

112TH CONGRESS
1ST SESSION

S. 1569

To amend the Elementary and Secondary Education Act of 1965 to provide State educational agencies and local educational agencies with flexible Federal education funding that will allow such State and local educational agencies to fund locally determined programs and initiatives that meet the varied and unique needs of individual States and localities.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2011

Mr. BURR (for himself, Mr. ALEXANDER, Mr. ISAKSON, Mr. ROBERTS, Mr. RUBIO, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Elementary and Secondary Education Act of 1965 to provide State educational agencies and local educational agencies with flexible Federal education funding that will allow such State and local educational agencies to fund locally determined programs and initiatives that meet the varied and unique needs of individual States and localities.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Empowering Local
3 Educational Decisionmaking Act of 2011”.

4 **SEC. 2. FUND FOR THE IMPROVEMENT OF TEACHING AND**
5 **LEARNING.**

6 The Elementary and Secondary Education Act of
7 1965 (20 U.S.C. 6301 et seq.) is amended—

8 (1) by redesignating subpart 5 of part C of title
9 II as subpart 3 of part E of title IX and moving
10 that subpart to follow subpart 2 of part E of title
11 IX;

12 (2) by redesignating sections 2361 through
13 2368 as sections 9541 through 9548, respectively;

14 (3) by redesignating subpart 4 of part D of title
15 II as subpart 4 of part E of title IX and moving
16 that subpart to follow subpart 3 of part E of title
17 IX;

18 (4) by redesignating section 2441 as section
19 9551;

20 (5) in section 9546(b), as redesignated by para-
21 graph (2), by striking the matter following para-
22 graph (2) and inserting the following:

23 “(3) A State law that makes a limitation of li-
24 ability inapplicable if the civil action was brought by
25 an officer of a State or local government pursuant
26 to State or local law.”; and

1 (6) by striking title II and inserting the fol-
 2 lowing:

3 **“TITLE II—FUND FOR THE IM-**
 4 **PROVEMENT OF TEACHING**
 5 **AND LEARNING**

6 **“SEC. 2101. PURPOSE.**

7 “The purpose of this title is to improve student aca-
 8 demic achievement in the core academic subjects by—

9 “(1) increasing the capacity of local educational
 10 agencies, schools, teachers, and principals to provide
 11 a well-rounded and complete education for all stu-
 12 dents;

13 “(2) increasing the number of teachers and
 14 principals who are effective in increasing student
 15 academic achievement; and

16 “(3) ensuring that low-income and minority
 17 students are served by effective teachers and prin-
 18 cipals and have access to a high-quality instructional
 19 program in the core academic subjects.

20 **“SEC. 2102. DEFINITIONS.**

21 “In this title:

22 “(1) **CORE ACADEMIC SUBJECTS.**—The term
 23 ‘core academic subjects’ means English, reading or
 24 language arts, writing, science, technology, engineer-
 25 ing, mathematics, foreign languages, civics and gov-

1 ernment, economics, arts, history, geography, and
2 physical education.

3 “(2) STATE.—The term ‘State’ means each of
4 the 50 States, the District of Columbia, and the
5 Commonwealth of Puerto Rico.

6 **“SEC. 2103. FORMULA GRANTS TO STATES.**

7 “(a) RESERVATIONS.—From the total amount appro-
8 priated under section 2109 for any fiscal year, the Sec-
9 retary shall reserve—

10 “(1) not more than 2 percent for national ac-
11 tivities described in section 2106;

12 “(2) one-half of 1 percent for allotments for the
13 United States Virgin Islands, Guam, American
14 Samoa, and the Commonwealth of the Northern
15 Mariana Islands, to be distributed among those out-
16 lying areas on the basis of their relative need, as de-
17 termined by the Secretary, in accordance with the
18 purpose of this title; and

19 “(3) one-half of 1 percent for the Secretary of
20 the Interior for programs under this title in schools
21 operated or funded by the Bureau of Indian Edu-
22 cation.

23 “(b) STATE ALLOTMENTS.—

24 “(1) IN GENERAL.—From the funds appro-
25 priated under section 2109 for any fiscal year and

1 remaining after the Secretary makes reservations
2 under subsection (a), the Secretary shall allot to
3 each of the States the sum of—

4 “(A) an amount that bears the same rela-
5 tionship to 20 percent of the remaining amount
6 as the number of individuals ages 5 through 17
7 in the State, as determined by the Secretary on
8 the basis of the most recent satisfactory data,
9 bears to the number of those individuals in all
10 such States, as so determined; and

11 “(B) an amount that bears the same rela-
12 tionship to 80 percent of the remaining amount
13 as the number of individuals, ages 5 through 17
14 from families with incomes below the poverty
15 line, in the State, as determined by the Sec-
16 retary on the basis of the most recent satisfac-
17 tory data, bears to the number of those individ-
18 uals in all such States, as so determined.

19 “(2) SMALL STATE MINIMUM.—No State receiv-
20 ing an allotment under paragraph (1) may receive
21 less than one-half of 1 percent of the total amount
22 allotted under such paragraph.

23 “(3) REALLOTMENT.—If a State does not re-
24 ceive an allotment under this title for a fiscal year,
25 the Secretary shall reallocate the amount of the State’s

1 allotment to the remaining States in accordance with
2 this section.

3 “(c) STATE USE OF FUNDS.—

4 “(1) IN GENERAL.—Each State that receives an
5 allotment under this section shall reserve not less
6 than 95 percent of the amount allotted to such State
7 under subsection (b), for each fiscal year, for sub-
8 grants to local educational agencies under section
9 2104.

10 “(2) STATE ADMINISTRATION.—A State edu-
11 cational agency may use not more than 1 percent of
12 the amount made available to the State under sub-
13 section (b) for the administrative costs of carrying
14 out such State educational agency’s responsibilities
15 under this title.

