include in its scope any additional program described in section 7204(b) or any additional achievement indicators for which the State will be held accountable.

“(2) Approval of amendment.—

“(1) In general.—Not later than 60 days after the receipt of a proposed performance agreement amendment submitted by a State, the Secretary shall approve the amendment or provide the State with a written determination that the amendment fails to satisfy the requirements of this part.
“(B) TREATMENT AS APPROVED.—Each amendment for which the Secretary fails to take the action required in subparagraph (A) in the time period described in such subparagraph shall be considered to be approved.

“(3) TREATMENT OF PROGRAM FUNDS WITHDRAWN FROM AGREEMENT.—Beginning on the effective date of an amendment executed under paragraph (1)(A), each program requirement of each program removed from the scope of a performance agreement shall apply to the State’s use of funds made available under the program.

“SEC. 7204. CONSOLIDATION AND USE OF FUNDS.

“(a) IN GENERAL.—

“(1) AUTHORITY.—Under a performance agreement entered into under this part, a State may consolidate, subject to subsection (c), Federal funds made available to the State under the provisions listed in subsection (b) and use such funds for any elementary and secondary educational purpose permitted under the law of the State.

“(2) PROGRAM REQUIREMENTS.—Except as otherwise provided in this part, a State may use funds under paragraph (1) notwithstanding the pro-
gram requirements of the program under which the funds were made available to the State.

“(b) ELIGIBLE PROGRAMS.—Funds made available under programs under each of the following provisions of this Act may be consolidated and used under subsection (a):

“(1) Parts A, B, C, or D of title I.
“(2) Title II.
“(3) Part A of title III.
“(4) Part A of title IV.
“(5) Parts A or B of title V.

“SEC. 7205. WITHIN-STATE DISTRIBUTION OF FUNDS.

“(a) AUTHORITY.—

“(1) IN GENERAL.—The distribution of funds consolidated under a performance agreement entered into under this part by a State to local educational agencies in the State shall be determined by the Governor of the State and the State legislature.

“(2) DISTRIBUTION BY ALTERNATIVE AUTHORITY.—In each State in which the State constitution or State law designates an individual, entity, or agency other than the Governor or State Legislature as the party responsible for public elementary and secondary education policy, the distribution of funds under subsection (a) shall be determined by such in-
individual, entity, or agency, in consultation with the Governor and State Legislature.

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to supersede or modify any provision of a State constitution or State law.

“(b) LOCAL INPUT.—In accordance with State law, each State shall provide parents, teachers, and local schools and school districts notice and opportunity to comment on the proposed distribution of funds under this section.

“(c) AMOUNT OF PART A TITLE I FUNDS.—

“(1) IN GENERAL.—The Secretary may not enter into a performance agreement with a State under this part if the agreement includes in its scope part A of title I and the agreement does not provide an assurance that each local educational agency will receive under the performance agreement, subject to Federal appropriations, an amount equal to or greater than the amount such agency received under part A of title I in the fiscal year preceding the fiscal year in which the performance agreement is entered into.

“(2) PROPORTIONATE REDUCTION.—If the amount made available to the State from the Sec-
retary for a fiscal year is insufficient to pay to each
local educational agency the amount made available
under part A of title I to such agency for the pre-
ceeding fiscal year, the State shall reduce the amount
each local educational agency receives by a uniform
percentage.

SEC. 7206. LOCAL PARTICIPATION.

(a) In General.—If a State chooses not to enter
into a performance agreement with the Secretary under
this part, any local educational agency in such State may
enter in accordance with this section into a performance
agreement with the Secretary in accordance with this sec-
tion.

(b) Terms of Agreement.—

(1) In general.—Except as otherwise pro-
vided in this section, each requirement and limita-
tion under this part that is applicable to a State
with respect to a performance agreement under this
part shall be applicable to a local educational agency
with respect to a performance agreement under this
section, as appropriate.

(2) Exceptions.—Each of the following pro-
visions shall not apply to a local educational agency
with respect to a performance agreement under this
section:
“(A) The provisions relating to distribution of funds under section 7205.

“(B) The provisions limiting State use of funds for administrative purposes under subsections (a) and (b) of section 7207.

“(b) No State Objection.—The Secretary may not enter into a performance agreement with a local educational agency under this section unless the agency provides the Secretary with written documentation that the State in which such agency is located has no objection to the agency’s proposed performance agreement.

“SEC. 7207. LIMITATIONS ON ADMINISTRATIVE EXPENDITURES.

“(a) States Consolidating Funds Under Part A of Title I.—Each State that includes part A of title I in the scope of a performance agreement entered into under this part may use for administrative purposes not more than 1 percent of the total amount of funds allocated to the State under the programs included in the scope of the performance agreement.

“(b) States Not Consolidating Funds Under Part A of Title I.—Each State that does not include part A of title I in the scope of a performance agreement entered into under this part may use for administrative purposes not more than 3 percent of the total amount of

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funds allocated to the State under the programs included
in the scope of the performance agreement.

“(c) LOCAL EDUCATIONAL AGENCY.—A local edu-
cational agency that has entered into a performance agree-
ment with the Secretary under section 7206 may use for
administrative purposes not more than 4 percent of the
total amount of funds allocated to the agency under the
programs included in the scope of the performance agree-
ment.

“SEC. 7208. PERFORMANCE REVIEW AND PENALTIES.

“(a) MIDTERM REVIEW.—The Secretary may not
enter into a performance agreement under this part unless
the agreement includes a provision permitting the Sec-
retary, after notice and an opportunity for a hearing, to
terminate the agreement if, during the term of the agree-
ment, student achievement declines for 3 consecutive years
in the academic achievement categories established under
the agreement.

“(b) FINAL REVIEW.—If, at the end of the 5-year
term of a performance agreement entered into under this part, a State has not substantially met the achievement
goals submitted in the performance agreement, the Sec-
retary may not renew the agreement under section 7209
and beginning on the date on which such term ends the
State shall be required to comply with each of the program
requirements in effect on such date for each program included in the performance agreement.

“(c) SANCTIONS.—The Secretary may not enter into a performance agreement under this part unless the agreement provides that if the State fails to meet the terms of its annual academic achievement goals under the agreement it shall be subject to the sanctions set forth in section 7102, and that under each of paragraphs (1) and (2) of that section the Secretary may reduce the funds that a State may reserve for State administrative costs for each program included in the performance agreement by an additional 10 percent.

“SEC. 7209. RENEWAL OF PERFORMANCE AGREEMENT.

“(a) I N GENERAL.—Except as provided in section 7208(b) and in accordance with this section, the Secretary shall renew for 1 additional 5-year term a performance agreement entered into under this part if the State that is party to the agreement has met or has substantially met, by the end of the original term of the agreement, the achievement goals contained in the agreement.

“(b) NOTIFICATION.—The Secretary may not renew a performance agreement under this part unless, not less than 6 months before the end of the original term of the agreement, the State seeking the renewal notifies the Secretary of its intention to renew.
“(c) EFFECTIVE DATE.—A renewal under this section shall be effective at the end of the original term of the agreement or on the date on which the State provides to the Secretary all data required under the agreement, whichever is later.

“SEC. 7210. STRAIGHT A’S ACHIEVEMENT REPORT.

“Not later than 60 days after the Secretary receives an annual State report described in section 7203(c)(6), the Secretary shall make the report available to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate.

“SEC. 7211. APPLICABILITY OF TITLE VIII.

“To the extent that provisions of title VIII are inconsistent with this part, this part shall be construed as superseding such provisions.

“SEC. 7212. APPLICABILITY OF GENERAL EDUCATION PROVISIONS ACT.

“To the extent that the provisions of the General Education Provisions Act (20 U.S.C. 1221 et seq.) are inconsistent with this part, this part shall be construed as superseding such provisions, except where relating to civil rights, withholding of funds and enforcement authority, and family educational and privacy rights.
“SEC. 7213. ALL STUDENTS DEFINED.

“In this part, the term ‘all students’ means all students attending public schools or charter schools that are participating in the State’s accountability and assessment system.

“PART C—TRANSFERABILITY OF FUNDS

“SEC. 7301. SHORT TITLE.

“This part may be cited as the ‘State and Local Transferability Act’.

“SEC. 7302. PURPOSE.

“The purpose of this part is to allow States and local educational agencies the flexibility—

“(1) to target Federal funds to Federal programs that most effectively address the unique needs of States and localities; and

“(2) to transfer Federal funds allocated to other activities to allocations for activities authorized under title I programs.

“SEC. 7303. TRANSFERABILITY OF FUNDS.

“(a) TRANSFERS BY STATES.—

“(1) IN GENERAL.—In accordance with this part, a State may transfer up to 100 percent of the nonadministrative State funds allocated to the State for use for State-level activities under each of the following provisions to 1 or more of the State’s allocations under any other of such provisions:
“(A) Title II.
“(B) Part A of title III.
“(C) Part A of title IV.
“(D) Part A or B of title V.

“(2) SUPPLEMENTAL FUNDS FOR TITLE I.—In accordance with this part, a State may transfer any funds allocated to the State under a provision listed in paragraph (1) to its allocation under title I.

“(b) TRANSFERS BY LOCAL EDUCATIONAL AGENCIES.—

“(1) AUTHORITY TO TRANSFER FUNDS.—

“(A) IN GENERAL.—In accordance with this part, a local educational agency may transfer funds allocated to it under each of the provisions listed in paragraph (2) to 1 or more of its allocations under any other such provision.

“(B) SUPPLEMENTAL FUNDS FOR TITLE I.—In accordance with this part, a local educational agency may transfer funds allocated to such agency under a provision listed in paragraph (2) to its allocation under title I.

“(C) STATE APPROVAL.—

“(i) IN GENERAL.—In any fiscal year, a local educational agency may not transfer under this paragraph any amount of
funds for use under a provision listed in paragraph (2) if the total of all funds transferred for such use exceeds 35 percent of the funds allocated to the agency under that provision for the fiscal year, unless the State in which the local educational agency is located has approved each such transfer.

“(ii) REQUESTS TO BE IN WRITING.—Each request by a local educational agency for State approval under this subparagraph shall be made in writing to the State.

