

113TH CONGRESS
1ST SESSION

S. 1108

To reauthorize the impact aid program under the Elementary and Secondary Education Act of 1965.

IN THE SENATE OF THE UNITED STATES

JUNE 6, 2013

Ms. HIRONO (for herself and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To reauthorize the impact aid program under the Elementary and Secondary Education Act of 1965.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local Taxpayer Relief
5 Act”.

6 **SEC. 2. PAYMENTS RELATING TO FEDERAL ACQUISITION**
7 **OF REAL PROPERTY.**

8 (a) AMENDMENTS.—Section 8002 of the Elementary
9 and Secondary Education Act of 1965 (20 U.S.C. 7702)
10 is amended—

1 (1) in subsection (a)—

2 (A) in the matter preceding paragraph (1),
 3 by striking “for a fiscal year ending prior to
 4 October 1, 2003”; and

5 (B) in the flush text following paragraph
 6 (2), by inserting “or (h)” after “subsection
 7 (b)”;

8 (2) in subsection (b)—

9 (A) by striking paragraph (2) and insert-
 10 ing the following:

11 “(2) APPLICATION OF CURRENT LEVIED REAL
 12 PROPERTY TAX RATE.—In calculating the amount
 13 that a local educational agency is eligible to receive
 14 for a fiscal year, the Secretary shall apply the cur-
 15 rent levied real property tax rate for current expend-
 16 itures levied by fiscally independent local educational
 17 agencies, or imputed for fiscally dependent local edu-
 18 cational agencies, to the current annually deter-
 19 mined estimated taxable value of such acquired Fed-
 20 eral property as calculated under paragraph (3).”;
 21 and

22 (B) by striking paragraph (3) and insert-
 23 ing the following:

24 “(3) DETERMINATION OF TAXABLE VALUE FOR
 25 ELIGIBLE FEDERAL PROPERTY.—

1 “(A) IN GENERAL.—In determining the
2 total taxable value of such acquired Federal
3 property for fiscal year 2010 and each suc-
4 ceeding fiscal year, the Secretary shall—

5 “(i) first determine the total taxable
6 value for the purpose of levying property
7 tax for school purposes for current expend-
8 itures of real property located within the
9 boundaries of such local educational agen-
10 cy;

11 “(ii) then determine the per acre
12 value of the eligible Federal property by di-
13 viding the total taxable value as deter-
14 mined in clause (i), by the difference be-
15 tween the total acres located within the
16 boundaries of the local educational agency
17 and the number of Federal acres eligible
18 under this section; and

19 “(iii) then determine the total taxable
20 value of the eligible Federal property by
21 multiplying the per acre value as calculated
22 under clause (ii) by the number of Federal
23 acres eligible under this section.

24 “(B) SPECIAL RULE.—In the case of Fed-
25 eral property eligible under this section that is

1 within the boundaries of 2 or more local edu-
 2 cational agencies, any one of the local edu-
 3 cational agencies affected may ask the Sec-
 4 retary to calculate the per acre value of each
 5 local educational agency as provided under sub-
 6 paragraph (A) and apply the average of the per
 7 acre values to the acres of the Federal property
 8 to the agency or agencies making such re-
 9 quest.”;

10 (3) in subsection (f), by striking paragraphs (4)
 11 and (5);

12 (4) by striking subsection (g) and inserting the
 13 following:

14 “(g) FORMER DISTRICTS.—

15 “(1) CONSOLIDATIONS.—For fiscal year 2006
 16 and all succeeding fiscal years, if a local educational
 17 agency described in paragraph (2) is formed at any
 18 time after 1938 by the consolidation of 2 or more
 19 former school districts, the local educational agency
 20 may elect to have the Secretary determine its eligi-
 21 bility and any amount for which the local edu-
 22 cational agency is eligible under this section for any
 23 fiscal year on the basis of 1 or more of those former
 24 districts, as designated by the local educational
 25 agency.

1 “(2) ELIGIBLE LOCAL EDUCATIONAL AGEN-
2 CIES.—A local educational agency referred to in
3 paragraph (1) is—

4 “(A) any local educational agency that, for
5 fiscal year 1994 or any preceding fiscal year,
6 applied, and was determined to be eligible
7 under, section 2(c) of the Act of September 20,
8 1950 (Public Law 874, 81st Congress), as that
9 section was in effect for that fiscal year; or

10 “(B) a local educational agency formed by
11 the consolidation of 2 or more districts, at least
12 1 of which was eligible for assistance under this
13 section for the fiscal year preceding the year of
14 the consolidation, if—

15 “(i) for fiscal years 2006 through
16 2013, the local educational had notified the
17 Secretary of the designation not later than
18 30 days after the date of enactment of the
19 Local Taxpayer Relief Act; and

20 “(ii) for fiscal year 2014 and any sub-
21 sequent fiscal year, the local educational
22 agency includes the designation in its ap-
23 plication under section 8005 or any timely
24 amendment to such application.

1 “(3) AVAILABILITY OF FUNDS.—Notwith-
 2 standing any other provision of law limiting the pe-
 3 riod during which the Secretary may obligate funds
 4 appropriated for any fiscal year after 2005, the Sec-
 5 retary may obligate funds remaining after final pay-
 6 ments have been made from any of such fiscal years
 7 to carry out this subsection.”;

8 (5) in subsection (h)—

9 (A) in paragraph (1)—

10 (i) in the paragraph heading, by strik-
 11 ing “FOR PRE-1995 RECIPIENTS” and in-
 12 serting “FOR PRE-2010 RECIPIENTS”; and

13 (ii) by striking subparagraphs (A) and
 14 (B) and inserting the following:

15 “(A) IN GENERAL.—The Secretary shall
 16 first make a foundation payment to each local
 17 educational agency that is determined by the
 18 Secretary to be eligible to receive a payment
 19 under this section for the fiscal year involved
 20 and that filed a timely application, and met, or
 21 has been determined by statute to meet, the eli-
 22 gibility requirements of subsection (a) for fiscal
 23 year 2009.