16 “(3) STATE ACTIVITIES.—A State educational
17 agency may use the amount made available to the
18 State under subsection (b) and not reserved under
19 paragraph (1) to carry out the following activities:

20 “(A) Developing and implementing rig-
21 orous, transparent, and fair evaluation systems
22 for teachers and principals that take into ac-
23 count data on student academic achievement
24 and growth as a significant factor.

1 “(B) Reforming teacher and principal cer-
2 tification, recertification, licensing, and tenure
3 systems to ensure that—

4 “(i) each teacher has the subject mat-
5 ter knowledge and teaching skills necessary
6 to help students meet challenging State
7 standards; and

8 “(ii) principals have the instructional
9 leadership skills to help teachers teach and
10 students learn.

11 “(C) Carrying out programs that establish,
12 expand, or improve alternative routes for State
13 certification or licensure of teachers and prin-
14 cipals, including such programs for—

15 “(i) mid-career professionals from
16 other occupations;

17 “(ii) former military personnel; and

18 “(iii) recent graduates of an institu-
19 tion of higher education, with a record of
20 academic distinction, who demonstrate the
21 potential to become effective teachers or
22 principals.

23 “(D) Developing, or assisting local edu-
24 cational agencies in developing—

1 “(i) performance-based pay systems
2 for teachers and principals;

3 “(ii) strategies that provide differen-
4 tial, incentive, and bonus pay for teachers
5 in high-need academic subjects and spe-
6 cialty areas, and teachers in high-poverty
7 schools or high-poverty local educational
8 agencies; or

9 “(iii) teacher advancement initiatives
10 that promote professional growth and em-
11 phasize multiple career paths and pay dif-
12 ferentiation.

13 “(E) Developing, or assisting local edu-
14 cational agencies in developing, new teacher and
15 principal induction and mentoring programs
16 that are designed to—

17 “(i) improve instruction and student
18 learning and achievement; and

19 “(ii) increase the retention of effective
20 teachers and principals.

21 “(F) Providing high-quality professional
22 development for teachers and principals that is
23 focused on improving teaching and student
24 learning and achievement in the core academic
25 subjects.

1 “(G) Supporting efforts to train teachers
2 and principals to effectively integrate tech-
3 nology into curricula and instruction.

4 “(H) Providing training, technical assist-
5 ance, and capacity building to local educational
6 agencies that receive a subgrant under this
7 title.

8 “(I) Other activities identified by the State
9 that meet the purpose of this title.

10 “(d) STATE APPLICATION.—

11 “(1) IN GENERAL.—In order to receive an allot-
12 ment under this section for any fiscal year, a State
13 shall submit an application to the Secretary, at such
14 time, in such manner, and containing such informa-
15 tion as the Secretary may reasonably require.

16 “(2) CONTENTS.—Each application described
17 under paragraph (1) shall include the following:

18 “(A) A description of how the State edu-
19 cational agency will use funds received under
20 this title for State-level activities described in
21 subsection (c)(3).

22 “(B) An assurance that the State edu-
23 cational agency will monitor the implementation
24 of activities under this title and provide tech-

1 nical assistance to local educational agencies in
2 carrying out such activities.

3 “(C) An assurance that, apart from pro-
4 viding technical and advisory assistance and
5 monitoring compliance with this title, the State
6 educational agency has not exercised, and will
7 not exercise, any influence in the decision-
8 making processes of local educational agencies
9 as to the expenditure of funds made pursuant
10 to an application submitted under section 2104.

11 **“SEC. 2104. SUBGRANTS TO LOCAL EDUCATIONAL AGEN-**
12 **CIES.**

13 “(a) **ALLOCATIONS TO LOCAL EDUCATIONAL AGEN-**
14 **CIES.—**

15 “(1) **IN GENERAL.—**A State that receives an al-
16 lotment under this title for a fiscal year shall provide
17 the amount made available under section 2103(c)(1)
18 for subgrants to local educational agencies in accord-
19 ance with this section.

20 “(2) **FUNDS TO LOCAL EDUCATIONAL AGEN-**
21 **CIES.—**From the funds reserved by a State under
22 section 2103(c)(1), the State shall allocate to each
23 local educational agency in the State the sum of—

24 “(A) an amount that bears the same rela-
25 tionship to 20 percent of the remaining amount

1 as the number of individuals ages 5 through 17
2 in the geographic area served by the local edu-
3 cational agency, as determined by the Secretary
4 on the basis of the most recent satisfactory
5 data, bears to the number of those individuals
6 in the geographic areas served by all the local
7 educational agencies in the State, as so deter-
8 mined; and

9 “(B) an amount that bears the same rela-
10 tionship to 80 percent of the remaining amount
11 as the number of individuals ages 5 through 17
12 from families with incomes below the poverty
13 line in the geographic area served by the local
14 educational agency, as determined by the Sec-
15 retary on the basis of the most recent satisfac-
16 tory data, bears to the number of those individ-
17 uals in the geographic areas served by all the
18 local educational agencies in the State, as so
19 determined.

20 “(3) ADMINISTRATIVE COSTS.—Of the amount
21 received under paragraph (2), a local educational
22 agency may use not more than 2 percent for the di-
23 rect administrative costs of carrying out its respon-
24 sibilities under this title.

25 “(b) LOCAL APPLICATIONS.—

1 “(1) IN GENERAL.—To be eligible to receive a
2 subgrant under this section, a local educational
3 agency shall submit an application to the State edu-
4 cational agency at such time, in such manner, and
5 containing such information as the State educational
6 agency may reasonably require.

7 “(2) CONSULTATION.—

8 “(A) IN GENERAL.—A local educational
9 agency shall conduct the needs assessment de-
10 scribed in paragraph (3), and develop its appli-
11 cation, through consultation with teachers, prin-
12 cipals, pupil services personnel, parents, stu-
13 dents, community-based organizations, local
14 government representatives, and others with
15 relevant and demonstrated expertise in pro-
16 grams and activities designed to meet the pur-
17 pose of this title.