“(iii) DECISION WITHIN 60 DAYS.—Each request by a local educational agency for State approval under this subparagraph shall be deemed approved by the State, unless not later than 60 days after receipt of the request the State disapproves the request or notifies the agency in writing of steps that the agency needs to take before the State will approve the transfer.

“(vi) APPROVAL CRITERIA.—In reviewing a request by a local educational agency for State approval under this sub-
paragraph, a State shall consider the degree to which the transfer that is the subject of the request—

“(I) enables the local educational agency to direct resources to a Federal program that more effectively addresses the needs of the agency’s students, particularly the most disadvantaged students; and

“(II) allows the local educational agency to target or focus resources to address specific areas of need or areas of priority and without the transfer such targeting or focusing is prevented, or significantly impeded, by the Federal program requirements.

“(2) APPLICABLE PROVISIONS.—A local educational agency may transfer funds under this subsection from allocations made under each of the following provisions:

“(A) Title II.

“(B) Part A of title IV.

“(C) Part A or B of title V.

“(c) NO TRANSFER OF TITLE I FUNDS.—A State or a local educational agency may not transfer under this
part to any other program any funds allocated to it under title I.

“(d) MODIFICATION OF PLANS AND APPLICATIONS;

NOTIFICATION.—

“(1) STATE TRANSFERS.—Each State that makes a transfer of funds under this section shall—

“(A) modify to account for such transfer each State plan, or application submitted by the State, to which such funds relate;

“(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and

“(C) not later than 30 days before the effective date of such transfer, notify the Secretary of such transfer.

“(2) LOCAL TRANSFERS.—Each local educational agency that makes a transfer under this section shall—

“(A) modify to account for such transfer each local plan, or application submitted by the agency, to which such funds relate;

“(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the State; and
“(C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.

“(f) APPLICABLE RULES.—Except as otherwise provided in this part, funds transferred under this section are subject to each of the rules and requirements applicable to the funds allocated by the Secretary under the provision to which the transferred funds are transferred.”.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. GENERAL PROVISIONS.

The Elementary and Secondary Education Act, as amended by this Act, is further amended by adding at the end of title VII the following:

“TITLE VIII—GENERAL PROVISIONS

PART A—DEFINITIONS

SEC. 8101. DEFINITIONS.

“Except as otherwise provided, for the purposes of this Act, the following terms have the following meanings:

“(1) Average daily attendance—

“(A) Except as provided otherwise by State law or this paragraph, the term ‘average daily attendance’ means—
“(i) the aggregate number of days of attendance of all students during a school year; divided by

“(ii) the number of days school is in session during such school year.

“(B) The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership or such other data.

“(C) If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for purposes of this Act—

“(i) consider the child to be in attendance at a school of the agency making such payment; and

“(ii) not consider the child to be in attendance at a school of the agency receiving such payment.
“(D) If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with disabilities, as defined in section paragraph (5), the Secretary shall, for the purposes of this Act, consider such child to be in attendance at a school of the agency making such payment.

“(2) AVERAGE PER-PUPIL EXPENDITURE.—The term ‘average per-pupil expenditure’ means, in the case of a State or of the United States—

“(A) without regard to the source of funds—

“(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus
“(ii) any direct current expenditures by the State for the operation of such agencies; divided by
“(B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.
“(3) BEGINNING TEACHER.—The term ‘beginning teacher’ means an educator in a public school who has been teaching less than a total of 3 complete school years.
“(4) CHILD.—The term ‘child’ means any person within the age limits for which the State provides free public education.
“(5) CHILD WITH DISABILITY.—The term ‘child with a disability’ means a child—
“(A) with mental retardation, hearing impairments, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as ‘emotional disturbance’), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and
“(B) who, by reason thereof, needs special education and related services.

“(6) COMMUNITY-BASED ORGANIZATION.—The term ‘community-based organization’ means a public or private nonprofit organization of demonstrated effectiveness that—

“(A) is representative of a community or significant segments of a community; and

“(B) provides educational or related services to individuals in the community.

“(7) CONSOLIDATED LOCAL APPLICATION.—The term ‘consolidated local application’ means an application submitted by a local educational agency pursuant to section 14305.

“(8) CONSOLIDATED LOCAL PLAN.—The term ‘consolidated local plan’ means a plan submitted by a local educational agency pursuant to section 14305.

“(9) CONSOLIDATED STATE APPLICATION.—The term ‘consolidated State application’ means an application submitted by a State educational agency pursuant to section 14302.

“(10) CONSOLIDATED STATE PLAN.—The term ‘consolidated State plan’ means a plan submitted by
a State educational agency pursuant to section 14302.

“(11) COUNTY.—The term ‘county’ means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

“(12) COVERED PROGRAM.—The term ‘covered program’ means each of the programs authorized by—

“(A) part A of title I;
“(B) part B of title I;
“(C) part C of title I;
“(D) part D of title I;
“(E) part F of title I;
“(F) part G of title I;
“(G) part A of title II;
“(H) part A of title III;
“(I) part A of title V;
“(J) part B of title V; and
“(K) part A of title IV:

“(13) CURRENT EXPENDITURES.—The term ‘current expenditures’ means expenditures for free public education—

“(A) including expenditures for administration, instruction, attendance, pupil transpor-
tation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but 

“(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I and title VI.

“(14) DEPARTMENT.—The term ‘Department’ means the Department of Education.

“(15) EDUCATIONAL SERVICE AGENCY.—The term ‘educational service agency’ means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

“(16) EFFECTIVE SCHOOLS PROGRAM.—The term ‘effective schools program’ means a school-based program that may encompass preschool through secondary school levels and that has the objectives of—

“(A) promoting school-level planning, instructional improvement, and staff development;

“(B) increasing the academic achievement levels of all children and particularly educationally disadvantaged children; and
“(C) achieving as ongoing conditions in the
school the following factors identified through
scientifically based research as distinguishing
effective from ineffective schools:

“(i) Strong and effective administra-
tive and instructional leadership that cre-
ates consensus on instructional goals and
organizational capacity for instructional
problem solving.

“(ii) Emphasis on the acquisition of
basic and advanced academic skills.

“(iii) A safe and orderly school envi-
ronment that allows teachers and pupils to
focus their energies on academic achieve-
ment.

“(iv) Continuous review of students
and programs to evaluate the effects of in-
struction.

“(17) ELEMENTARY SCHOOL.—The term ‘ele-
mentary school’ means a nonprofit institutional day
or residential school, including a public elementary
charter school, that provides elementary education,
as determined under State law.

“(18) ESSENTIAL COMPONENTS OF READING
INSTRUCTION.—The term ‘essential components of
reading instruction’ means explicit and systematic
instruction in—

“(A) phonemic awareness;
“(B) phonics;
“(C) vocabulary development;
“(D) reading fluency; and
“(E) reading comprehension strategies.

“(19) FAMILY LITERACY SERVICES.—The term
‘family literacy services’ means services provided to
participants on a voluntary basis that are of suffi-
cient intensity in terms of hours, and of sufficient
duration, to make sustainable changes in a family,
and that integrate all of the following activities:

“(A) Interactive literacy activities between
parents and their children.

“(B) Training for parents regarding how
to be the primary teacher for their children and
full partners in the education of their children.

“(C) Parent literacy training that leads to
economic self-sufficiency.

“(D) An age-appropriate education to pre-
pare children for success in school and life ex-
periences.
“(20) **FREE PUBLIC EDUCATION.**—The term ‘free public education’ means education that is provided—

“(A) at public expense, under public supervision and direction, and without tuition charge; and

“(B) as elementary or secondary school education as determined under applicable State law, except that such term does not include any education provided beyond grade 12.

“(21) **FULLY QUALIFIED.**—The term ‘fully qualified’—

“(A) when used with respect to a public elementary or secondary school teacher (other than a teacher teaching in a public charter school), means that the teacher has obtained State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing exam and holds a license to teach in such State; and

“(B) when used with respect to—

“(i) an elementary school teacher, means that the teacher holds a bachelor’s degree and demonstrates knowledge and
teaching skills in reading, writing, mathematics, science, and other areas of the elementary school curriculum; and

“(ii) a middle or secondary school teacher, means that the teacher holds a bachelor’s degree and demonstrates a high level of competency in all subject areas in which he or she teaches through—

“(I) a passing level of performance on a rigorous State or local academic subject areas test; or

“(II) completion of an academic major in each of the subject areas in which he or she provides instruction.

“(22) GIFTED AND TALENTED.—The term ‘gifted and talented’, when used with respect to students, children or youth, means students, children or youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

“(23) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the
meaning given that term in section 101 of the Higher Education Act of 1965.

“(24) LIMITED ENGLISH PROFICIENT STUDENT.—The term ‘limited English proficient student’ means an individual aged 5 through 17 enrolled in an elementary school or secondary school—

“(A) who—

“(i) was not born in the United States or whose native language is a language other than English;

“(ii)(I) is a Native American or Alaskan Native, or a native resident of the outlying areas; and

“(II) comes from an environment where a language other than English has had a significant impact on such individual’s level of English language proficiency; or

“(iii) is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

“(B) who has sufficient difficulty speaking, reading, writing, or understanding the English
language, and whose difficulties may deny the individual—

“(i) the ability to meet the State’s proficient level of performance on State assessments described in section 1111(b)(4) in core academic subjects; or

“(ii) the opportunity to participate fully in society.

“(25) LOCAL EDUCATIONAL AGENCY.—(A) The term ‘local educational agency’ means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

“(B) The term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

“(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs but only to the extent that such inclusion
makes such school eligible for programs for which specific eligibility is not provided to such school in another provision of law and such school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that such school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

“(D) The term includes educational service agencies and consortia of such agencies.

“(26) MENTORING.—The term ‘mentoring’ means a program in which an adult works with a child or youth on a 1-to-1 basis, establishing a supportive relationship, providing academic assistance, and introducing the child or youth to new experiences that enhance the child or youth’s ability to excel in school and become a responsible citizen.

“(26) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms ‘Native American’ and ‘Native American language’ shall have the same meaning given such terms in section 103 of the Native American Languages Act of 1990.
“(27) OTHER STAFF.—The term ‘other staff’ means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

“(28) OUTLYING AREA.—The term ‘outlying area’ means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“(29) PARENT.—The term ‘parent’ includes a legal guardian or other person standing in loco parentis.