24 “(B) AMOUNT.—

1 “(i) IN GENERAL.—The amount of a
2 payment under subsection (b) for a local
3 educational agency shall be equal to the
4 greater of 90 percent of the payment the
5 local educational agency received from dol-
6 lars appropriated for fiscal year 2009 or
7 90 percent of the average payment that
8 the local educational agency received from
9 dollars appropriated for fiscal years 2006,
10 2007, 2008, and 2009, and shall be cal-
11 culated without regard to the provisions in
12 subsection (b)(1)(A)(i)(III) or (b)(1)(C).

13 “(ii) EXCEPTION.—In calculating
14 such average payment for a local edu-
15 cational agency that did not receive a pay-
16 ment under subsection (b) for 1 or more of
17 the fiscal years between fiscal year 2006
18 and 2009, inclusive, the lowest such pay-
19 ment made to the agency for fiscal year
20 2006, 2007, 2008, or 2009, shall be treat-
21 ed as the payment that the agency received
22 under subsection (b) for each fiscal year
23 for which the agency did not receive such
24 a payment.”; and

1 (B) by striking paragraphs (2) through (4)
 2 and inserting the following:

3 “(2) FOUNDATION PAYMENTS FOR NEW APPLI-
 4 CANTS.—

5 “(A) FIRST YEAR.—From any amounts re-
 6 maining after making payments under para-
 7 graph (1) and subsection (i)(1) for the fiscal
 8 year involved, the Secretary shall make a pay-
 9 ment in an amount determined in accordance
 10 with subparagraph (C), to each local edu-
 11 cational agency that the Secretary determines
 12 eligible for a payment under this section for a
 13 fiscal year after fiscal year 2009 and that did
 14 not receive a payment under paragraph (1) for
 15 the fiscal year for which such agency was deter-
 16 mined eligible for such payment.

17 “(B) SECOND AND SUCCEEDING YEARS.—
 18 For any succeeding fiscal year after the first
 19 fiscal year that a local educational agency re-
 20 ceives a foundation payment under subpara-
 21 graph (A), the amount of the local educational
 22 agency’s foundation payment under this para-
 23 graph for such succeeding fiscal year shall be
 24 equal to the local educational agency’s founda-

tion payment under this paragraph for the first
fiscal year.

“(C) AMOUNTS.—The amount of a payment under subparagraph (A) for a local educational agency shall be determined as follows:

“(i) Calculate the local educational agency’s maximum payment under subsection (b).

“(ii) Calculate the percentage that the amount appropriated under section 8014(a) for the most recent fiscal year for which the Secretary has completed making payments under this section is of the total maximum payments for such fiscal year for all local educational agencies eligible for a payment under subsection (b) and multiply the agency’s maximum payment by such percentage.

“(iii) Multiply the amount determined under clause (ii) by 90 percent.

“(D) INSUFFICIENT FUNDS.—If the amount appropriated under section 8014(a) of this title is insufficient to pay the full amount determined under this paragraph for all eligible local educational agencies for this fiscal year,

1 then the Secretary shall ratably reduce the pay-
2 ment to each local educational agency under
3 this paragraph.

4 “(3) REMAINING FUNDS.—From any funds re-
5 maining after making payments under paragraphs
6 (1) and (2) for the fiscal year involved, the Sec-
7 retary shall make a payment to each local edu-
8 cational agency that received a foundation payment
9 under paragraph (1) or (2) or subsection (i)(1), for
10 the fiscal year involved in an amount that bears the
11 same relation to the remainder as a percentage
12 share determined for the local educational agency
13 (by dividing the maximum amount that the agency
14 is eligible to receive under subsection (b) by the total
15 of the maximum amounts for all such agencies)
16 bears to the percentage share determined (in the
17 same manner) for all local educational agencies eligi-
18 ble to receive a payment under this section for the
19 fiscal year involved, except that, for the purpose of
20 calculating a local educational agency’s maximum
21 amount under subsection (b), data from the most
22 current fiscal year shall be used.

23 “(4) DATA.—For each local educational agency
24 that received a payment under this section for fiscal
25 year 2010 through the fiscal year in which the Local

1 Taxpayer Relief Act was enacted, the Secretary shall
 2 not make a payment under paragraph (3) to a local
 3 educational agency that fails to submit, within 60
 4 days of the date the Secretary notified the agency
 5 that the information is needed, the data necessary to
 6 calculate the maximum amount of a payment under
 7 subsection (b) for that local educational agency.”;

8 (6) by striking subsections (k) and (m); and

9 (7) by redesignating subsections (l) and (n) as
 10 subsections (j) and (k), respectively.

11 (b) EFFECTIVE DATE.—Notwithstanding the date of
 12 enactment of this Act, the amendments made by this sec-
 13 tion shall apply to applications submitted for fiscal year
 14 2010 and all succeeding fiscal years.

15 **SEC. 3. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED**
 16 **CHILDREN.**

17 Section 8003 of that Act (20 U.S.C. 7703) is amend-
 18 ed—

19 (1) in subsection (a)—

20 (A) in paragraph (1), in the matter pre-
 21 ceding subparagraph (A), by inserting after
 22 “such agency,” the following: “including those
 23 children enrolled in a State that has a State
 24 open enrollment policy (but not including those
 25 children enrolled in a distance learning program

1 not residing within the defined boundaries of
2 the agency),”;

3 (B) by striking paragraph (4) and insert-
4 ing the following:

5 “(4) MILITARY INSTALLATION AND INDIAN
6 HOUSING UNDERGOING RENOVATION OR REBUILD-
7 ING.—

8 “(A) MILITARY INSTALLATION HOUSING.—
9 Beginning in fiscal year 2014, in determining
10 the amount of a payment for a local educational
11 agency for children described in paragraph
12 (1)(D)(i), the Secretary shall consider those
13 children as if they were children described in
14 paragraph (1)(B) if the Secretary determines,
15 on the basis of a certification provided to the
16 Secretary of Defense, that those children would
17 have resided in housing on Federal property if
18 the housing was not undergoing renovation or
19 rebuilding. The total number of children treated
20 as children described in paragraph (1)(B) shall
21 not exceed the lessor of—

22 “(i) the total number of children eligi-
23 ble under paragraph (1)(B) for the year
24 prior to the initiation of the housing

1 project on Federal property undergoing
2 renovation or rebuilding; or

3 “(ii) the total number of federally
4 connected children enrolled in the local
5 educational agency as stated in the appli-
6 cation filed for the payment for the year
7 for which the determination is made.