18 “(B) CONTINUED CONSULTATION.—On an
19 ongoing basis, the local educational agency shall
20 consult with the individuals and organizations
21 described in subparagraph (A) in order to seek
22 advice regarding how best to improve the local
23 educational agency’s activities to meet the pur-
24 pose of this title and to coordinate the local
25 educational agency’s activities under this title

1 with other related strategies, programs, and ac-
2 tivities being conducted in the community.

3 “(3) NEEDS ASSESSMENT.—

4 “(A) IN GENERAL.—To be eligible to re-
5 ceive a subgrant under this section, a local edu-
6 cational agency shall conduct a comprehensive
7 needs assessment of the local educational agen-
8 cy and of all schools within the jurisdiction of
9 the local educational agency.

10 “(B) REQUIREMENTS.—Such needs assess-
11 ment shall be designed to determine the schools
12 with the most acute staffing needs related to—

13 “(i) increasing the number of teachers
14 and principals who are effective in improv-
15 ing student academic achievement; and

16 “(ii) ensuring that low-income and mi-
17 nority students are served by effective
18 teachers and principals and have access to
19 a high-quality instructional program in the
20 core academic subjects.

21 “(4) CONTENTS.—Each application submitted
22 under this subsection shall be based on the needs as-
23 sessment described in paragraph (3) and shall in-
24 clude the following:

1 “(A) The results of the needs assessment
2 described in paragraph (3) and an identification
3 of each school that will be served through a
4 subgrant under this section.

5 “(B) A description of the activities to be
6 carried out by the local educational agency
7 under this section and how these activities are
8 aligned with the results of such needs assess-
9 ment.

10 “(C) A description of the performance in-
11 dicators that will be used to evaluate the effec-
12 tiveness of the activities carried out under this
13 section.

14 “(D) An assurance that such activities will
15 comply with the principles of effectiveness de-
16 scribed in section 2105(b).

17 “(E) An assurance that the local edu-
18 cational agency will prioritize funds to schools
19 within the jurisdiction of the local educational
20 agency that—

21 “(i)(I) are among the schools with the
22 greatest needs as identified through the
23 needs assessment described in paragraph
24 (3); and

1 “(II) have the highest percentages or
2 numbers of children counted under section
3 1124(c); or

4 “(ii) are identified for school improve-
5 ment under section 1116.

6 “(F) An assurance that the local edu-
7 cational agency will comply with section 9501
8 (regarding participation by private school chil-
9 dren and teachers).

10 **“SEC. 2105. LOCAL EDUCATIONAL AGENCY AUTHORIZED**
11 **ACTIVITIES.**

12 “(a) IN GENERAL.—Local educational agencies shall
13 use funds made available under section 2104 to develop,
14 implement, and evaluate comprehensive programs and ac-
15 tivities, which are coordinated with other school and com-
16 munity-based services and programs, that are in accord-
17 ance with the purpose of this title and—

18 “(1) are consistent with the principles of effec-
19 tiveness described in subsection (b); and

20 “(2) may include, among other programs and
21 activities—

22 “(A) developing and implementing rig-
23 orous, transparent, and fair evaluation systems
24 for teachers and principals that take into ac-

1 count data on student academic achievement
2 and growth as a significant factor;

3 “(B) developing and implementing initia-
4 tives to assist in recruiting, hiring, and retain-
5 ing highly effective teachers and principals, par-
6 ticularly in high-poverty schools with high per-
7 centages of ineffective teachers and high per-
8 centages of students who do not meet proficient
9 levels of achievement in the core academic sub-
10 jects, including initiatives that provide—

11 “(i) differential, incentive, or bonus
12 pay for teachers in high-need academic
13 subject areas and specialty areas;

14 “(ii) performance-based pay systems
15 for teachers and principals;

16 “(iii) teacher advancement, profes-
17 sional growth, and emphasis on multiple
18 career paths and pay differentiation; and

19 “(iv) new teacher and principal induc-
20 tion and mentoring programs that are de-
21 signed to improve instruction, student
22 learning and achievement, and to increase
23 teacher and principal retention;

24 “(C) reeruiting qualified individuals from
25 other fields, including mid-career professionals

1 from other occupations, former military per-
2 sonnel, and recent graduates of an institution
3 of higher education with a record of academic
4 distinction who demonstrate the potential to be-
5 come highly effective teachers or principals;

6 “(D) establishing, improving, or expanding
7 model instructional programs in the core aca-
8 demic subjects to ensure that all children re-
9 ceive a well-rounded and complete education;

10 “(E) providing high-quality professional
11 development for teachers and principals focused
12 on improving teaching and student learning and
13 achievement in the core academic subjects, in-
14 cluding supporting efforts to train teachers and
15 principals to effectively integrate technology
16 into curricula and instruction;

17 “(F) programs and activities that increase
18 the ability of teachers and other school per-
19 sonnel to implement positive behavioral inter-
20 ventions and supports and early intervening
21 services to improve academic achievement and
22 reduce student disciplinary actions;

23 “(G) providing students with increased ac-
24 cess to up-to-date school library materials, a
25 well-equipped, technologically advanced school

1 library media center, and well-trained profes-
2 sionally certified school library media special-
3 ists;

4 “(H) programs and activities to help stu-
5 dents prepare for postsecondary level
6 coursework in the core academic subjects, in-
7 cluding early college or dual enrollment pro-
8 grams, Advanced Placement and International
9 Baccalaureate programs, and other advanced
10 learning programs, including programs to meet
11 the educational needs of gifted and talented
12 students;

13 “(I) programs that support extended learn-
14 ing opportunities in the core academic subjects,
15 including before and after school programs,
16 summer school programs, and programs that
17 extend the school day, week, or school-year cal-
18 endar;

19 “(J) recruiting effective teachers to reduce
20 class size, particularly for the early grades; and

21 “(K) other activities and programs identi-
22 fied as necessary by the local educational agen-
23 cy through the needs assessment conducted
24 under section 2104(b)(3) that meet the purpose
25 of this title.