“(30) PUPIL SERVICES PERSONNEL; PUPIL SERVICES.—(A) The term ‘pupil services personnel’ means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as such term is defined in section 602(22) of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

“(B) The term ‘pupil services’ means the services provided by pupil services personnel.
“(31) READING.—The term ‘reading’ means a
complex system of deriving meaning from print that
requires all of the following:

“(A) Skills and knowledge to understand
how phonemes, or speech sounds are connected
in print.

“(B) Ability to decode unfamiliar words.

“(C) Ability to read fluently.

“(D) Sufficient background information
and vocabulary to foster reading comprehen-
sions.

“(E) Development of appropriate active
strategies to construct meaning from print.

“(F) Development and maintenance of a
motivation to read.

“(32) RIGOROUS DIAGNOSTIC READING ASSESS-
MENT.—The term ‘rigorous diagnostic reading as-
ssessment’ means a diagnostic reading assessment
that—

“(A) is valid, reliable, and grounded on sci-
entifically based reading research;

“(B) measures progress in developing pho-
nemic awareness and phonics skills, vocabulary,
reading fluency, and reading comprehension; and
“(C) identifies students who may be at risk for reading failure or who are having difficulty reading.

“(33) SCIENTIFICALLY BASED RESEARCH.—

The term ‘scientifically based research’—

“(A) means the application of rigorous, systematic, and objective procedures to obtain valid knowledge relevant to education activities and programs; and

“(B) shall include research that—

“(i) employs systematic, empirical methods that draw on observation or experiment;

“(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

“(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations;

“(iv) is evaluated using randomized experiments in which individuals, entities, programs, or activities are randomly assigned to different variations (including a
control condition) to compare the relative
effects of the variations; and

“(v) has been accepted by a peer-re-
viewed journal or approved by a panel of
independent experts through a comparably
rigorous, objective, and scientific review.

“(34) SECONDARY SCHOOL.—The term ‘sec-
ondary school’ means a nonprofit institutional day or
residential school, including a public secondary char-
ter school, that provides secondary education, as de-
determined under State law, except that such term
does not include any education beyond grade 12.

“(35) SECRETARY.—The term ‘Secretary’
means the Secretary of Education.

“(36) STATE.—The term ‘State’ means each of
the 50 States, the District of Columbia, the Com-
monwealth of Puerto Rico, and each of the outlying
areas.

“(37) STATE EDUCATIONAL AGENCY.—The
term ‘State educational agency’ means the agency
primarily responsible for the State supervision of
public elementary and secondary schools.

“(38) TECHNOLOGY.—The term ‘technology’
means the latest state-of-the-art technology products
and services.
“SEC. 8102. APPLICABILITY OF TITLE.

“Parts B, C, D, and E of this title do not apply to title VI of this Act.

“SEC. 8103. APPLICABILITY TO BUREAU OF INDIAN AFFAIRS OPERATED SCHOOLS.

“For purposes of any competitive program under this Act, a consortia of schools operated by the Bureau of Indian Affairs, a school operated under a contract or grant with the Bureau of Indian Affairs in consortia with another contract or grant school or tribal or community organization, or a Bureau of Indian Affairs school in consortia with an institution of higher education, a contract or grant school and tribal or community organization shall be given the same consideration as a local educational agency.

“PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

“SEC. 8201. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

“(a) Consolidation of Administrative Funds.—

“(1) In general.—A State educational agency may consolidate the amounts specifically made available to such agency for State administration under one or more of the programs under paragraph (2) if such State educational agency can demonstrate
that the majority of such agency’s resources are derived from non-Federal sources.

“(2) APPLICABILITY.—This section applies to any program under this Act under which funds are authorized to be used for administration, and such other programs as the Secretary may designate.

“(b) USE OF FUNDS.—

“(1) IN GENERAL.—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

“(2) ADDITIONAL USES.—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under programs included in the consolidation under subsection (a), such as—

“(A) the coordination of such programs with other Federal and non-Federal programs;

“(B) the establishment and operation of peer-review mechanisms under this Act;

“(C) the administration of this title;

“(D) the dissemination of information regarding model programs and practices;
“(E) technical assistance under any program under this Act;
“(F) State level activities designed to carry out this title;
“(G) training personnel engaged in audit and other monitoring activities; and
“(H) implementation of the Cooperative Audit Resolution and Oversight Initiative of the Department of Education.

“(c) RECORDS.—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a).

“(d) REVIEW.—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of such administration.

“(e) UNUSED ADMINISTRATIVE FUNDS.—If a State educational agency does not use all of the funds available to such agency under this section for administration, such
agency may use such funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a).

"SEC. 8202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.

"A State educational agency that also serves as a local educational agency, in such agency's applications or plans under this Act, shall describe how such agency will eliminate duplication in the conduct of administrative functions.

"SEC. 8203. CONSOLIDATION OF FUNDS FOR LOCAL ADMINISTRATION.

"(a) General Authority.—In accordance with regulations of the Secretary and for any fiscal year, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more programs under this Act (or such other programs as the Secretary shall designate) not more than the percentage, established in each such program, of the total available for the local educational agency under such programs.

"(b) State Procedures.—Within one-year from the date of enactment of the No Child Left Behind Act of 2001, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational
agencies to consolidate administrative funds under subsection (a) and for establishing limitations on the amount of funds under such programs that may be used for administration on a consolidated basis.

“(c) CONDITIONS.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

“(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use such consolidated funds for the administration of such programs and for uses, at the school district and school levels, comparable to those described in section 8201(b)(2).

“(e) RECORDS.—A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of such programs included in the consolidation.

“SEC. 8204. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.

“(a) GENERAL AUTHORITY.—

“(1) TRANSFER.—The Secretary shall transfer to the Department of the Interior, as a consolidated
amount for covered programs, the Indian education
programs under subpart 1 of part B of title III, and
the education for homeless children and youth pro-
gram under subtitle B of title VII of the Stewart B.
McKinney Homeless Assistance Act, the amounts al-
lotted to the Department of the Interior under those
programs.

“(2) AGREEMENT.—(A) The Secretary and the
Secretary of the Interior shall enter into an agree-
ment, consistent with the requirements of the pro-
grams specified in paragraph (1), for the distribu-
tion and use of those program funds under terms
that the Secretary determines best meet the pur-
poses of those programs.

“(B) The agreement shall—

“(i) set forth the plans of the Secretary of
the Interior for the use of the amount trans-
ferred and the performance measures to assess
program effectiveness, including measurable
goals and objectives; and

“(ii) be developed in consultation with In-
dian tribes.

“(b) ADMINISTRATION.—The Department of the In-
terior may use not more than 1.5 percent of the funds
consolidated under this section for such department’s
costs related to the administration of the funds transferred under this section.

“PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

“SEC. 8301. PURPOSE.

“The purposes of this part are to improve teaching and learning through greater coordination between programs and to provide greater flexibility to State and local authorities by allowing the consolidation of State and local plans, applications, and reporting.

“SEC. 8302. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.

“(a) General Authority.—

“(1) Simplification.—In order to simplify application requirements and reduce the burden for States under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which a Governor and State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

“(A) any programs under this Act in which the State participates; and
“(B) such other programs as the Secretary may designate.

“(2) CONSOLIDATED APPLICATIONS AND PLANS.—A Governor and State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit a separate State plan or application for a program included in the consolidated State plan or application.

“(b) COLLABORATION.—

“(1) IN GENERAL.—In establishing criteria and procedures under this section, the Secretary shall collaborate with Governors, State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private non-profit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

“(2) CONTENTS.—Through the collaborative process described in paragraph (1), the Secretary shall establish, for each program under the Act to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.
“(3) NECESSARY MATERIALS.—The Secretary shall require only descriptions, information, assurances, and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

“SEC. 8303. CONSOLIDATED REPORTING.

“In order to simplify reporting requirements and reduce reporting burdens, the Secretary shall establish procedures and criteria under which a Governor and State educational agency may submit a consolidated State annual report. Such report shall contain information about the programs included in the report, including the State’s performance under those programs, and other matters as the Secretary determines, such as monitoring activities. Such a report shall take the place of separate individual annual reports for the programs subject to it.

“SEC. 8304. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.

“(a) ASSURANCES.—A Governor and State educational agency that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 8302, shall have on file with the Secretary a single set of assurances, applicable to each program for which such plan or application is submitted, that provides that—
“(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

“(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, in a nonprofit private agency, institution, or organization, or in an Indian tribe if the law authorizing the program provides for assistance to such entities; and

“(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing law;

“(3) the State will adopt and use proper methods of administering each such program, including—

“(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

“(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

“(C) the adoption of written procedures for the receipt and resolution of complaints alleging
violations of law in the administration of such
programs;
“(4) the State will cooperate in carrying out
any evaluation of each such program conducted by
or for the Secretary or other Federal officials;
“(5) the State will use such fiscal control and
fund accounting procedures as will ensure proper
disbursement of, and accounting for, Federal funds
paid to the State under each such program;
“(6) the State will—
“(A) make reports to the Secretary as may
be necessary to enable the Secretary to perform
the Secretary’s duties under each such pro-
gram; and
“(B) maintain such records, provide such
information to the Secretary, and afford access
to the records as the Secretary may find nec-
essary to carry out the Secretary’s duties; and
“(7) before the plan or application was sub-
mitted to the Secretary, the State has afforded a
reasonable opportunity for public comment on the
plan or application and has considered such com-
ment.
“(b) GEPA PROVISION.—Section 441 of the General Education Provisions Act shall not apply to programs under this Act.

“SEC. 8305. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.

“(a) GENERAL AUTHORITY.—A local educational agency receiving funds under more than one program under this Act may submit plans or applications to the Governor and State educational agency under such programs on a consolidated basis.

“(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State that has an approved consolidated State plan or application under section 8302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under such programs, but may not require such agencies to submit separate plans.

“(c) COLLABORATION.—A Governor and State educational agency shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

“(d) NECESSARY MATERIALS.—The State shall require only descriptions, information, assurances, and other
material that are absolutely necessary for the consider-
ation of the local educational agency plan or application.