8 “(B) INDIAN LANDS.—Beginning in fiscal
9 year 2014, in determining the amount of a pay-
10 ment for a local educational agency that re-
11 ceived a payment for children that resided on
12 Indian lands in accordance with paragraph
13 (1)(C) for the fiscal year prior to the fiscal year
14 for which the local educational agency is mak-
15 ing an application, the Secretary shall consider
16 those children to be children described in para-
17 graph (1)(C) if the Secretary determines on the
18 basis of certification provided to the Secretary
19 by a designated representative of the Secretary
20 of the Interior or the Secretary of Housing and
21 Urban Development that those children would
22 have resided in housing on Indian lands if the
23 housing was not undergoing renovation or re-
24 building. The total number of children treated

1 as children described in paragraph (1)(C) shall
2 not exceed the lessor of—

3 “(i) the total number of children eligi-
4 ble under paragraph (1)(C) for the year
5 prior to the initiation of the housing
6 project on Indian lands undergoing renova-
7 tion or rebuilding; or

8 “(ii) the total number of federally
9 connected children enrolled in the local
10 educational agency as stated in the appli-
11 cation filed for the payment for the year
12 for which the determination is made.

13 “(C) ELIGIBLE HOUSING.—Renovation or
14 rebuilding shall be defined as projects consid-
15 ered as capitalization, modernization, or res-
16 toration, as defined by the Secretary of Defense
17 or the Secretary of the Interior (as the case
18 may be) and are projects that last more than
19 30 days, but do not include ‘sustainment
20 projects’ such as painting, carpeting, or minor
21 repairs.”; and

22 (C) in paragraph (5)(A), by striking
23 “1984, to be children described under para-
24 graph (1)(B) if the property described is within
25 the fenced security perimeter of the military fa-

cility upon which such housing is situated.” and inserting “1984, or under lease of off-base property under subchapter IV of chapter 169 of part IV of subtitle (A) of title 10 of the United States Code (10 U.S.C. 2871 et seq.) to be children described under paragraph (1)(B) if the property described is within the fenced security perimeter of the military facility or attached to and under any type of force protection agreement with the military installation where such housing is situated.”;

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (B)—

(I) in the subparagraph heading by striking “CONTINUING”;

(II) by amending clause (i) to read as follows:

“(i) IN GENERAL.—A heavily impacted local educational agency is eligible to receive a basic support payment under subparagraph (A) with respect to a number of children determined under subsection (a)(1) if the agency—

1 “(I) is a local educational agency
2 whose boundaries are the same as a
3 Federal military installation or the
4 boundaries are the same as island
5 property designated by the Secretary
6 of the Interior to be property that is
7 held in trust by the Federal Govern-
8 ment and the agency has no taxing
9 authority;

10 “(II) is a local educational agen-
11 cy—

12 “(aa) that has an enrollment
13 of children described in sub-
14 section (a)(1) that constitutes a
15 percentage of the total student
16 enrollment of the agency that is
17 not less than 45 percent;

18 “(bb) that has a per-pupil
19 expenditure that is less than—

20 “(AA) for an agency
21 that has a total student en-
22 rollment of 500 or more stu-
23 dents, 125 percent of the av-
24 erage per-pupil expenditure

1 of the State in which the
2 agency is located; or

3 “(BB) for an agency
4 that has a total student en-
5 rollment of less than 500,
6 150 percent of the average
7 per-pupil expenditure of the
8 State in which the agency is
9 located, or the average per
10 pupil expenditure of 3 or
11 more comparable local edu-
12 cational agencies in the
13 State in which the agency is
14 located; and

15 “(cc) that is an agency
16 that—

17 “(AA) has a tax rate
18 for general fund purposes
19 that is at least 95 percent of
20 the average tax rate for gen-
21 eral fund purposes of com-
22 parable local educational
23 agencies in the State; or

24 “(BB) was eligible to
25 receive a payment under this

1 subsection for fiscal year
2 2013 and is located in a
3 State that by State law has
4 eliminated ad valorem tax as
5 a revenue source for local
6 educational agencies;

7 “(III) is a local educational agen-
8 cy that has a total student enrollment
9 of not less than 25,000 students, of
10 which not less than 50 percent are
11 children described in subsection (a)(1)
12 and not less than 5,500 of such chil-
13 dren are children described in sub-
14 paragraphs (A) and (B) of subsection
15 (a)(1); or

16 “(IV) is a local educational agen-
17 cy that was eligible for and received a
18 payment under this paragraph in fis-
19 cal year 2012 and—

20 “(aa) has an enrollment of
21 children described in subsection
22 (a)(1) that constitutes a percent-
23 age of the total student enroll-
24 ment of the agency that is not
25 less than 20 percent;

“(bb) for the 3 fiscal years preceding the fiscal year for which the determination is made, the average enrollment of children who are not described in subsection (a)(1) and who are eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act constitutes a percentage of the total student enrollment of the agency that is not less than 65 percent; and

“(cc) has a tax rate for general fund purposes which is not less than 1.25 percent of the average tax rate for general fund purposes for comparable local educational agencies in the State.”;

(III) by amending clause (ii) to read as follows:

“(ii) LOSS OF ELIGIBILITY.—

“(I) IN GENERAL.—Subject to subclause (II), a heavily impacted

1 local educational agency that met the
2 requirements of clause (i) for a fiscal
3 year shall be ineligible to receive a
4 basic support payment under subpara-
5 graph (A) if the agency fails to meet
6 the requirements of clause (i) for a
7 subsequent fiscal year, except that
8 such agency shall continue to receive
9 a basic support payment under this
10 paragraph for the fiscal year for
11 which the ineligibility determination is
12 made.