1 “(b) PRINCIPLES OF EFFECTIVENESS.—

2 “(1) IN GENERAL.—For a program or activity
3 developed pursuant to this title to meet the prin-
4 ciples of effectiveness, such program or activity
5 shall—

6 “(A) be based upon an assessment of ob-
7 jective data regarding the need for programs
8 and activities in the elementary schools and sec-
9 ondary schools to be served to—

10 “(i) increase the number of teachers
11 and principals who are effective in improv-
12 ing student academic achievement; and

13 “(ii) ensure that low-income and mi-
14 nority students are served by effective
15 teachers and principals and have access to
16 a high-quality instructional program in the
17 core academic subjects;

18 “(B) be based upon an established set of
19 performance measures aimed at ensuring that
20 all students receive a high-quality education in
21 the core academic subjects, taught by effective
22 teachers, that results in improved student aca-
23 demic achievement in the elementary schools
24 and secondary schools to be served by the pro-
25 gram;

1 “(C) reflect, to the extent practicable, sci-
2 entifically valid research, or in the absence of a
3 strong research base, reflect best practices in
4 the field, that provides evidence that the pro-
5 gram or activity will improve student academic
6 achievement in the core academic subjects; and

7 “(D) include meaningful and ongoing con-
8 sultation with and input from teachers, prin-
9 cipals, and parents, in the development of the
10 application and administration of the program
11 or activity.

12 “(2) PERIODIC EVALUATION.—

13 “(A) IN GENERAL.—The program or activ-
14 ity shall undergo a periodic evaluation to assess
15 its progress toward achieving the goal of pro-
16 viding students with a high-quality education in
17 the core academic subjects, taught by effective
18 teachers, that results in improved student aca-
19 demic achievement.

20 “(B) USE OF RESULTS.—The results of
21 evaluations described under subparagraph (A)
22 shall be—

23 “(i) used to refine, improve, and
24 strengthen the program or activity, and to
25 refine the performance measures; and

1 “(ii) made available to the public upon
2 request, with public notice of such avail-
3 ability provided.

4 **“SEC. 2106. NATIONAL ACTIVITIES.**

5 “(a) TECHNICAL ASSISTANCE AND NATIONAL EVAL-
6 UATION.—Of the funds reserved by the Secretary under
7 section 2103(a)(1), the Secretary may carry out directly
8 or through grants and contracts—

9 “(1) technical assistance to States and local
10 educational agencies carrying out activities under
11 this title; and

12 “(2) national evaluations of activities carried
13 out by States and local educational agencies under
14 this title.

15 “(b) PROGRAMS OF NATIONAL SIGNIFICANCE.—Of
16 the funds reserved by the Secretary under section
17 2103(a)(1), the Secretary may award grants, on a com-
18 petitive basis, for teacher preparation and professional de-
19 velopment activities and programs to national nonprofit
20 organizations with a demonstrated track record of meeting
21 the purpose of this title.

22 **“SEC. 2107. SUPPLEMENT, NOT SUPPLANT.**

23 “Funds made available under this title shall be used
24 to supplement, and not supplant, non-Federal funds that

1 would otherwise be used for activities authorized under
2 this title.

3 **“SEC. 2108. PROHIBITION AGAINST FEDERAL MANDATES,**
4 **DIRECTION, OR CONTROL.**

5 “Nothing in this title shall be construed to authorize
6 the Secretary or any other officer or employee of the Fed-
7 eral Government to mandate, direct, control, or exercise
8 any direction or supervision over a State, local educational
9 agency, or school’s instructional content or materials, cur-
10 riculum, program of instruction, academic content and
11 student academic achievement standards, or academic as-
12 sessments.

13 **“SEC. 2109. AUTHORIZATION OF APPROPRIATIONS.**

14 “There are authorized to be appropriated to carry out
15 this title \$3,285,993,842 for each of fiscal years 2012
16 through 2016.”.

17 **SEC. 3. SAFE AND HEALTHY STUDENTS.**

18 The Elementary and Secondary Education Act of
19 1965 (20 U.S.C. 6301 et seq.) is amended—

20 (1) in title IV (20 U.S.C. 7101)—

21 (A) by redesignating subpart 3 of part A
22 as subpart 5 of part E of title IX and moving
23 that subpart to follow subpart 4 of part E of
24 title IX;

1 (B) by redesignating section 4141 as sec-
2 tion 9561;

3 (C) by redesignating section 4155 as sec-
4 tion 9537 and moving that section so as to fol-
5 low section 9536;

6 (D) by redesignating part C as subpart 6
7 of part E of title IX and moving that subpart
8 to the end of part E of title IX; and

9 (E) by redesignating sections 4301, 4302,
10 4303, and 4304, as sections 9571, 9572, 9573,
11 and 9574, respectively; and

12 (2) by striking title IV (20 U.S.C. 7101) and
13 inserting the following:

14 **“TITLE IV—SAFE AND HEALTHY**
15 **STUDENTS**

16 **“SEC. 4101. PURPOSE.**

17 “The purpose of this title is to improve students’
18 safety, health, and well-being during and after the school
19 day by—

20 “(1) increasing the capacity of local educational
21 agencies, schools, and local communities to create
22 safe, healthy, supportive, and drug-free environ-
23 ments;

24 “(2) carrying out programs designed to improve
25 school safety and promote students’ physical and

1 mental health well-being, healthy eating and nutri-
2 tion, and physical fitness;

3 “(3) preventing and reducing substance abuse,
4 school violence, and bullying; and

5 “(4) strengthening parent and community en-
6 gagement to ensure a healthy, safe, and supportive
7 school environment.

8 **“SEC. 4102. DEFINITIONS.**

9 “In this title:

10 “(1) CONTROLLED SUBSTANCE.—The term
11 ‘controlled substance’ means a drug or other sub-
12 stance identified under Schedule I, II, III, IV, or V
13 in section 202(c) of the Controlled Substances Act
14 (21 U.S.C. 812(e)).