“SEC. 8306. OTHER GENERAL ASSURANCES.

“(a) ASSURANCES.—Any applicant other than a
State that submits a plan or application under this Act,
shall have on file with the State a single set of assurances,
applicable to each program for which a plan or application
is submitted, that provides that—

“(1) each such program will be administered in
accordance with all applicable statutes, regulations,
program plans, and applications;

“(2)(A) the control of funds provided under
each such program and title to property acquired
with program funds will be in a public agency or in
a nonprofit private agency, institution, organization,
or Indian tribe, if the law authorizing the program
provides for assistance to such entities; and

“(B) the public agency, nonprofit private
agency, institution, or organization, or Indian
tribe will administer such funds and property to
the extent required by the authorizing statutes;

“(3) the applicant will adopt and use proper
methods of administering each such program,
“(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

“(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

“(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary or other Federal officials;

“(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to such applicant under each such program;

“(6) the applicant will—

“(A) make reports to the Governor and State educational agency and the Secretary as may be necessary to enable such agency and the Secretary to perform their duties under each such program; and

“(B) maintain such records, provide such information, and afford access to the records as the Governor and State educational agency or
the Secretary may find necessary to carry out
the State’s or the Secretary’s duties; and
“(7) before the application was submitted, the
applicant afforded a reasonable opportunity for pub-
lic comment on the application and has considered
such comment.
“(b) GEPA PROVISION.—Section 442 of the General
Education Provisions Act shall not apply to programs
under this Act.

“PART D—WAIVERS

“SEC. 8401. WAIVERS OF STATUTORY AND REGULATORY RE-
QUIREMENTS.
“(a) IN GENERAL.—Except as provided in subsection
(c), the Secretary may waive any statutory or regulatory
requirement of this Act or the Carl D. Perkins Vocational
and Technical Education Act of 1998 for a State edu-
cational agency, local educational agency, Indian tribe, or
school through a local educational agency, that—
“(1) receives funds under a program authorized
by this Act; and
“(2) requests a waiver under subsection (b).
“(b) REQUEST FOR WAIVER.—
“(1) IN GENERAL.—A State educational agen-
cy, local educational agency, or Indian tribe which
desires a waiver shall submit a waiver application to
the Secretary that—

“(A) indicates each Federal program af-
fected and each statutory or regulatory require-
ment requested to be waived;

“(B) describes the purpose and overall ex-
pected results of waiving each such require-
ment;

“(C) describes, for each school year, spe-
cific, measurable, educational goals for the
State educational agency and for each local
educational agency, Indian tribe, or school that
would be affected by the waiver;

“(D) explains why the waiver will assist
the State educational agency and each affected
local educational agency, Indian tribe, or school
in reaching such goals.

“(2) ADDITIONAL INFORMATION.—Such requests—

“(A) may provide for waivers of require-
ments applicable to State educational agencies,
local educational agencies, Indian tribes, and
schools; and

“(B) shall be developed and submitted—
“(i)(I) by local educational agencies
(on behalf of such agencies and schools) to
State educational agencies; and
“(II) by State educational agencies
(on behalf of, and based upon the requests
of, local educational agencies) to the Sec-
retary; or
“(ii) by Indian tribes (on behalf of
schools operated by such tribes) to the Sec-
retary.
“(3) GENERAL REQUIREMENTS.—
“(A) In the case of a waiver request sub-
mitted by a State educational agency acting in
its own behalf, the State educational agency
shall—
“(i) provide all interested local edu-
cational agencies in the State with notice
and a reasonable opportunity to comment
on the request;
“(ii) submit the comments to the Sec-
retary; and
“(iii) provide notice and information
to the public regarding the waiver request
in the manner that the applying agency
customarily provides similar notices and
information to the public.

“(B) In the case of a waiver request sub-
mitted by a local educational agency that re-
ceives funds under this Act—

“(i) such request shall be reviewed by
the State educational agency and be ac-
accompanied by the comments, if any, of
such State educational agency; and

“(ii) notice and information regarding
the waiver request shall be provided to the
public by the agency requesting the waiver
in the manner that such agency custom-
arily provides similar notices and informa-
tion to the public.

“(c) RESTRICTIONS.—The Secretary shall not waive
under this section any statutory or regulatory require-
ments relating to—

“(1) the allocation or distribution of funds to
States, local educational agencies, or other recipients
of funds under this Act;

“(2) maintenance of effort;

“(3) comparability of services;

“(4) use of Federal funds to supplement, not
supplant, non-Federal funds;
“(5) equitable participation of private school students and teachers;
“(6) parental participation and involvement;
“(7) applicable civil rights requirements;
“(8) the requirement for a charter school under part B of title IV; or
“(9) the prohibitions regarding—
“(A) State aid in section 8502;
“(B) use of funds for religious worship or instruction in section 8507; and
“(C) activities in section 8514.
“(d) DURATION AND EXTENSION OF WAIVER.—
“(1) IN GENERAL.—Except as provided in paragraph (2), the duration of a waiver approved by the Secretary under this section may be for a period not to exceed 5 years.
“(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) if the Secretary determines that—
“(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which the waiver was requested and the waiver has contributed to improved student performance; and
“(B) such extension is in the public interest.

“(e) Reports.—

“(1) Local waiver.—A local educational agency that receives a waiver under this section shall at the end of the second year for which a waiver is received under this section, and each subsequent year, submit a report to the State educational agency that—

“(A) describes the uses of such waiver by such agency or by schools;

“(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers are requested; and

“(A) evaluates the progress of such agency and of schools in improving the quality of instruction or the academic performance of students.

“(2) State waiver.—A State educational agency that receives reports required under paragraph (1) shall annually submit a report to the Secretary that is based on such reports and contains such information as the Secretary may require.
“(3) INDIAN TRIBE WAIVER.—An Indian tribe that receives a waiver under this section shall annually submit a report to the Secretary that—

“(A) describes the uses of such waiver by schools operated by such tribe; and

“(B) evaluates the progress of such schools in improving the quality of instruction or the academic performance of students.

“(4) REPORT TO CONGRESS.—Beginning in fiscal year 2002 and each subsequent year, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report—

“(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

“(B) describing whether such waivers—

“(i) increased the quality of instruction to students; or

“(ii) improved the academic performance of students.

“(f) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines, after notice and an opportunity for a hearing,
that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

“(g) PUBLICATION.—A notice of the Secretary’s decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

“PART E—UNIFORM PROVISIONS

“SEC. 8501. MAINTENANCE OF EFFORT.

“(a) IN GENERAL.—A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of such agency and the State with respect to the provision of free public education by such agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

“(b) REDUCTION IN CASE OF FAILURE TO MEET.—

“(1) IN GENERAL.—The State educational agency shall reduce the amount of the allocation of
funds under a covered program in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of subsection (a) of this section by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency).

“(2) SPECIAL RULE.—No such lesser amount shall be used for computing the effort required under subsection (a) of this section for subsequent years.

“(c) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that such a waiver would be equitable due to—

“(1) exceptional or uncontrollable circumstances such as a natural disaster; or

“(2) a precipitous decline in the financial resources of the local educational agency.

“SEC. 8502. PROHIBITION REGARDING STATE AID.

“A State shall not take into consideration payments under this Act (other than under title VI) in determining the eligibility of any local educational agency in such State for State aid, or the amount of State aid, with respect to free public education of children.
“SEC. 8503. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

“(a) Private School Participation.—

“(1) In general.—Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of such agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary and secondary schools in areas served by such agency, consortium or entity, such agency, consortium or entity shall, after timely and meaningful consultation with appropriate private school officials, provide such children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under such program.

“(2) Secular, neutral, and nonideological services or benefits.—Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

“(3) Special rule.—Educational services and other benefits provided under this section for such private school children, teachers, and other edu-
cational personnel shall be equitable in comparison
to services and other benefits for public school chil-
dren, teachers, and other educational personnel par-
ticipating in such program and shall be provided in
a timely manner.

“(4) EXPENDITURES.—Expenditures for edu-
cational services and other benefits provided under
this section to eligible private school children, their
teachers, and other educational personnel serving
such children shall be equal, taking into account the
number and educational needs of the children to be
served, to the expenditures for participating public
school children.

“(5) PROVISION OF SERVICES.—Such agency,
consortium or entity described in subsection (a)(1)
of this section may provide such services directly or
through contracts with public and private agencies,
organizations, and institutions.

“(b) APPLICABILITY.—

“(1) IN GENERAL.—This section applies to pro-
grams under—

“(A) part B, subpart 1 of title I;
“(B) part C of title I;
“(C) part A of title II;
“(D) part A of title III.
“(E) part A of title V; and
“(F) part B of title V;
“(2) DEFINITION.—For the purposes of this section, the term ‘eligible children’ means children eligible for services under a program described in paragraph (1).
“(c) CONSULTATION.—
“(1) IN GENERAL.—To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of such agencies or entity shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as—
“(A) how the children’s needs will be identified;
“(B) what services will be offered;
“(C) how, where, and by whom the services will be provided;
“(D) how the services will be assessed and how the results of the assessment will be used to improve such services;
“(E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational
personnel and the amount of funds available for such services; and

“(F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third party providers.

“(2) Disagreement.—If the agency, consortium or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.

“(3) Timing.—Such consultation shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

“(4) Discussion Required.—Such consultation shall include a discussion of service delivery mechanisms that the agency, consortium, or entity
could use to provide equitable services to eligible pri-
vate school children, teachers, administrators, and
other staff.

“(d) PUBLIC CONTROL OF FUNDS.—

“(1) IN GENERAL.—The control of funds used
to provide services under this section, and title to
materials, equipment, and property purchased with
such funds, shall be in a public agency for the uses
and purposes provided in this Act, and a public
agency shall administer such funds and property.

“(2) PROVISION OF SERVICES.—

“(A) The provision of services under this
section shall be provided—

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

“(ii) through contract by such public
agency with an individual, association,
agency, organization, or other entity.

“(B) In the provision of such services, such
employee, person, association, agency, organiza-
tion or other entity shall be independent of such
private school and of any religious organization,
and such employment or contract shall be under
the control and supervision of such public agen-
cy.
“(C) Funds used to provide services under this section shall not be commingled with non-Federal funds.