13 “(II) EXCEPTION.—A local edu-
14 cational agency that is eligible under
15 subparagraph (A) but whose tax rate
16 for general fund purposes falls below
17 95 percent of the average tax rate for
18 general fund purposes of local edu-
19 cational agencies in the State for 2
20 consecutive years shall lose its eligi-
21 bility and be subject to subclause
22 (I).”;

23 (IV) by amending clause (iii) to
24 read as follows:

“(iii) APPLICATION.—With respect to the first year for which a heavily impacted local educational agency described in clause (i) applies for a basic support payment under subparagraph (A), or with respect to the first fiscal year for which a heavily impacted local educational agency applies for a basic support payment under subparagraph (A) after becoming ineligible under clause (i) for 1 or more preceding fiscal years, the agency shall apply for such payment at least 1 year prior to the start of that fiscal year.”; and

(V) by adding the following after clause (iii):

“(iv) SPECIAL RULE.—Notwithstanding clause (i)(II), a local educational agency shall be considered eligible to receive a basic support payment under subparagraph (A) with respect to the number of children determined under subsection (a)(1) if the agency—

“(I) has an enrollment of children described in subsection (a)(1), including, for purposes of determining

eligibility, those children described in subparagraphs (F) and G) of such subsection, that constitutes a percentage of the total student enrollment of the agency that is not less than 35 percent; and

“(II) was eligible to receive assistance under subsection (b)(2) for fiscal year 2001.”;

(ii) by amending subparagraph (C) to read as follows:

“(C) MAXIMUM AMOUNT FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

“(i) IN GENERAL.—The maximum amount that a heavily impacted local educational agency is eligible to receive under this paragraph for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2) and subject to clause (ii), multiplied by the greater of—

“(I) four-fifths of the average per-pupil expenditure of the State in which the local educational agency is located for the third fiscal year pre-

ceding the fiscal year for which the
determination is made; or

“(II) four-fifths of the average
per-pupil expenditure of all of the
States for the third fiscal year pre-
ceding the fiscal year for which the
determination is made.

“(ii) SPECIAL RULE.—(I)(aa) For a
local educational agency with respect to
which 35 percent or more of the total stu-
dent enrollment of the schools of the agen-
cy are children described in subparagraph
(D) or (E) (or a combination thereof) of
subsection (a)(1), and has an enrollment of
children described in subparagraph (A),
(B), or (C) of such subsection equal to at
least 10 percent of the agency’s total en-
rollment, the Secretary shall calculate the
weighted student units of those children
described in subparagraph (D) or (E) of
such subsection by multiplying the number
of such children by a factor of 0.55.

“(bb) For any local educational agen-
cy that received a payment under this
clause in fiscal year 2012, the local edu-

1 cational agency shall not be required to
2 have an enrollment of children described in
3 subparagraph (A), (B), or (C) of such sub-
4 section equal to at least 10 percent of the
5 agency's total enrollment.

6 “(II) For a local educational agency
7 that has an enrollment of 100 or fewer
8 children described in subsection (a)(1), the
9 Secretary shall calculate the total number
10 of weighted student units for purposes of
11 subsection (a)(2) by multiplying the num-
12 ber of such children by a factor of 1.75.

13 “(III) For a local educational agency
14 that does not qualify under subparagraph
15 (B)(i)(I) of this subsection and has an en-
16 rollment of more than 100 but not more
17 than 1,000 children described in subsection
18 (a)(1), the Secretary shall calculate the
19 total number of weighted student units for
20 purposes of subsection (a)(2) by multi-
21 plying the number of such children by a
22 factor of 1.25.”;

23 (iii) by amending subparagraph (D) to
24 read as follows:

“(D) MAXIMUM AMOUNT FOR LARGE
HEAVILY IMPACTED LOCAL EDUCATIONAL
AGENCIES.—(i)(I) Subject to clause (ii), the
maximum amount that a heavily impacted local
educational agency described in subclause (II)
is eligible to receive under this paragraph for
any fiscal year shall be determined in accord-
ance with the formula described in paragraph
(1)(C).

“(II) A heavily impacted local educational
agency described in this subclause is a local
educational agency that has a total student en-
rollment of not less than 25,000 students, of
which not less than 50 percent are children de-
scribed in subsection (a)(1) and not less than
5,500 of such children are children described in
subparagraphs (A) and (B) of subsection
(a)(1).

“(ii) For purposes of calculating the max-
imum amount described in clause (i), the factor
used in determining the weighted student units
under subsection (a)(2) with respect to children
described in subparagraphs (A) and (B) of sub-
section (a)(1) shall be 1.35.”;

(iv) by striking subparagraph (E);

- 1 (v) by redesignating subparagraph (F)
- 2 as subparagraph (E);
- 3 (vi) in subparagraph (E) (as so red-
- 4 igned by clause (v))—
- 5 (I) by striking clause (ii);
- 6 (II) by striking “; and” at the
- 7 end of clause (i) and inserting a pe-
- 8 riod; and
- 9 (III) by striking “the Secretary”
- 10 and all that follows through “shall
- 11 use” and inserting “the Secretary
- 12 shall use”;
- 13 (vii) by redesignating subparagraph
- 14 (G) as subparagraph (F);
- 15 (viii) in subparagraph (F) (as so re-
- 16 designated by clause (vii)), in the matter
- 17 preceding clause (i), by striking
- 18 “(C)(i)(II)(bb)” and inserting
- 19 “(B)(i)(II)(bb)(BB)”;
- 20 (ix) by redesignating subparagraph
- 21 (H) as subparagraph (G); and
- 22 (x) in subparagraph (G) (as so red-
- 23 igned by clause (ix))—
- 24 (I) in clause (i)—

1 (aa) by striking “(B), (C),
 2 (D). or (E),” and inserting “(B),
 3 (C), or (D),”;

4 (bb) by striking “by reason
 5 of” and inserting “due to”;

6 (cc) by inserting after
 7 “clause (iii),” the following: “or
 8 as the direct result of base re-
 9 alignment and closure or
 10 modularization as determined by
 11 the Secretary of Defense and
 12 force structure change or force
 13 relocation,”; and

14 (dd) by inserting before the
 15 period at the end the following:
 16 “or during such time as activities
 17 associated with base closure and
 18 realignment, modularization,
 19 force structure change, or force
 20 relocation is ongoing”; and

21 (II) in clause (ii), by striking
 22 “(D) or (E)” in both places such term
 23 appears and inserting “(C) or (D)”;