15 “(2) DRUG.—The term ‘drug’ includes con-
16 trolled substances, the illegal use of alcohol or to-
17 bacco, and the harmful, abusive, or addictive use of
18 substances, including inhalants and anabolic
19 steroids.

20 “(3) DRUG AND VIOLENCE PREVENTION.—The
21 term ‘drug and violence prevention’ means—

22 “(A) with respect to drugs, prevention,
23 early intervention, rehabilitation referral, or
24 education related to the illegal use of drugs;
25 and

1 “(B) with respect to violence, the pro-
2 motion of school safety, such that students and
3 school personnel are free from violent and dis-
4 ruptive acts, including sexual harassment and
5 abuse, and victimization associated with preju-
6 dice and intolerance, on school premises, going
7 to and from school, and at school-sponsored ac-
8 tivities, though the creation and maintenance of
9 a school environment that is free of weapons
10 and fosters individual responsibility and respect
11 for the rights of others.

12 “(4) SCHOOL-BASED MENTAL HEALTH SERV-
13 ICES PROVIDER.—The term ‘school-based mental
14 health services provider’ includes a State licensed or
15 State certified school counselor, school psychologist,
16 school social worker, or other State licensed or cer-
17 tified mental health professional qualified under
18 State law to provide such services to children and
19 adolescents.

20 “(5) STATE.—The term ‘State’ means each of
21 the 50 States, the District of Columbia, and the
22 Commonwealth of Puerto Rico.

1 **“SEC. 4103. FORMULA GRANTS TO STATES.**

2 “(a) RESERVATIONS.—From the total amount appro-
3 priated under section 4108 for a fiscal year, the Secretary
4 shall reserve—

5 “(1) not more than 1 percent for national ac-
6 tivities, which the Secretary may carry out directly
7 or through grants and contracts, such as providing
8 technical assistance to States and local educational
9 agencies carrying out activities under this title or
10 conducting a national evaluation;

11 “(2) one-half of 1 percent for allotments for the
12 United States Virgin Islands, Guam, American
13 Samoa, and the Commonwealth of the Northern
14 Mariana Islands, to be distributed among those out-
15 lying areas on the basis of their relative need, as de-
16 termined by the Secretary, in accordance with the
17 purpose of this title; and

18 “(3) one-half of 1 percent for the Secretary of
19 the Interior for programs under this title in schools
20 operated or funded by the Bureau of Indian Edu-
21 cation.

22 “(b) STATE ALLOTMENTS.—

23 “(1) ALLOTMENT.—

24 “(A) IN GENERAL.—In accordance with
25 subparagraph (B), the Secretary shall allot
26 among each of the States the total amount

1 made available to carry out this title for any
2 fiscal year and not reserved under subsection
3 (a).

4 “(B) DETERMINATION OF STATE ALLOT-
5 MENT AMOUNTS.—Subject to paragraph (2),
6 the Secretary shall allot the amount made avail-
7 able under subparagraph (A) for a fiscal year
8 among the States in proportion to the number
9 of children, aged 5 to 17, who reside within the
10 State and are from families with incomes below
11 the poverty line for the most recent fiscal year
12 for which satisfactory data are available, com-
13 pared to the number of such individuals who re-
14 side in all such States for that fiscal year.

15 “(2) SMALL STATE MINIMUM.—No State receiv-
16 ing an allotment under paragraph (1) may receive
17 less than one-half of 1 percent of the total amount
18 allotted under such paragraph.

19 “(3) REALLOTMENT.—If a State does not re-
20 ceive an allotment under this title for a fiscal year,
21 the Secretary shall reallocate the amount of the State’s
22 allotment to the remaining States in accordance with
23 this section.

24 “(c) STATE USE OF FUNDS.—

1 “(1) IN GENERAL.—Each State that receives an
2 allotment under this section shall reserve not less
3 than 98 percent of the amount allotted to such State
4 under subsection (b), for each fiscal year for sub-
5 grants to local educational agencies under section
6 4104.

7 “(2) STATE ADMINISTRATION.—A State edu-
8 cational agency may use not more than 1 percent of
9 the amount made available to the State under sub-
10 section (b) for the administrative costs of carrying
11 out its responsibilities under this title.

12 “(3) STATE ACTIVITIES.—A State educational
13 agency may use the amount made available to the
14 State under subsection (b) and not reserved under
15 paragraph (1) for the following activities:

16 “(A) Providing training, technical assist-
17 ance, and capacity building to local educational
18 agencies that are recipients of awards under
19 this title.

20 “(B) Other activities identified by the
21 State that meet the purpose of this title.

22 “(d) STATE APPLICATION.—

23 “(1) IN GENERAL.—In order to receive an allot-
24 ment under this section for any fiscal year, a State
25 shall submit an application to the Secretary, at such

1 time, in such manner, and containing such informa-
 2 tion that the Secretary may reasonably require.

3 “(2) CONTENTS.—Each application submitted
 4 by a State under this section shall include the fol-
 5 lowing:

6 “(A) A description of how the State edu-
 7 cational agency will use funds received under
 8 this title for State-level activities.

9 “(B) An assurance that the State edu-
 10 cational agency will monitor the implementation
 11 of activities under this title and provide tech-
 12 nical assistance to local educational agencies in
 13 carrying out such activities.

14 “(C) An assurance that, apart from pro-
 15 viding technical and advisory assistance and
 16 monitoring compliance with this title, the State
 17 educational agency has not exercised, and will
 18 not exercise, any influence in the decision-
 19 making processes of local educational agencies
 20 as to the expenditure of funds made pursuant
 21 to an application submitted under section 4104.