“SEC. 8504. STANDARDS FOR BY-PASS.

“If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency, consortium, or other entity of such agencies, is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis, or if the Secretary determines that such agency consortium or entity has substantially failed or is unwilling to provide for such participation, as required by section 8503, the Secretary shall—

“(1) waive the requirements of that section for such agency, consortium, or entity;

“(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 8503, 8505, and 8506; and

“(3) in making the determination, consider one or more factors, including the quality, size, scope, location of the program and the opportunity of private
school children, teachers, and other educational personnel to participate.

“SEC. 8505. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

“(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 8503 by a State educational agency, local educational agency, educational service agency, consortium of such agencies or entity. Such individual or organization shall submit such complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

“(b) APPEALS TO SECRETARY.—Such resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. Such appeal shall be accompanied by a copy of the State educational agency’s resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve each such appeal not later than 120 days after receipt of the appeal.
“SEC. 8506. BY-PASS DETERMINATION PROCESS.

“(a) REVIEW.—

“(1) IN GENERAL.—

“(A) The Secretary shall not take any final action under section 8504 until the State educational agency, local educational agency, educational service agency, consortium of such agencies or entity affected by such action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

“(B) Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

“(2) PETITION FOR REVIEW.—

“(A) If such affected agency consortium or entity is dissatisfied with the Secretary’s final action after a proceeding under paragraph (1), such agency consortium or entity may, within 60 days after notice of such action, file with the
United States court of appeals for the circuit in which such State is located a petition for review of that action.

“(B) A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

“(C) The Secretary upon receipt of the copy of the petition shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

“(3) FINDINGS OF FACT.—

“(A) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary’s previous action, and shall file in the court the record of the further proceedings.

“(B) Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

“(4) JURISDICTION.—
“(A) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part.

“(B) The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

“(b) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with such agency, consortium or entity and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 8503 or any other provision of this Act.

“(c) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.
“(d) PRIOR DETERMINATION.—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001 shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

“SEC. 8507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

“(a) IN GENERAL.—Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

“(b) INAPPLICABILITY.—Subsection (a) shall not be construed to prohibit the use of funds made available to parents of eligible children for sectarian educational purposes under private school choice provisions of this Act, or to require an eligible private institution to remove religious art, icons, scripture, or other symbols.

“SEC. 8508. APPLICABILITY.

“Nothing in this Act shall be construed to affect home schools nor shall any home schooled student be required to participate in any assessment referenced in this Act.
“SEC. 8509. PRIVATE SCHOOLS.

“Nothing in this Act shall be construed to affect any private school that does not receive funds or services under this Act.

“SEC. 8510. PRIVACY OF ASSESSMENT RESULTS.

“Any results from individual assessments referenced in this Act which become part of the education records of the student shall have the protections as provided in section 444 of the General Education Provisions Act.

“SEC. 8511. GENERAL PROVISION REGARDING NON-RECIPIENT NONPUBLIC SCHOOLS.

“Nothing in this Act or any other Act administered by the Department shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act or any other Act administered by the Department.

“SEC. 8512. SCHOOL PRAYER.

“Notwithstanding any provision of law, no funds made available through the Department of Education under this Act, or any other Act, shall be available to any State or local educational agency which has a policy of denying or which effectively prevents participation in, con-
stitutionally protected prayer in public schools by individuals on a voluntary basis. Neither the United States nor any State nor any local educational agency shall require any person to participate in prayer or influence the form or content of any constitutionally protected prayer in such public schools.

“SEC. 8513. ATTORNEYS FEES.

Notwithstanding any other provision of Federal law, a local educational agency or public elementary or secondary school may use not more than 20 percent of its administrative funds from any program under this Act for payment of attorneys fees and related legal services in the defense of any legal action, brought against a local educational agency, public elementary or secondary school, or agent of any of such entities, claiming such agency, school, or agent violated the constitutional prohibition against the establishment of religion by permitting, facilitating, or accommodating—

“(1) a student’s religious expression; or

“(2) the design or construction of any memorial which includes religious symbols, motifs, or saying as part of a memorial placed on the campus of a public elementary or secondary school in order to honor the memory of a person slain on that campus.
“SEC. 8514. GENERAL PROHIBITIONS.

“(a) PROHIBITION.—None of the funds authorized under this Act shall be used—

“(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth that are designed to promote or encourage, sexual activity, whether homosexual or heterosexual;

“(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

“(3) to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and emphasizes the health benefits of abstinence; or

“(4) to operate a program of contraceptive distribution in schools.

“(b) LOCAL CONTROL.—Nothing in this section shall be construed to—

“(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or schools’ instructional content, curriculum, and related activities;

“(2) limit the application of the General Education Provisions Act (20 U.S.C.A. 1221 et seq.).
“(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

“(4) create any legally enforceable right.

“SEC. 8515. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

“(a) GENERAL PROHIBITION.—Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school’s curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

“(b) PROHIBITION OF FEDERAL MANDATES, DIRECTION, OR CONTROL.—Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school’s specific instructional content or pupil performance standards and assessments, curriculum, or program of instruction as a condition of eligibility to receive funds under this Act.
“(c) EQUALIZED SPENDING.—Nothing in this Act shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

“(d) BUILDING STANDARDS.—Nothing in this Act shall be construed to mandate national school building standards for a State, local agency, or school.

“SEC. 8516. RULEMAKING.

“The Secretary shall issue regulations under this Act only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this Act.

“SEC. 8517. REPORT.

“The Secretary shall report to the Congress not later than 180 days after the date of enactment of the No Child Left Behind Act of 2001 regarding how the Secretary shall ensure that audits conducted by Department employees of activities assisted under this Act comply with changes to this Act made by the No Child Left Behind Act of 2001, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.

“SEC. 8518. REQUIRED APPROVAL OR CERTIFICATION PROHIBITED.

“(a) IN GENERAL.—Notwithstanding any other provision of Federal law, no State shall be required to have...
content standards or student achievement standards approved or certified by the Federal Government, in order to receive assistance under this Act.

“(b) CONSTRUCTION.—Nothing in this section shall be construed to affect requirements under title I of this Act.

“SEC. 8519. PROHIBITION ON ENDORSEMENT OF CURRICULUM.

“Notwithstanding any other prohibition of Federal law, no funds provided to the Department of Education or to any applicable program may be used by the Department to endorse, approve, or sanction any curriculum designed to be used in an elementary or secondary school.

“SEC. 8520. RULE OF CONSTRUCTION ON PERSONALLY IDENTIFIABLE INFORMATION.

“Nothing in this Act shall be construed to permit the development of a national database of personally identifiable information on individuals involved in studies or in data collection efforts under this Act.

“PART F—SENSE OF CONGRESS

“SEC. 8601. PAPERWORK REDUCTION.

“(a) FINDINGS.—The Congress finds that—

“(1) instruction and other classroom activities provide the greatest opportunity for students, espe-
cially at-risk and disadvantaged students, to attain high standards and achieve academic success;

“(2) one of the greatest obstacles to establishing an effective, classroom-centered education system is the cost of paperwork compliance;

“(3) paperwork places a burden on teachers and administrators who must complete Federal and State forms to apply for Federal funds and absorbs time and money which otherwise would be spent on students;

“(4) the Education at a Crossroads Report released in 1998 by the Education Subcommittee on Oversight and Investigations states that requirements by the Department of Education result in more than $48,600,000 hours of paperwork per year; and

“(5) paperwork distracts from the mission of schools, encumbers teachers, and administrators with nonacademic responsibilities, and competes with teaching and classroom activities which promote learning and achievement.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal and State educational agencies should reduce the paperwork requirements placed on schools, teachers, principles, and other administrators.
“SEC. 8602. PROHIBITION ON MANDATORY NATIONAL CERTIFICATION OF TEACHERS AND PARAPROFESSIONALS.

“(a) Prohibition on Mandatory Testing or Certification.—Notwithstanding any other provision of law, the Secretary is prohibited from using Federal funds to plan, develop, implement, or administer any mandatory national teacher or paraprofessional test or certification.

“(b) Prohibition on Withholding Funds.—The Secretary is prohibited from withholding funds from any State or local educational agency if such State or local educational agency fails to adopt a specific method of teacher or paraprofessional certification.

“SEC. 8603. PROHIBITION ON FEDERALLY SPONSORED TESTING.

“Notwithstanding any other provision of Federal law, no funds provided under this Act to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

“SEC. 8604. SENSE OF CONGRESS REGARDING MEMORIALS.

“It is the sense of Congress that—

“(1) the saying of a prayer, the reading of a scripture, or the performance of religious music, as
part of a memorial service that is held on the cam-
pus of a public elementary or secondary school in
order to honor the memory of any person slain on
that campus is not objectionable under this Act; and

“(2) the design and construction of any memo-
rial which includes religious symbols, motifs, or
sayings that is placed on the campus of a public ele-
mental or secondary school in order to honor the
memory of any person slain on that campus is not
objectionable under this Act.

“PART G—EVALUATIONS

“SEC. 8651. EVALUATIONS.

“(a) RESERVATION OF FUNDS.—Except as provided
in subsections (b) and (e), the Secretary may reserve not
more than 0.5 percent of the amount appropriated to
carry out each categorical program and demonstration
project authorized under this Act—

“(1) to conduct—

“(A) comprehensive evaluations of the pro-
gram or project; and

“(B) studies of the effectiveness of the pro-
grams or project and its administrative impact
on schools and local educational agencies;

“(2) to evaluate the aggregate short- and long-
term effects and cost efficiencies across Federal pro-
grams assisted or authorized under this Act and related Federal preschool, elementary and secondary programs under any other Federal law; and

“(3) to increase the usefulness of evaluations of grant recipients in order to ensure the continuous progress of the program or project by improving the quality, timeliness, efficiency, and utilization of information relating to performance under the program or project.

“(b) TITLE I EXCLUDED.—The Secretary may not reserve under subsection (a) funds appropriated to carry out any program authorized under title I.