24 (B) in paragraph (3)—

25 (i) in subparagraph (B)—

1 (I) by redesignating clause (iv) as
2 clause (v); and

3 (II) by inserting after clause (iii)
4 the following:

5 “(iv) For any local educational agency
6 that is providing a program of distant
7 learning to children not residing within the
8 legally defined boundaries of the agency,
9 the Secretary shall disregard such children
10 from such agency’s total enrollment when
11 calculating the percentage under subclause
12 (I) of clause (i) and shall disregard any
13 funds received for such children when cal-
14 culating the total current expenditures at-
15 tributed to the operation of such agency
16 when calculating the percentage under sub-
17 clause (II) of clause (i).”;

18 (ii) in subparagraph (C), by striking
19 “or (E) of paragraph (2), as the case may
20 be” and inserting “of paragraph (2)”; and

21 (iii) by striking subparagraph (D) and
22 inserting the following:

23 “(D) RATABLE DISTRIBUTION.—For any
24 fiscal year described in subparagraph (A) for
25 which the sums available exceed the amount re-

quired to pay each local educational agency 100 percent of its threshold payment the Secretary shall distribute the excess sums to each eligible local educational agency that has not received its full amount computed under paragraph (1) or (2) (as the case may be) by multiplying—

“(i) a percentage, the denominator of which is the difference between the full amount computed under paragraph (1) or (2) (as the case may be) for all local educational agencies and the amount of the threshold payment as calculated under subparagraphs (B) and (C) of all local educational agencies, and the numerator of which is the aggregate amount of the excess sums by—

“(ii) the difference between the full amount computed under paragraph (1) or (2) (as the case may be) for the agency and the amount of the threshold payment as calculated under subparagraphs (B) and (C) of the agency.”;

(3) in subsection (c), by amending paragraph (2) to read as follows:

1 “(2) EXCEPTION.—Calculation of payments for
 2 a local educational agency shall be based on data
 3 from the fiscal year for which the agency is making
 4 an application for payment if such agency—

5 “(A) is newly established by a State, for
 6 the first year of operation of such agency only;

7 “(B) was eligible to receive a payment
 8 under this section for the previous fiscal year
 9 and has had an overall increase in enrollment
 10 (as determined by the Secretary in consultation
 11 with the Secretary of Defense, the Secretary of
 12 Interior or other Federal agencies)—

13 “(i) of not less than 10 percent, or
 14 100 students, of children described in—

15 “(I) subparagraph (A), (B), (C),
 16 or (D) of subsection (a)(1); or

17 “(II) subparagraph (F) or (G) of
 18 subsection (a)(1), but only to the ex-
 19 tent such children are civilian depend-
 20 ents of employees of the Department
 21 of Defense or the Department of Inte-
 22 rior; and

23 “(ii) that is the direct result of closure
 24 or realignment of military installations
 25 under the base closure process or the relo-

1 cation of members of the Armed Forces
 2 and civilian employees of the Department
 3 of Defense as part of force structure
 4 changes or movements of units or per-
 5 sonnel between military installations or be-
 6 cause of actions initiated by the Secretary
 7 of Interior or head of another Federal
 8 agency; and

9 “(C) was eligible to receive a payment
 10 under this section for the previous fiscal year
 11 and has had an overall increase in enrollment
 12 (as determined by the Secretary)—

13 “(i) of not less than 10 percent, or
 14 100 students, of children described in sub-
 15 section (a)(1); and

16 “(ii) that is the direct result of the
 17 closure of a local educational agency that
 18 received a payment under subsection (b)(1)
 19 or (b)(2) in the previous fiscal year.”;

20 (4) by amending subsection (e) to read as fol-
 21 lows:

22 “(e) HOLD HARMLESS.—

23 “(1) IN GENERAL.—Subject to paragraph (2)
 24 the total amount the Secretary shall pay a local edu-
 25 cation agency under subsection (b)—

1 “(A) for fiscal year 2014 shall not be less
 2 than 95 percent of the total amount that the
 3 local educational agency received under sub-
 4 section (b)(1), (b)(2) or (b)(2)(B)(ii) for fiscal
 5 year 2013;

6 “(B) for fiscal year 2015 shall not be less
 7 than 90 percent of the total amount that the
 8 local educational agency received under sub-
 9 section (b)(1), (b)(2) or (b)(2)(B)(ii) for fiscal
 10 year 2013; and

11 “(C) for fiscal year 2016 shall not be less
 12 than 85 percent of the total amount that the
 13 local educational agency received under sub-
 14 section (b)(1), (b)(2) or (b)(2)(B)(ii) for fiscal
 15 year 2013.

16 “(2) MAXIMUM PAYMENT.—The total amount
 17 provided to a local educational agency under sub-
 18 paragraph (A), (B), or (C) of paragraph (1) for a
 19 fiscal year shall not exceed the maximum basic sup-
 20 port amount for such agency determined under
 21 paragraph (1) or (2) of subsection (b), as the case
 22 may be.

23 “(3) RATABLE REDUCTION.—

24 “(A) IN GENERAL.—If the sums made
 25 available under this title for any fiscal year are

1 insufficient to pay the full amounts that all
 2 local educational agencies in all States are eligi-
 3 ble to receive under paragraph (1) for such
 4 year, then the Secretary shall ratably reduce
 5 the payments to all such agencies for such year.

6 “(B) ADDITIONAL FUNDS.—If additional
 7 funds become available for making payments
 8 under paragraph (1) for such fiscal year, pay-
 9 ments that were reduced under subparagraph
 10 (A) shall be increased on the same basis as
 11 such payments were reduced.”; and
 12 (5) by striking subsection (g).

13 **SEC. 4. APPLICATION FOR PAYMENTS UNDER SECTIONS**
 14 **8002 AND 8003.**

15 Section 8005 of that Act (20 U.S.C. 7705) is amend-
 16 ed by adding at the end the following:

17 “(e) STUDENT COUNT.—For the purpose of meeting
 18 the requirements of section 222.35 of the Code of the Fed-
 19 eral Regulations, the Secretary shall establish a third op-
 20 tion for an applicant when counting its federally connected
 21 children by using the date established by the applicant to
 22 register the students of such applicant for the fiscal year
 23 for which the application is filed.”.