22 **“SEC. 4104. SUBGRANTS TO LOCAL EDUCATIONAL AGEN-**
 23 **CIES.**

24 “(a) ALLOCATIONS TO LOCAL EDUCATIONAL AGEN-
 25 CIES.—

1 “(1) IN GENERAL.—A State that receives an al-
2 lotment under this title for a fiscal year shall provide
3 the amount made available under section 4103(c)(1)
4 for subgrants to local educational agencies in accord-
5 ance with this section.

6 “(2) FUNDS TO LOCAL EDUCATIONAL AGEN-
7 CIES.—From the funds reserved by a State under
8 section 4103(c)(1), the State shall allocate to each
9 local educational agency in the State an amount that
10 bears the same relationship to such funds as the
11 number of individuals ages 5 to 17 from families
12 with incomes below the poverty line in the geo-
13 graphic area served by the agency, as determined by
14 the Secretary on the basis of the most recent satis-
15 factory data, bears to the number of such individuals
16 in the geographic areas served by all the local edu-
17 cational agencies in the State, as so determined.

18 “(3) ADMINISTRATIVE COSTS.—Of the amount
19 received under paragraph (2), a local educational
20 agency may use not more than 2 percent for the di-
21 rect administrative costs of carrying out its respon-
22 sibilities under this title.

23 “(b) LOCAL APPLICATIONS.—

24 “(1) IN GENERAL.—To be eligible to receive a
25 subgrant under this section, a local educational

1 agency shall submit an application to the State edu-
2 cational agency at such time, in such manner, and
3 containing such information as the State educational
4 agency may reasonably require.

5 “(2) CONSULTATION.—

6 “(A) IN GENERAL.—A local educational
7 agency shall conduct the needs assessment de-
8 scribed in paragraph (3), and develop its appli-
9 cation, through consultation with parents,
10 teachers, principals, pupil services personnel,
11 students, community-based organizations, local
12 government representatives, and others with
13 relevant and demonstrated expertise in pro-
14 grams and activities designed to meet the pur-
15 pose of this title.

16 “(B) CONTINUED CONSULTATION.—On an
17 ongoing basis, the local educational agency shall
18 consult with the individuals and organizations
19 described in subparagraph (A) in order to seek
20 advice regarding how best—

21 “(i) to improve the local educational
22 agency’s activities in order to meet the
23 purpose of this title; and

24 “(ii) to coordinate such agency’s ac-
25 tivities under this title with other related

1 strategies, programs, and activities being
2 conducted in the community.

3 “(3) NEEDS ASSESSMENT.—

4 “(A) IN GENERAL.—To be eligible to re-
5 ceive a subgrant under this section, a local edu-
6 cational agency shall conduct a comprehensive
7 needs assessment of the local educational agen-
8 cy and of all schools within the jurisdiction of
9 the local educational agency.

10 “(B) REQUIREMENTS.—The needs assess-
11 ment required under subparagraph (A) shall
12 take into account risk factors of the community,
13 school, family, or peer-individual domains that
14 are known, through prospective, longitudinal re-
15 search efforts, to be predictive of drug use, vio-
16 lent behavior, and the physical and mental
17 health and well-being of youth in the school and
18 community.

19 “(4) CONTENTS.—Each application submitted
20 under this subsection shall be based on the needs as-
21 sessment described in paragraph (3) and shall in-
22 clude the following:

23 “(A) The results of the needs assessment
24 described in paragraph (3) and an identification

1 of each school that will be served by a subgrant
2 under this section.

3 “(B) A description of the activities to be
4 carried out by the local educational agency
5 under this title and how these activities are
6 aligned with the results of the needs assessment
7 conducted under paragraph (3).

8 “(C) A description of the performance in-
9 dicators that will be used to evaluate the effec-
10 tiveness of the activities carried out under this
11 section.

12 “(D) An assurance that the activities will
13 comply with the principles of effectiveness de-
14 scribed in section 4105(b), and foster a healthy,
15 safe, and supportive school environment that
16 improves students’ safety, health, and well-
17 being during and after the school day.

18 “(E) An assurance that the local edu-
19 cational agency will prioritize funds to schools
20 served by the local educational agency that—

21 “(i) are among the schools with the
22 greatest needs as identified through the
23 needs assessment conducted under para-
24 graph (3);

1 “(ii) have the highest percentages or
2 numbers of children counted under section
3 1124(e);

4 “(iii) are identified for school im-
5 provement under section 1116; or

6 “(iv) are identified as a persistently
7 dangerous public elementary school or sec-
8 ondary school under section 9532.

9 “(F) An assurance that the local edu-
10 cational agency will comply with section 9501
11 (regarding participation by private school chil-
12 dren and teachers).

13 **“SEC. 4105. LOCAL EDUCATIONAL AGENCY AUTHORIZED**
14 **ACTIVITIES.**

15 “(a) LOCAL EDUCATIONAL AGENCY ACTIVITIES.—A
16 local educational agency that receives a subgrant under
17 section 4104 shall use the subgrant funds to develop, im-
18 plement, and evaluate comprehensive programs and activi-
19 ties, which are coordinated with other schools and commu-
20 nity-based services and programs, that are in accordance
21 with the purpose of this title and—

22 “(1) foster safe, healthy, supportive, and drug-
23 free environments that support student academic
24 achievement;

1 “(2) are consistent with the principles of effec-
2 tiveness described in subsection (b);

3 “(3) promote the involvement of parents in the
4 activity or program; and

5 “(4) may include, among other programs and
6 activities—

7 “(A) drug and violence prevention activi-
8 ties and programs, including professional devel-
9 opment and training for school and pupil serv-
10 ices personnel, and interested community mem-
11 bers in prevention, education, early identifica-
12 tion, and intervention mentoring, or rehabilita-
13 tion referral, as related to drug and violence
14 prevention;

15 “(B) before and after school programs and
16 activities, including during summer recess peri-
17 ods, and programs to extend the school day,
18 week, or school-year calendar;