“(c) EVALUATION ACTIVITIES AUTHORIZED ELSEWHERE.—

“(1) IN GENERAL.—If, under any other provision of this Act (other than title I), funds are authorized to be reserved or used for evaluation activities with respect to a program or project, the Secretary may not reserve additional funds under this section for the evaluation of such program or project.”.

SEC. 802. COMPREHENSIVE REGIONAL ASSISTANCE CENTERS.

(a) IN GENERAL.—Part A of title XIII (20 U.S.C. 8621 et seq.)—
(1) is transferred to the end of title VIII, as amended by section 801; and
(2) is redesignated as part H.

(b) Redesignation of Sections.—Sections 13101 through 13105 are redesignated as sections 8701 through 8705, respectively.

(c) Conforming Amendments.—

(1) Requirements.—Section 8702 (as redesignated by subsection (b)) is amended—

(A) by striking “section 13101(a)” and inserting “section 8701(a)”; and

(B) in paragraph (7), by striking “section 13201” and inserting “section 8751”.

(2) Maintenance of Service.—Section 8703(b) (as redesignated by subsection (b)) is amended—

(A) in paragraph (1), by striking “section 13102” and inserting “section 8702”; and

(B) in paragraph (2)—

(i) by striking “section 13201” and inserting “section 8751”; and

(ii) by striking “section 13401” and inserting “section 8851”.

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(3) Transition.—Section 8704(b)(1) (as re-designated by subsection (b)) is amended by striking “section 13105” and inserting “section 8705”.

SEC. 803. NATIONAL DIFFUSION NETWORK.

(a) In General.—Part B of title XIII (20 U.S.C. 8651 et seq.)—

(1) is transferred to the end of title VIII, as amended by section 802; and

(2) is redesignated as part I.

(b) Redesignation of Sections.—Sections 13201 and 13202 are redesignated as sections 8751 and 8752, respectively.

(c) Conforming Amendment.—Section 8751(f)(4) (as redesignated by subsection (b)) is amended by striking “section 13401” and inserting “section 8851”.

SEC. 804. EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA.

(a) In General.—Part C of title XIII (20 U.S.C. 8671 et seq.)—

(1) is transferred to the end of title VIII, as amended by section 803; and

(2) is redesignated as part J.

(b) Redesignation of Sections.—Sections 13301 through 13308 are redesignated as sections 8801 through 8808, respectively.
(c) CONFORMING AMENDMENTS.—

(1) GRANT AUTHORIZATION.—Section 8801(a)(3) (as redesignated by subsection (b)) is amended by striking “section 13308” and inserting “section 8808”.

(2) USE OF FUNDS.—Section 8802 (as redesignated by subsection (b)) is amended—

(A) by striking “section 13304” and inserting “section 8804”;

(B) in paragraph (2), by striking “13301(a)(1)” and inserting “8801(a)(1)”; and

(C) in paragraph (3), by striking “13301(a)(1)” and inserting “8801(a)(1)”.

(3) PAYMENTS.—Section 8805 (as redesignated by subsection (b)) is amended in each of subsections (a) and (b) by striking “section 13303” and inserting “section 8803”.

(4) EVALUATION.—Section 8806(a) (as redesignated by subsection (b)) is amended by striking “section 14701” and inserting “section 8651”.

(5) DEFINITIONS.—Section 8807(4) (as redesignated by subsection (b)) is amended by striking “section 13301” and inserting “section 8801”.
SEC. 805. TECHNOLOGY-BASED TECHNICAL ASSISTANCE.

(a) In General.—Part D of title XIII (20 U.S.C. 8701)—

(1) is transferred to the end of title VIII, as amended by section 804; and

(2) is redesignated as part K.

(b) Redesignation of Section.—Sections 13401 is redesignated as section 8851.

TITLE IX—MISCELLANEOUS PROVISIONS

PART A—AMENDMENTS TO OTHER ACTS

Supart 1—National Education Statistics Act

SEC. 901. AMENDMENT TO NESA.

Section 411 of the National Education Statistics Act of 1994 (20 U.S.C. 9010) is amended—

(1) by amending subsection (b)(2) to read as follows:

"(2) STATE ASSESSMENTS.—(A) The Commissioner, in carrying out the National Assessment—

"(i) may conduct State assessments of student achievement in grades 4, 8, and 12; and

"(ii) shall conduct annual State assessments of student achievement in reading and mathematics in grades 4 and 8 in order for States to carry out section 1111(c)(2) of the

“(B)(i) Except as provided in clause (ii), a participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of the data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of that data.

“(ii) A State participating in the annual State assessments of its students in reading and mathematics in grades 4 and 8 shall be deemed to have given its permission to release its data if it has an approved plan under section 1111 of the Elementary and Secondary Education Act of 1965.”; and

(2) by amending subsection (d) to read as follows:

“(d) PARTICIPATION.—

“(1) NATIONAL AND REGIONAL PARTICIPA-
TION.—Participation in the national and regional as-
sessments by State and local educational agencies shall be voluntary.
“(2) STATE PARTICIPATION.—Participation in assessments made on a State basis shall be vol-
untary.”.

Subpart 2—Homeless Education

SEC. 911. SHORT TITLE.

This subpart may be cited as the “McKinney-Vento Homeless Education Assistance Improvements Act of 2001”.

SEC. 912. FINDINGS.

Congress makes the following findings:

(1) An estimated 1,000,000 children in the United States will experience homelessness in 2001.

(2) Homelessness has a devastating impact on the educational opportunities of children and youth. Homeless children go hungry at more than twice the rate of other children, have four times the rate of delayed development, and are twice as likely to re-
peat a grade.

(3) Despite steady progress in school enroll-
ment and attendance resulting from the passage in 1987 of the Stewart B. McKinney Homeless Assist-
ance Act, homeless students still face numerous bar-
riers to education, including residency, guardianship and registration requirements, delays in the transfer
of school records, and inadequate transportation service.

(4) School is one of the few secure factors in the lives of homeless children and youth, providing stability, structure, and accomplishment during a time of great upheaval.

(5) Homeless children and youth require educational stability and the opportunity to maintain regular and consistent attendance in school, so that they acquire the skills necessary to escape poverty and lead productive, healthy lives as adults.

(6) In the 14 years since the passage of the McKinney Act, educators and service providers have learned much about policies and practices which help remove the barriers described.

SEC. 913. PURPOSE.

The purpose of this subpart is to strengthen subtitle B of title VII of Public Law 100–77 (42 U.S.C. 11431 et seq.) by amending it—

(1) to include innovative practices, proven to be effective in helping homeless children and youth enroll, attend, and succeed in school; and

(2) to help ensure that all children and youth impacted by the loss of fixed, regular, and adequate
housing receive a quality education and secure their chance for a brighter future.

SEC. 914. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

Subtitle B of title VII of Public Law 100–77 (42 U.S.C. 11431 et seq.) is amended to read as follows:

“Subtitle B—Education for Homeless Children and Youth

“SEC. 721. STATEMENT OF POLICY.

“It is the policy of the Congress that—

“(1) each State educational agency ensure that each child of a homeless individual and each homeless youth has equal access to the same free, public education, including a public preschool education, as provided to other children and youth;

“(2) in any State that has a compulsory residency requirement as a component of the State’s compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youth, the State review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youth are afforded the same free, pub-
lic education as provided to other children and
youth;

“(3) homelessness alone is not sufficient reason
to separate students from the mainstream school en-
vironment; and

“(4) homeless children and youth must have ac-
cess to the education and other services that such
children and youth need to ensure that such children
and youth have an opportunity to meet the same
challenging State student performance standards to
which all students are held.

“SEC. 722. GRANTS FOR STATE AND LOCAL ACTIVITIES FOR
THE EDUCATION OF HOMELESS CHILDREN
AND YOUTH.

“(a) GENERAL AUTHORITY.—The Secretary is au-
thorized to make grants to States in accordance with the
provisions of this section to enable such States to carry
out the activities described in subsections (d), (e), (f), and
(g).

“(b) APPLICATION.—No State may receive a grant
under this section unless the State educational agency
submits an application to the Secretary at such time, in
such manner, and containing or accompanied by such in-
formation as the Secretary may reasonably require.

“(c) ALLOCATION AND RESERVATIONS.—
“(1) IN GENERAL.—Subject to paragraph (2) and section 724(d), from the amounts appropriated for each fiscal year under section 726, the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 726 as the amount allocated under section 1122 of the Elementary and Secondary Education Act of 1965 to the State for that year bears to the total amount allocated under section 1122 to all States for that year, except that no State shall receive less than $125,000 or ½ of 1 percent of the amount appropriated under section 726, whichever is greater.

“(2) RESERVATION.—(A) The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 726 to be allocated by the Secretary among the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, according to their respective need for assistance under this subtitle, as determined by the Secretary.

“(B)(i) The Secretary shall transfer one percent of the amount appropriated for each fiscal year under section 726 to the Department of the Interior for programs for Indian students served by schools
funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), that are consistent with the purposes of this Act.

“(ii) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of this part, for the distribution and use of the funds described in clause (i) under terms that the Secretary determines best meet the purposes of the programs described in such clause. Such agreement shall set forth the plans of the Secretary of the Interior for the use of the amounts transferred, including appropriate goals, objectives, and milestones.

“(3) DEFINITION.—As used in this subsection, the term “State” shall not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“(d) ACTIVITIES.—Grants under this section shall be used—

“(1) to carry out the policies set forth in section 721 in the State;

“(2) to provide activities for, and services to, homeless children, including preschool-aged homeless children, and youth that enable such children and
youth to enroll in, attend, and succeed in school, or, if appropriate, in preschool programs;

“(3) to establish or designate an Office of Coordinator of Education of Homeless Children and Youth in the State educational agency in accordance with subsection (f);

“(4) to prepare and carry out the State plan described in subsection (g); and

“(5) to develop and implement professional development programs for school personnel to heighten their awareness of, and capacity to respond to, specific problems in the education of homeless children and youth.

“(e) STATE AND LOCAL GRANTS.—

“(1) MINIMUM DISBURSEMENTS BY STATES.—

From the sums made available each year to carry out this title, the State education agency shall distribute not less than 75 percent in grants to local educational agencies for the purposes of carrying out section 723, except that States funded at the minimum level set forth in section 722(c)(1) shall distribute not less than 50 percent in grants to local educational agencies for the purposes of carrying out section 723.
“(2) USE BY STATE EDUCATIONAL AGENCY.—
A State educational agency may use funds made available for State use under this title to conduct activities under subsection (f) directly or through grants.