1 **SEC. 5. CONSTRUCTION.**

2 Section 8007 of that Act (20 U.S.C. 7707) is amend-
3 ed—

4 (1) in subsection (a)—

5 (A) in paragraph (1), by striking “40 per-
6 cent” and inserting “80 percent”;

7 (B) in paragraph (2) by adding at the end
8 the following:

9 “(C) The agency is eligible under section
10 8003(b)(2) or is receiving a basic support pay-
11 ment under circumstances described in section
12 8003(b)(2)(B)(ii).”; and

13 (C) by striking paragraph (3) and insert-
14 ing the following:

15 “(3) AMOUNT OF PAYMENTS.—

16 “(A) LOCAL EDUCATIONAL AGENCIES IM-
17 PACTED BY MILITARY DEPENDENT CHIL-
18 DREN.—The amount of a payment to each local
19 educational agency described in this subsection
20 that is impacted by military dependent children
21 for a fiscal year shall be equal to—

22 “(i)(I) 40 percent of the amount ap-
23 propriated under section 8014(e) for such
24 fiscal year; divided by

25 “(II) the number of children described
26 in subparagraphs (B) and (D)(i) of section

(8003)(a)(1) who were in average daily attendance for all local educational agencies described in paragraph (2), including the number of children attending a school facility described in section 8008(a) if the Secretary does not provide assistance for the school facility under that section for the fiscal year; multiplied by

“(ii) the number of children determined for such agency;

“(I) but not less than \$25,000, except that this subparagraph shall not apply if the amount available to carry out paragraph (1) for such fiscal year is less than \$32,000,000; and

“(II) not more than \$4,000,000.

“(B) LOCAL EDUCATIONAL AGENCIES IMPACTED BY CHILDREN WHO RESIDE ON INDIAN LANDS.—The amount of a payment to each local educational agency described in this subsection that is impacted by children who reside on Indian lands for a fiscal year shall be equal to—

1 “(i)(I) 40 percent of the amount ap-
 2 propriated under section 8014(e) for such
 3 fiscal year; divided by

4 “(II) the number of children described
 5 in section 8003(a)(1)(C) who were in aver-
 6 age daily attendance for all local edu-
 7 cational agencies described in paragraph
 8 (2); multiplied by

9 “(ii) the number of children deter-
 10 mined for such agency;

11 “(I) but not less than \$25,000,
 12 except that this subparagraph shall
 13 not apply if the amount available to
 14 carry out paragraph (1) for such fis-
 15 cal year is less than \$32,000,000; and

16 “(II) not more than \$4,000,
 17 000.”; and

18 (2) in subsection (b)—

19 (A) in paragraph (1), in the matter pre-
 20 ceding subparagraph (A), by striking “60 per-
 21 cent” and inserting “20 percent”;

22 (B) in paragraph (3)—

23 (i) in subparagraph (A), in the matter
 24 preceding clause (i), by inserting after “an
 25 emergency grant under paragraph (2)(A)”

the following: “if the agency is covered by paragraph (7), or”;

(ii) in subparagraph (C)(i)(I), by striking “the agency meets at least one” and all that follows through the period at the end and inserting “the number of children determined under section 8003(a)(1)(C) for the agency for the preceding school year constituted at least 40 percent of the total student enrollment in the schools of the agency during the preceding school year.”;

(iii) by striking subclause (II) of subparagraph (D)(ii) and inserting the following:

“(II) The number of children determined under section 8003(a)(1)(C) for the school for the preceding school year constituted at least 40 percent of the total student enrollment in the school during the preceding school year.”;

(C) in paragraph (4)(C), by striking “(A), (B), (C), and (D)” and inserting “(A) and (C)”;

1 (D) by redesignating paragraph (7) as
 2 paragraph (8); and

3 (E) by inserting after paragraph (6) the
 4 following:

5 “(7) SPECIAL RULE.—Notwithstanding para-
 6 graphs (3)(C)(i)(I) and (3)(D)(ii)(II), a local edu-
 7 cational agency is eligible to receive a grant under
 8 this subsection not to exceed \$4,000,000 in any one
 9 fiscal year if such agency—

10 “(A) was eligible to receive a payment
 11 under section 8003 for the fiscal year prior to
 12 the year for which the application is made; and

13 “(B) has had an overall increase in enroll-
 14 ment—

15 “(i) during the period between the end
 16 of the school year preceding the fiscal year
 17 for which the application is made and the
 18 beginning of the school year immediately
 19 preceding that school year;

20 “(ii) of not less than 250 students or
 21 10 percent (whichever is lower), of children
 22 described in—

23 “(I) subparagraph (A), (B), (C),
 24 or (D) of section 8003(a)(1); or

1 “(II) subparagraph (F) or (G) of
 2 section 8003(a)(1), but only to the ex-
 3 tent such children are civilian depend-
 4 ents of employees of the Department
 5 of Defense; and

6 “(iii) that is the direct result of one or
 7 more of the following:

8 “(I) Base realignment and clo-
 9 sure or global rebasing, as determined
 10 by the Secretary of Defense.

11 “(II) Force structure changes or
 12 force reductions.

13 “(III) An action initiated by the
 14 Secretary of Interior or head of an-
 15 other Federal agency.”.

16 **SEC. 6. STATE CONSIDERATION OF PAYMENTS IN PRO-**
 17 **VIDING STATE AID.**

18 Section 8009 of that Act (20 U.S.C. 7709) is amend-
 19 ed—

20 (1) in subsection (b)—

21 (A) in paragraph (1), by inserting before
 22 the period at the end the following: “and for
 23 which the average per pupil expenditure is
 24 equal to or greater than the average per pupil
 25 expenditure of all the States in the third fiscal

1 year preceding the fiscal year for which the
2 State is applying for equalization under the sec-
3 tion”; and

4 (B) by amending paragraph (2) to read as
5 follows:

6 “(2) COMPUTATION.—

7 “(A) STATE CURRENTLY QUALIFYING.—

8 For purposes of paragraph (1), a program of
9 State aid for any State qualifying under this
10 section for fiscal year 2006 equalizes expendi-
11 tures among local educational agencies if, in the
12 second fiscal year preceding the fiscal year for
13 which the determination is made the amount of
14 per-pupil expenditures made by, or per-pupil
15 revenues available to, the local educational
16 agency in the State with the highest such per-
17 pupil expenditures or revenues did not exceed
18 the amount of such per-pupil expenditures
19 made by, or per-pupil revenues available to, the
20 local educational agency in the State with the
21 lowest such expenditures or revenues by more
22 than 25 percent as calculated under subpara-
23 graph (B)(ii).