19 “(C) school-based mental health services,
20 including early identification of drug use and vi-
21 olence, and direct individual or group coun-
22 seling services provided by qualified school-
23 based mental health services providers;

24 “(D) emergency intervention services fol-
25 lowing traumatic crisis events;

1 “(E) programs that train school personnel
2 to identify warning signs of youth suicide;

3 “(F) mentoring programs and activities for
4 children who are at risk of academic failure,
5 dropping out of school, or involvement in crimi-
6 nal or delinquent activities, or who lack strong
7 positive role models;

8 “(G) elementary school and secondary
9 school counseling programs;

10 “(H) programs or activities that support a
11 healthy, active lifestyle, including nutritional
12 education and regular, structured physical edu-
13 cation programs for elementary school and sec-
14 ondary school students;

15 “(I) implementation of schoolwide positive
16 behavioral interventions and supports, including
17 through coordination with similar activities car-
18 ried out under the Individuals with Disabilities
19 Education Act; and

20 “(J) other activities and programs identi-
21 fied as necessary by the local educational agen-
22 cy through the needs assessment conducted
23 under section 4104(b)(3) that meet the purpose
24 of this title.

25 “(b) PRINCIPLES OF EFFECTIVENESS.—

1 “(1) IN GENERAL.—For a program or activity
2 developed pursuant to this title to meet the prin-
3 ciples of effectiveness, such program or activity
4 shall—

5 “(A) be based upon an assessment of ob-
6 jective data regarding the need for programs
7 and activities in the elementary schools and sec-
8 ondary schools and communities to be served
9 to—

10 “(i) improve school safety and pro-
11 mote students’ physical and mental health
12 well-being, healthy eating and nutrition,
13 and physical fitness; and

14 “(ii) strengthen parent and commu-
15 nity engagement to ensure a healthy, safe,
16 and supportive school environment;

17 “(B) be based upon an established set of
18 performance measures aimed at ensuring a
19 healthy, safe, and supportive school environ-
20 ment for students in the elementary schools and
21 secondary schools and communities to be served
22 by the program;

23 “(C) reflect, to the extent practicable, sci-
24 entifically valid research, or in the absence of a
25 strong research base, reflect best practices in

1 the field, that provides evidence that the pro-
2 gram or activity will provide students a healthy,
3 safe, and supportive school environment; and

4 “(D) include meaningful and ongoing con-
5 sultation with and input from parents in the de-
6 velopment of the application and administration
7 of the program or activity.

8 “(2) PERIODIC EVALUATION.—

9 “(A) IN GENERAL.—The program or activ-
10 ity shall undergo a periodic evaluation to assess
11 its progress toward achieving its goal of pro-
12 viding students a healthy, safe, and supportive
13 school environment that promotes school safety
14 and students’ physical and mental health and
15 well-being, healthy eating and nutrition, and
16 physical fitness.

17 “(B) USE OF RESULTS.—The results of
18 evaluations under subparagraph (A) shall be—

19 “(i) used to refine, improve, and
20 strengthen the program or activity, and to
21 refine the performance measures; and

22 “(ii) made available to the public upon
23 request, with public notice of such avail-
24 ability provided.

1 **“SEC. 4106. SUPPLEMENT, NOT SUPPLANT.**

2 “Funds made available under this title shall be used
3 to supplement, and not supplant, non-Federal funds that
4 would otherwise be used for activities authorized under
5 this title.

6 **“SEC. 4107. PROHIBITED USE OF FUNDS.**

7 “No funds under this title may be used for—

8 “(1) construction; or

9 “(2) medical services, drug treatment or reha-
10 bilitation, except for pupil services or referral to
11 treatment for students who are victims of, or wit-
12 nesses to, crime or who illegally use drugs.

13 **“SEC. 4108. AUTHORIZATION OF APPROPRIATIONS.**

14 “There are authorized to be appropriated to carry out
15 this title \$1,453,172,830 for each of fiscal years 2012
16 through 2016.”.

17 **SEC. 4. TRANSFERABILITY OF FUNDS.**

18 Section 6123 of the Elementary and Secondary Edu-
19 cation Act of 1965 (20 U.S.C. 7305b) is amended—

20 (1) in subsection (a)—

21 (A) in paragraph (1)—

22 (i) in the matter preceding subpara-
23 graph (A), by striking “not more than 50
24 percent” and inserting “all, or any por-
25 tion,”; and

- 1 (ii) by striking subparagraphs (A)
2 through (D) and inserting the following:
3 “(A) Section 2103(c)(3).
4 “(B) Section 4103(c)(2)(B).”; and
5 (B) in paragraph (2), by striking “and
6 subject to the 50 percent limitation described in
7 paragraph (1)”;
8 (2) in subsection (b)—
9 (A) in paragraph (1)—
10 (i) in subparagraph (A)—
11 (I) by striking “(except” and all
12 that follows through “50 percent” and
13 inserting “may transfer all, or any
14 portion, of”; and
15 (II) by striking “subparagraph
16 (C)” and inserting “subparagraph
17 (B)”;
18 (ii) by striking subparagraph (B);
19 (iii) by redesignating subparagraph
20 (C) as subparagraph (B); and
21 (iv) in subparagraph (B) (as redesign-
22 dated by clause (iii)), by striking “and
23 subject” and all that follows through “as
24 applicable”; and
25 (B) in paragraph (2)—

1 (i) in the matter preceding subpara-
 2 graph (A), by striking “,(B), or (C)” and
 3 inserting “or (B)”; and

4 (ii) by striking subparagraphs (A)
 5 through (D) and inserting the following:

6 “(A) Section 2104.

7 “(B) Section 4104.”.