“(3) PROHIBITION ON SEGREGATING HOMELESS STUDENTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) and section 723(a)(2)(B)(ii), in providing a free, public education to a homeless child or youth, no State receiving funds under this subtitle shall segregate such child or youth, either in a separate school, or in a separate program within a school, based solely on such child’s or youth’s status as homeless.

“(B) EXCEPTION.—A State that has established a separate school for homeless children in the fiscal year preceding the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001 shall remain eligible to receive funds under this subtitle for such program.

“(f) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator of Education of Homeless Children and Youth established in each State shall—
“(1) gather, to the extent possible, reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youth have in gaining access to public preschool programs and to public elementary and secondary schools, the difficulties in identifying the special needs of such children and youth, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the program under this subtitle in assisting homeless children and youth to enroll in, attend, and succeed in, school;

“(2) develop and carry out the State plan described in subsection (g);

“(3) collect and transmit to the Secretary information gathered pursuant to paragraphs (1) and (2) at such time and in such manner as the Secretary may require;

“(4) facilitate coordination between the State educational agency, the State social services agency, and other agencies providing services to homeless children and youth, including homeless children, including preschool-aged homeless children, and youth, and families of such children and youth; and
“(5) in order to improve the provision of comprehensive education and related services to homeless children and youth and their families, coordinate and collaborate with—

“(A) educators, including child development and preschool program personnel;

“(B) State and local providers of services to homeless and runaway children and youth and homeless families (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youth);

“(C) local educational agency liaisons for homeless children and youth; and

“(D) State and local community organizations and groups representing homeless children and youth and their families.

“(6) provide technical assistance to local educational agencies, in coordination with local liaisons designated under subsection (g)(1)(J)(ii), to ensure that local educational agencies comply with the requirements of paragraphs (3) through (7) of subsection (g).

“(g) STATE PLAN.—
“(1) IN GENERAL.—Each State shall submit to the Secretary a plan to provide for the education of homeless children and youth within the State, which plan shall—

“(A) describe how such children and youth are or will be given the opportunity to meet the same challenging State student performance standards all students are expected to meet;

“(B) describe the procedures the State educational agency will use to identify such children and youth in the State and to assess their special needs;

“(C) describe procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth;

“(D) describe programs for school personnel (including principals, attendance officers, teachers, enrollment personnel, and pupil services personnel) to heighten the awareness of such personnel of the specific needs of runaway and homeless youth;

“(E) describe procedures that ensure that homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs;
“(F) describe procedures that ensure that—

“(i) homeless children have equal access to the same public preschool programs, administered by the State agency, as provided to other children;

“(ii) homeless youth and youth separated from the public schools are identified and accorded equal access to appropriate secondary education and support services; and

“(iii) homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs;

“(G) address problems set forth in the report provided to the Secretary under subsection (f)(3);

“(H) address other problems with respect to the education of homeless children and youth, including problems caused by—

“(i) transportation issues; and

“(ii) enrollment delays that are caused by—
“(I) immunization and medical records requirements;
“(II) residency requirements;
“(III) lack of birth certificates, school records, or other documentation;
“(IV) guardianship issues; or
“(V) uniform or dress code requirements;
“(I) demonstrate that the State educational agency and local educational agencies in the State have developed, and shall review and revise, policies to remove barriers to the enrollment and retention of homeless children and youth in schools in the State; and
“(J) contain assurances that—
“(i) except as provided in subsection (e)(3)(B), State and local educational agencies will adopt policies and practices to ensure that homeless children and youth are not segregated solely on the basis of their status as homeless; and
“(ii) local educational agencies designate an appropriate staff person, who may also be a coordinator for other Fed-
eral programs, as a liaison for homeless children and youth to carry out the duties described in paragraph 6(A).

“(2) COMPLIANCE.—

“(A) IN GENERAL.—Each plan adopted under this subsection shall also describe how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (7).

“(B) COORDINATION.—Such plan shall indicate what technical assistance the State will furnish to local educational agencies and how compliance efforts will be coordinated with the local liaisons established under this subchapter.

“(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—

“(A) IN GENERAL.—The local educational agency serving each child or youth to be assisted under this subtitle shall, according to the child’s or youth’s best interest, either—

“(i) continue the child’s or youth’s education in the school of origin for the duration of homelessness—

“(II) in any case in which a family becomes homeless between aca-
demie years or during the academic
year; or

“(II) for the remainder of the
academic year, if the child becomes
permanently housed during the aca-
demic year; or

“(ii) enroll the child or youth in any
public school that nonhomeless students
who live in the attendance area in which
the child or youth is actually living are eli-
gible to attend.

“(B) BEST INTEREST.—In determining the
best interest of the child or youth under sub-
paragraph (A), the local educational agency
shall—

“(i) to the extent feasible, keep a
homeless child or youth in the school of or-
igin, except when doing so is contrary to
the wishes of the child’s or youth’s parent
or guardian;

“(ii) provide a written explanation, in-
cluding a statement regarding the right to
appeal under subparagraph (E), to the
homeless child or youth’s parent or guard-
ian if the local educational agency sends
such child or youth to a school other than
the school of origin or a school requested
by the parent or guardian; and
“(iii) in the case of an unaccompanied
youth, ensure that the homeless liaison
designated under paragraph (1)(J)(2) as-
sists in placement or enrollment decisions
under this subparagraph and provides no-
tice to such youth of the right to appeal
under subparagraph (E).
“(C) ENROLLMENT.—(i) The school se-
lected in accordance with this paragraph shall
immediately enroll pursuant to section 725(2)
the homeless child or youth, even if the child or
youth is unable to produce records normally re-
quired for enrollment, such as previous aca-
demic records, medical records, proof of resi-
dency, or other documentation.
“(ii) The enrolling school shall immediately
contact the school last attended by the child or
youth to obtain relevant academic and other
records.
“(iii) If the child or youth needs to obtain
immunizations or immunization or medical
records, the enrolling school shall immediately
refer the parent or guardian of the child or youth to the liaison who shall assist in obtaining necessary immunizations or immunization or medical records in accordance with subparagraph (E).

“(D) RECORDS.—Any record ordinarily kept by the school, including immunization or medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, of each homeless child or youth shall be maintained—

“(i) so that the records are available, in a timely fashion, when a child or youth enters a new school or school district; and


“(E) ENROLLMENT DISPUTES.—If a dispute arises over school selection or enrollment in a school—

“(i) the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute;
“(ii) the parent or guardian of the child or youth shall be provided with a written explanation of the school’s decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision;

“(iii) the child, youth, parent, or guardian shall be referred to the local liaison designated under paragraph (1)(J)(ii), who shall carry out the dispute resolution process as described in paragraph (1)(A) as expeditiously as possible after receiving notice of the dispute; and

“(iv) in the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.

“(F) PLACEMENT CHOICE.—The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere.

“(G) SCHOOL OF ORIGIN DEFINED.—In this paragraph, the term “school of origin” means the school that the child or youth at-
tended when permanently housed or the school
in which the child or youth was last enrolled.

“(H) Contact Information.—Nothing
in this subtitle shall prohibit a local educational
agency from requiring a parent or guardian of
a homeless child to submit contact information
required by the local educational agency of a
parent or guardian of a nonhomeless child.

“(4) Comparable Services.—Each homeless
child or youth to be assisted under this subtitle shall
be provided services comparable to services offered
to other students in the school selected under para-
graph (3), including—

“(A) transportation services;

“(B) educational services for which the
child or youth meets the eligibility criteria, such
as services provided under title I of the Elementary
and Secondary Education Act of 1965 or
similar State or local programs, educational
programs for children with disabilities, and edu-
cational programs for students with limited-
English proficiency;

“(C) programs in vocational and technical
education;
“(D) programs for gifted and talented students; and

“(E) school nutrition programs.

“(5) COORDINATION.—

“(A) IN GENERAL.—Each local educational agency serving homeless children and youth that receives assistance under this subtitle shall coordinate—

“(i) the provision of services under this subtitle with local social services agencies and other agencies or programs providing services to homeless children and youth and their families, including services and programs funded under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); and

“(ii) with other local educational agencies on interdistrict issues, such as transportation or transfer of school records.

“(B) HOUSING ASSISTANCE.—If applicable, each State and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehen-
sive housing affordability strategy described in section 105 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12705) to minimize educational disruption for children and youth who become homeless.

“(C) COORDINATION PURPOSE.—The coordination required under subparagraphs (A) and (B) shall be designed to—

“(i) ensure that homeless children and youth have access and reasonable proximity to available education and related support services; and

“(ii) raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness.

“(6) LIAISON.—

“(A) DUTIES.—Each local liaison for homeless children and youth, designated under paragraph (1)(J)(ii), shall ensure that—

“(i) homeless children and youth are identified by school personnel and through coordination activities with other entities and agencies;
“(ii) homeless children and youth enroll in, and have an equal opportunity to succeed in, schools of that agency;

“(iii) homeless families, children, and youth receive educational services for which such families, children, and youth are eligible, including Head Start and Even Start programs and preschool programs administered by the local educational agency, and referrals to health care services, dental services, mental health services, and other appropriate services;

“(iv) the parents or guardians of homeless children and youth are informed of the education and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;

“(v) public notice of the educational rights of homeless children and youth is disseminated where such children and youth receive services under this Act, such as family shelters and soup kitchens; and

“(vi) enrollment disputes are mediated in accordance with subsection (g)(3)(E).
“(B) NOTICE.—State coordinators whose duties are described under subsection (d) and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaisons.

“(C) LOCAL AND STATE COORDINATION.—
Local educational agency liaisons for homeless children and youth shall, as a part of their duties, coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youth.

“(7) REVIEW AND REVISIONS.—

“(A) IN GENERAL.—Each State educational agency and local educational agency that receives assistance under this subtitle, shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with paragraph (3).

“(B) CONSIDERATION.—In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school
records and other documentation, and guardianship.