24 “(B) OTHER FACTORS.—Notwithstanding
25 regulations in effect prior to the enactment of

1 this subparagraph, in making a determination
2 under this subparagraph, the Secretary shall—

3 “(i) arrange all local educational
4 agencies in the State by per-pupil expendi-
5 tures or revenues in descending order from
6 the highest to the lowest;

7 “(ii) using per-pupil expenditures or
8 revenues as the only criteria disregard
9 those local educational agencies that are
10 spending above the 95th percentile and
11 those spending below the 5th percentile;

12 “(iii) identify the local educational
13 agency at the 95th percentile and the local
14 educational agency at the 5th percentile;

15 “(iv) subtract the amount of per-pupil
16 expenditures or revenues of the local edu-
17 cational agency at the 5th percentile from
18 the amount of per-pupil expenditures or
19 revenues of the local educational agency at
20 the 95th percentile and divide the dif-
21 ference by the per-pupil expenditures or
22 revenues of the local educational agency at
23 the 5th percentile; and

24 “(v) take into account the extent to
25 which a program of State aid reflects the

1 additional cost of providing free public
2 education in particular types of local edu-
3 cational agencies such as those that are
4 geographically isolated, or to particular
5 types of students, such as children with
6 disabilities.

7 “(C) NEW STATES APPLICANTS.—

8 “(i) IN GENERAL.—For purposes of
9 paragraph (1), a program of State aid for
10 any State equalizing under this section
11 after fiscal year 2006 equalizes expendi-
12 tures among local educational agencies if,
13 in the second fiscal year preceding the fis-
14 cal year for which the determination is
15 made, the amount of per-pupil expendi-
16 tures made by, or per-pupil revenues avail-
17 able to, the local educational agency in the
18 State with the highest such per-pupil ex-
19 penditures or revenues did not exceed the
20 amount of such per-pupil expenditures
21 made by, or per-pupil revenues available
22 to, the local educational agency in the
23 State with the lowest such expenditures or
24 revenues by more than 10 percent as cal-
25 culated under clause (ii).

1 “(ii) OTHER FACTORS.—In making a
2 determination under this subparagraph,
3 the Secretary, notwithstanding regulations
4 in use prior to the enactment of the Local
5 Taxpayer Relief Act, shall—

6 “(I) arrange all local educational
7 agencies in the State by per pupil ex-
8 penditures or revenues in descending
9 order from the highest to the lowest;

10 “(II) using per-pupil expendi-
11 tures or revenues as the only criteria
12 disregard those local educational
13 agencies that are spending above the
14 95th percentile and those spending
15 below the 5th percentile;

16 “(III) identify the local edu-
17 cational agency at the 95th percentile
18 and the local educational agency at
19 the 5th percentile;

20 “(IV) subtract the amount of
21 per-pupil expenditures or revenues of
22 the local educational agency at the
23 5th percentile from the amount of
24 per-pupil expenditures or revenues of
25 the local educational agency at the

1 95th percentile and divide the dif-
 2 ference by the per-pupil expenditures
 3 or revenues of the local educational
 4 agency at the 5th percentile; and

5 “(V) take into account the extent
 6 to which a program of State aid re-
 7 flects the additional cost of providing
 8 free public education in particular
 9 types of local educational agencies,
 10 such as those that are geographically
 11 isolated, or to particular types of stu-
 12 dents, such as children with disabil-
 13 ities.”; and

14 (2) in subsection (d)(2)—

15 (A) by striking “A State” and inserting
 16 the following:

17 “(A) IN GENERAL.—A State”; and

18 (B) by adding at the end of the following:

19 “(B) STATES THAT ARE NOT EQUALIZED
 20 STATES.—A State that has not been approved
 21 as an equalized State under subsection (b) shall
 22 not consider funds received under section 8002
 23 or section 8003 of this title in any State for-
 24 mula or place a limit or direct the use of such
 25 funds or consider such funds.”.

1 **SEC. 7. TIMELY PAYMENTS.**

2 Section 8010 of the Elementary and Secondary Edu-
3 cation Act of 1965 (20 U.S.C. 7710) is amended by add-
4 ing at the end the following:

5 “(d) TIMELY PAYMENTS.—

6 “(1) IN GENERAL.—Subject to paragraph (2)
7 the Secretary shall pay a local educational agency
8 the full amount that the agency is eligible to receive
9 under this title for a fiscal year not later than Sep-
10 tember 30 of the fiscal year following the fiscal year
11 in which such amount has been appropriated if, not
12 later than 1 calendar year following the fiscal year
13 in which such amount has been appropriated, each
14 local educational agency that is eligible to receive
15 funds under this title for such fiscal year submits to
16 the Secretary all the data and information necessary
17 for the Secretary to pay the full amount that the
18 agency is eligible to receive under this title for such
19 fiscal year.

20 “(2) PAYMENTS WITH RESPECT TO FISCAL
21 YEARS IN WHICH INSUFFICIENT FUNDS ARE APPRO-
22 PRIATED.—For a fiscal year in which the amount
23 appropriated under section 8014 is insufficient to
24 pay the full amount a local educational agency is eli-
25 gible to receive under this title, paragraph (1) shall
26 be applied by substituting ‘is available to pay the

1 agency’ for ‘the agency is eligible to receive’ each
2 place it appears.”.