8 **SEC. 5. APPLICATION APPROVAL PROCESSES.**

9 Title IX of the Elementary and Secondary Education
 10 Act of 1965 (20 U.S.C. 7801 et seq.) is amended by add-
 11 ing at the end the following:

12 **“PART G—APPROVAL AND DISAPPROVAL OF**
 13 **STATE AND LOCAL APPLICATIONS**

14 **“SEC. 9701. APPROVAL AND DISAPPROVAL OF STATE APPLI-**
 15 **CATIONS.**

16 “(a) DEEMED APPROVAL.—An application submitted
 17 by a State pursuant to section 2103(d) or section 4103(d)
 18 shall be deemed to be approved by the Secretary unless
 19 the Secretary makes a written determination, prior to the
 20 expiration of the 120-day period beginning on the date on
 21 which the Secretary received the application, that the ap-
 22 plication is not in compliance with section 2103(d) or sec-
 23 tion 4103(d), as applicable.

24 “(b) DISAPPROVAL PROCESS.—

1 “(1) IN GENERAL.—The Secretary shall not fi-
2 nally disapprove an application submitted under sec-
3 tion 2103(d) or section 4103(d), except after giving
4 the State educational agency notice and an oppor-
5 tunity for a hearing.

6 “(2) NOTIFICATION.—If the Secretary finds
7 that the application is not in compliance, in whole or
8 in part, with section 2103(d) or section 4103(d), as
9 applicable, the Secretary shall—

10 “(A) give the State educational agency no-
11 tice and an opportunity for a hearing; and

12 “(B) notify the State educational agency of
13 the finding of noncompliance and, in such noti-
14 fication, shall—

15 “(i) cite the specific provisions in the
16 application that are not in compliance; and

17 “(ii) request additional information,
18 only as to the noncompliant provisions,
19 needed to make the application compliant.

20 “(3) RESPONSE.—If the State educational
21 agency responds to the Secretary’s notification de-
22 scribed in paragraph (2)(B) during the 45-day pe-
23 riod beginning on the date on which the State edu-
24 cational agency received the notification, and resub-
25 mits the application with the requested information

1 described in paragraph (2)(B)(ii), the Secretary
2 shall approve or disapprove such application prior to
3 the later of—

4 “(A) the expiration of the 45-day period
5 beginning on the date on which the application
6 is resubmitted; or

7 “(B) the expiration of the 120-day period
8 described in subsection (a).

9 “(4) FAILURE TO RESPOND.—If the State edu-
10 cational agency does not respond to the Secretary’s
11 notification described in paragraph (2)(B) during
12 the 45-day period beginning on the date on which
13 the State educational agency received the notifica-
14 tion, such application shall be deemed to be dis-
15 approved.

16 **“SEC. 9702. APPROVAL AND DISAPPROVAL OF LOCAL EDU-
17 CATIONAL AGENCY APPLICATIONS.**

18 “(a) DEEMED APPROVAL.—An application submitted
19 by a local educational agency pursuant to section 2104(b)
20 or section 4104(b) shall be deemed to be approved by the
21 State educational agency unless the State educational
22 agency makes a written determination, prior to the expira-
23 tion of the 120-day period beginning on the date on which
24 the State educational agency received the application, that

1 the application is not in compliance with section 2104(b)
2 or section 4104(b), as applicable.

3 “(b) DISAPPROVAL PROCESS.—

4 “(1) IN GENERAL.—The State educational
5 agency shall not finally disapprove an application
6 submitted under section 2104(b) or section 4104(b),
7 except after giving the local educational agency no-
8 tice and opportunity for a hearing.

9 “(2) NOTIFICATION.—If the State educational
10 agency finds that the application is not in compli-
11 ance, in whole or in part, with section 2104(b) or
12 section 4104(b), as applicable, the State educational
13 agency shall—

14 “(A) give the local educational agency no-
15 tice and an opportunity for a hearing; and

16 “(B) notify the local educational agency of
17 the finding of noncompliance, and in such noti-
18 fication, shall—

19 “(i) cite the specific provisions in the
20 application that are not in compliance; and

21 “(ii) request additional information,
22 only as to the noncompliant provisions,
23 needed to make the application compliant.

24 “(3) RESPONSE.—If the local educational agen-
25 cy responds to the State educational agency’s notifi-

1 cation described in paragraph (2)(B) during the 45-
2 day period beginning on the date on which the local
3 educational agency received the notification, and re-
4 submits the application with the requested informa-
5 tion described in paragraph (2)(B)(ii), the State
6 educational agency shall approve or disapprove such
7 application prior to the later of—

8 “(A) the expiration of the 45-day period
9 beginning on the date on which the application
10 is resubmitted; or

11 “(B) the expiration of the 120-day period
12 described in subsection (a).

13 “(4) FAILURE TO RESPOND.—If the local edu-
14 cational agency does not respond to the State edu-
15 cational agency’s notification described in paragraph
16 (2)(B) during the 45-day period beginning on the
17 date on which the local educational agency received
18 the notification, such application shall be deemed to
19 be disapproved.”.

20 **SEC. 6. PROGRAM ELIMINATIONS.**

21 The Elementary and Secondary Education Act of
22 1965 (20 U.S.C. 6301 et seq.) is amended—

23 (1) in title I (20 U.S.C. 6301 et seq.)—

1 (A) by repealing part B (20 U.S.C. 6361
2 et seq.), part F (20 U.S.C. 6511 et seq.), and
3 part G (20 U.S.C. 6531 et seq.);

4 (B) by striking section 1504 (20 U.S.C.
5 6494); and

6 (C) in section 1002 (20 U.S.C. 6302)—

7 (i) by striking subsections (b), (f), and
8 (g);

9 (ii) by redesignating subsections (c)
10 through (e), (h), and (i) as subsections (b)
11 through (d), (e), and (f), respectively; and

12 (iii) in subsection (d) (as redesignated
13 by subparagraph (B))—

14 (I) by striking paragraph (2);

15 and

16 (II) by striking “ACTIVITIES.—”

17 and all that follows through “For”

18 and inserting the following: “ACTIVI-

19 TIES—. For”; and

20 (2) in title V (20 U.S.C. 7201 et seq.) by re-
21 pealing part A and striking part D.

○