“(C) SPECIAL ATTENTION.—Special attention shall be given to ensuring the enrollment and attendance of homeless children and youth who are not currently attending school.

“SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

“(a) GENERAL AUTHORITY.—

“(1) IN GENERAL.—The State educational agency shall, in accordance with section 722(e) and from amounts made available to such agency under section 726, make grants to local educational agencies for the purpose of facilitating the enrollment, attendance, and success in school of homeless children and youth.

“(2) SERVICES.—

“(A) IN GENERAL.—Services under paragraph (1)—

“(i) may be provided through programs on school grounds or at other facilities;

“(ii) shall, to the maximum extent practicable, be provided through existing
programs and mechanisms that integrate homeless children and youth with non-homeless children and youth; and

“(iii) shall be designed to expand or improve services provided as part of a school’s regular academic program, but not to replace such services provided under such program.

“(B) Services on school grounds.—If services under paragraph (1) are provided on school grounds, schools—

“(i) may use funds under this subtitle to provide the same services to other children and youth who are determined by the local educational agency to be at risk of failing in, or dropping out of, schools, subject to the requirements of clause (ii);

“(ii) except as otherwise provided in section 722(e)(3)(B), shall not provide services in settings within a school that segregates homeless children and youth from other children and youth, except as is necessary for short periods of time—

“(I) for health and safety emergencies; or
“(II) to provide temporary, special, and supplementary services to meet the unique needs of homeless children and youth.

“(3) REQUIREMENT.—Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school’s regular academic program.

“(b) APPLICATION.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State educational agency may reasonably require. Each such application shall include—

“(1) an assessment of the educational and related needs of homeless children and youth, as defined in section 725(1) and (2), in the area served by such agency (which may be undertaken as part of needs assessments for other disadvantaged groups);

“(2) a description of the services and programs for which assistance is sought to address the needs identified in paragraph (1); and
“(3) an assurance that the local educational agency’s combined fiscal effort per student, or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made;

“(4) an assurance that the applicant complies with, or will use requested funds to comply with, paragraphs (3) through (7) of section 722(g); and

“(5) a description of policies and procedures, consistent with section 722(e)(3)(B), that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youth.

“(c) AWARDS.—

“(1) IN GENERAL.—The State educational agency shall, in accordance with the requirements of this subtitle and from amounts made available to it under section 726, make competitive subgrants to local educational agencies that submit applications under subsection (b). Such subgrants shall be
awarded on the basis of the need of such agencies for assistance under this subtitle and the quality of the applications submitted.

“(2) NEED.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth and the ability of the agency to meet such needs. Such agency may also consider—

“(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

“(B) the extent to which the application—

“(i) reflects coordination with other local and State agencies that serve homeless children and youth; and

“(ii) meets the requirements of section 722(g)(3);

“(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth; and
“(D) such other criteria as the State agen-
cy determines appropriate.

“(3) QUALITY.—In determining the quality of
applications under paragraph (1), the State edu-
cational agency shall consider—

“(A) the applicant’s needs assessment
under subsection (b)(1) and the likelihood that
the program presented in the application will
meet such needs;

“(B) the types, intensity, and coordination
of the services to be provided under the pro-
gram;

“(C) the involvement of parents or guard-
ians;

“(D) the extent to which homeless children
and youth will be integrated within the regular
education program;

“(E) the quality of the applicant’s evalua-
tion plan for the program;

“(F) the extent to which services provided
under this subtitle will be coordinated with
other available services; and

“(G) such other measures as the State
educational agency considers indicative of a
high-quality program.
“(4) DURATION OF GRANTS.—Grants awarded under this section shall be for terms not to exceed 3 years.

“(d) AUTHORIZED ACTIVITIES.—A local educational agency may use funds awarded under this section for activities to carry out the purpose of this subtitle, including—

“(1) the provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State content standards and challenging State student performance standards the State establishes for other children and youth;

“(2) the provision of expedited evaluations of the strengths and needs of homeless children and youth, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited-English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, programs in vocational and technical education, and school nutrition programs);

“(3) professional development and other activities for educators and pupil services personnel that
are designed to heighten the understanding and sen-
sitivity of such personnel to the needs of homeless
children and youth, the rights of such children and
youth under this Act, and the specific educational
needs of runaway and homeless youth;

“(4) the provision of referral services to home-
less children and youth for medical, dental, mental,
and other health services;

“(5) the provision of assistance to defray the
excess cost of transportation for students pursuant
to section 722(g)(4)(A), not otherwise provided
through Federal, State, or local funding, where nec-
essary to enable students to attend the school se-
lected under section 722(g)(3);

“(6) the provision of developmentally appro-
priate early childhood education programs, not oth-
erwise provided through Federal, State, or local
funding, for preschool-aged children;

“(7) the provision of services and assistance to
attract, engage, and retain homeless youth (as de-
scribed in paragraphs (1) and (2) of section 725) in
public school programs and services provided to non-
homeless youth;

“(8) the provision for homeless children and
youth of before- and after-school, mentoring, and
summer programs in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

“(9) if necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youth in school, including birth certificates, immunization or medical records, academic records, guardianship records, and evaluations for special programs or services;

“(10) the provision of education and training to the parents of homeless children and youth about the rights of, and resources available to, such children and youth;

“(11) the development of coordination between schools and agencies providing services to homeless children and youth, as described in section 722(g)(5);

“(12) the provision of pupil services (including violence prevention counseling) and referrals for such services;

“(13) activities to address the particular needs of homeless children and youth that may arise from domestic violence;
'“(14) the adaptation of space and purchase of supplies for nonschool facilities made available under subsection (a)(2) to provide services under this subsection;

“(15) the provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations; and

“(16) the provision of other extraordinary or emergency assistance needed to enable homeless children and youth to attend school.

‘‘SEC. 724. SECRETARIAL RESPONSIBILITIES.

‘‘(a) REVIEW OF PLANS.—In reviewing the State plan submitted by a State educational agency under section 722(g), the Secretary shall use a peer review process and shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and youth relating to access to education and placement as described in such plans.

‘‘(b) TECHNICAL ASSISTANCE.—The Secretary shall provide support and technical assistance to the State educational agencies to assist such agencies to carry out their responsibilities under this subtitle, if requested by the State educational agency.
“(c) Notice.—The Secretary shall, before the next school year that begins after the date of the enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, create and disseminate nationwide a public notice of the educational rights of homeless children and youth and disseminate such notice to other Federal agencies, programs, and grantees, including Head Start grantees, Health Care for the Homeless grantees, Emergency Food and Shelter grantees, and homeless assistance programs administered by the Department of Housing and Urban Development.

“(d) Evaluation and Dissemination.—The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students, and may use funds appropriated under section 726 to conduct such activities.

“(e) Submission and Distribution.—The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date.
“(f) Determination by Secretary.—The Secretary, based on the information received from the States and information gathered by the Secretary under subsection (e), shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education as described in section 721(1).

“(g) Information.—

“(1) In general.—From funds appropriated under section 726, the Secretary shall, either directly or through grants, contracts, or cooperative agreements, periodically collect and disseminate data and information regarding—

“(A) the number and location of homeless children and youth;

“(B) the education and related services such children and youth receive;

“(C) the extent to which such needs are being met; and

“(D) such other data and information as the Secretary deems necessary and relevant to carry out this subtitle.

“(2) Coordination.—The Secretary shall coordinate such collection and dissemination with
other agencies and entities that receive assistance
and administer programs under this subtitle.

“(h) REPORT.—Not later than 4 years after the date
of the enactment of the McKinney-Vento Homeless Edu-
cation Assistance Improvements Act of 2001, the Sec-
retary shall prepare and submit to the President and the
Committee on Education and the Workforce of the House
of Representatives and the Committee on Health, Edu-
cation, Labor, and Pensions of the Senate a report on the
status of education of homeless children and youth, which
shall include information on—

“(1) the education of homeless children and
youth; and

“(2) the actions of the Department and the ef-
ficacy of the programs supported under this
subtitle.

“SEC. 725. DEFINITIONS.

“In this subtitle:

“(1) The term ‘homeless children and youth’—

“(A) means individuals who lack a fixed,
regular, and adequate nighttime residence
(within the meaning of section 103(a)(1));

“(B) includes—

“(i) children and youth who are living
in doubled-up accommodations sharing the
housing of another due to loss of housing, economic hardship or a similar reason, are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations, are living in emergency or transitional shelters, are abandoned in hospitals, or are awaiting foster care placement;

“(ii) individuals who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C)); and

“(iii) children and youth who are living in cars, parks, public spaces, abandoned buildings or substandard housing, bus or train stations, or similar settings; and

“(B) does not include migratory children (as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965, unless such children are staying in accommodations not fit for habitation.
“(2) The term ‘unaccompanied youth’ includes youth not in the physical custody of a parent or guardian.

“(3) The terms ‘enroll’ and ‘enrollment’ include within their meaning the right to attend classes and to participate fully in school activities.

“(4) The terms ‘local educational agency’ and ‘State educational agency’ have the meanings given such terms in section 8101 of the Elementary and Secondary Education Act of 1965.

“(5) The term ‘Secretary’ means the Secretary of Education.

“(6) The term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

“SEC. 726. AUTHORIZATION OF APPROPRIATIONS.

“For the purpose of carrying out this subtitle, there are authorized to be appropriated $36,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2006.”.

SEC. 915. TECHNICAL AMENDMENT.

(a) In General.—Section 1 of Public Law 106–400 (42 U.S.C. 11301) is amended by striking “Section 1” and inserting “Section 101”.

•HR 1 IH
(b) **Effective Date.**—The amendment made by subsection (a) shall be deemed to be effective on the date of enactment of Public Law 106–400.

**PART B—REPEALS**

**SEC. 921. REPEALS.**

The following provisions are repealed:

1. (1) **GOALS.**—Parts A and C of title II and title VI of Goals 2000: Educate America Act.


3. (3) **ESEA.**—

   (A) Part B of title IX, relating to Native Hawaiians.

   (B) Title X, relating to programs of national significance.

   (C) Title XI, relating to coordinated services.

   (D) Title XII, relating to education infrastructure.

   (E) The title heading of title XIII and sections 13001 and 13002.