3 **SEC. 8. DEFINITIONS.**

4 Section 8013 of that Act (20 U.S.C. 7713) is amend-
5 ed—

6 (1) in paragraph (1) by striking “and Marine
7 Corps” and inserting “Marine Corps, and Coast
8 Guard”;

9 (2) in paragraph (4)—

10 (A) in the first sentence thereof, by strik-
11 ing “part A of title I and title VI” and insert-
12 ing “title I and part A of title V”; and

13 (B) in the second sentence, by striking “be
14 determined” and inserting “be made”;

15 (3) in paragraph (5)(A)—

16 (A) in clause (ii)—

17 (i) in subclause (IV), by striking “;
18 or” and inserting a semicolon;

19 (ii) in subclause (V), by inserting “or”
20 after the semicolon; and

21 (iii) by adding at the end the fol-
22 lowing:

23 “(VI) exempt of taxation real
24 property and personal property identi-
25 fied by a local governmental entity, in-

1 including State government, if upon
 2 such property resides a child whose
 3 parents or guardians are certified to
 4 live on such property is considered to
 5 meet the eligibility requirements of
 6 section 151.4 of part 150 of sub-
 7 chapter H of title 25, Code of Federal
 8 Regulations;” and

9 (B) in clause (iii)—

10 (i) by amending subclause (II) to
 11 read as follows:

12 “(II) used to provide housing for
 13 homeless children at closed military
 14 installations pursuant to section 501
 15 of the McKinney-Vento Homeless As-
 16 sistance Act (42 U.S.C. 11411);” and

17 (ii) by amending subclause (III) to
 18 read as follows:

19 “(III) used for affordable hous-
 20 ing assisted under the Native Amer-
 21 ican Housing Assistance and Self-De-
 22 termination Act of 1996 (25 U.S.C.
 23 4101 et.seq.); or”;

24 (4) in paragraph (8)(A), by inserting commas
 25 before and after “and verified by”; and

1 (5) in paragraph (9)—

2 (A) by amending subparagraph (A) to read
3 as follows:

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), the term ‘local educational
6 agency’—

7 “(i) means a board of education or
8 other legally constituted local school au-
9 thority having administrative control and
10 direction of free public education in a
11 county, township, independent school dis-
12 trict, or other school district; and

13 “(ii) includes any State agency that
14 directly operates and maintains facilities
15 for providing free public education; and
16 that except for those local educational
17 agencies determined to be eligible to re-
18 ceive a payment under section 8003 prior
19 to the date of the enactment of the Local
20 Taxpayer Relief Act, when submitting an
21 application under this title for the first
22 time on or after the date of the enactment
23 of such Act, has the authority to tax and
24 has boundaries as defined by applicable
25 State law for the purposes of levying such

1 taxes, or has been granted the authority to
 2 receive an imputed tax from a city, county,
 3 township, or other general purpose political
 4 subdivision of a State.”; and

5 (B) in subparagraph (B), in the matter
 6 preceding clause (i), by inserting a comma after
 7 “Secretary determines”.

8 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

9 Section 8014 of that Act (20 U.S.C. 7714) is amend-
 10 ed—

11 (1) in subsection (a), by striking “\$32,000,000
 12 for fiscal year 2000 and such sums as may be nec-
 13 essary for each of the seven succeeding fiscal years”
 14 and inserting “such sums as may be necessary for
 15 fiscal years 2014 through 2017”;

16 (2) in subsection (b), by striking
 17 “\$809,400,000 fiscal year 2000 and such sums as
 18 may be necessary for each of the seven succeeding
 19 fiscal years” and inserting “such sums as may be
 20 necessary for fiscal years 2014 through 2017”;

21 (3) in subsection (c), by striking “\$50,000,000
 22 for fiscal year 2000 and such sums as may be nec-
 23 essary for each of the seven succeeding fiscal years”
 24 and inserting “such sums as may be necessary for
 25 fiscal years 2014 through 2017”;

1 (4) by redesignating subsection (e) as sub-
2 section (d);

3 (5) in subsection (d) (as so redesignated by
4 paragraph (4)), by striking “\$10,052,000 for fiscal
5 year 2000 and such sums as may be necessary for
6 fiscal year 2001, \$150,000,000 for fiscal year 2002,
7 and such sums as may be necessary for each of the
8 five succeeding fiscal years” and inserting “such
9 sums as may be necessary for fiscal years 2014
10 through 2017”;

11 (6) by redesignating subsection (f) as sub-
12 section (e);

13 (7) in subsection (e) (as so designated by para-
14 graph (6)), by striking “\$5,000,000 for fiscal year
15 2000 and such sums as may be necessary for each
16 of the seven succeeding fiscal years” and inserting
17 “such sums as may be necessary for fiscal years
18 2014 through 2017”; and

19 (8) by adding at the end of the following:

20 “(f) ALLOCATION OF DOLLARS FROM PREVIOUS FIS-
21 CAL YEARS.—When final payments are made for a fiscal
22 year the Secretary shall add any remaining funds to those
23 funds appropriated for such section for the next fiscal year
24 for the purpose of making payments subject to the provi-
25 sions of the applicable section.”.

1 **SEC. 10. ADDITIONAL AND CONFORMING AMENDMENTS.**

2 (a) SUBPART 20 OF PART D OF TITLE V.—Subpart
3 20 (20 U.S.C. 7281 et seq.) of part D of title V of that
4 Act (relating to additional assistance for certain local edu-
5 cational agencies impacted by Federal property acquisi-
6 tion) is repealed.

7 (b) TITLE VIII.—Title VIII of Elementary and Sec-
8 ondary Education Act (20 U.S.C. 7701 et seq.) is further
9 amended—

10 (1) in section 8004 (20 U.S.C. 7704)—

11 (A) in subsection (e)(1)(B)(i), by striking
12 “involved, or if” and inserting “involved or, if”;
13 and

14 (B) in subsection (f), by striking “upon”
15 and inserting “on”;

16 (2) in section 8008(a) (20 U.S.C. 7708(a)), by
17 striking “section 8014(f)” and inserting “section
18 8014(e)”;

19 (3) in section 8010 (20 U.S.C. 7710)—

20 (A) in subsection (b), by striking “require”
21 and inserting “need”; and

22 (B) in subsection (c)(1)—

23 (i) in subparagraph (A), by striking
24 “paragraph (3)” and inserting “paragraph
25 (2)”;

1 (ii) in subparagraph (B), by striking
2 “paragraph (3)” and inserting “paragraph
3 (2)”; and
4 (4) in section 8011(a) (20 U.S.C. 7711 (a)), by
5 striking “or under” and all that follows through “of
6 1994)”.

○